



# Complex Substantive Change Procedures

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### **I. Purpose**

The Middle States Commission on Higher Education (MSCHE or the Commission) seeks to ensure that member institutions sustain ongoing compliance with Commission standards for accreditation, requirements of affiliation, policies and procedures, and federal compliance requirements while undergoing institutional changes that are considered substantive. The purpose of these procedures is to implement the *Substantive Change Policy* for changes that are considered complex. The institution should review the Commission's *Teach-Out Plans and Agreements Policy and Procedures* as some complex substantive changes require a separate teach-out plan review in conjunction with the substantive change request. The *Substantive Change Guidelines* contain definitions and case scenarios for each type of complex substantive change.

If the proposed change is sufficiently complex that it requires more in-depth review and/or requires the Commission to assign or engage a peer evaluator with specialized professional expertise (e.g., accounting, legal, etc.), the Commission will follow the procedures for a complex substantive change. Changes in legal status, form of control, or ownership are always considered complex. However, in addition to these, any of the types of substantive change may be considered "complex" depending on the nature and scope of the change, at the discretion of the Commission staff. Examples include (but are not limited to) a change in the status of multiple locations, multiple types of change that are submitted simultaneously, and some institutional closures. The Commission may modify the procedures for a complex substantive change depending on the circumstances.

See also the Commission's *Teach-Out Plans and Agreements Policy and Procedures* as most complex substantive changes require a separate teach-out plan review in conjunction with the substantive change request.

### **II. Procedures for Early Notification**

- A. The institution will notify the Commission staff or the designated Commission staff liaison (Vice President) as soon as it is aware of a potential institutional change that may meet the definition of a complex substantive change.
1. This notification should occur as early in the planning process as possible and may occur informally (via phone call or email).
  2. The purpose of the early notification is to provide information necessary for the Commission staff liaison to understand the nature and scope of the planned change enough to be able provide useful information and guidance to the institution about next steps.
  3. The institution will notify the designated Commission staff liaison of any potential substantive change, complex or not, which may require a teach-out plan in accordance with the Commission's *Teach-Out Plans and Agreements Policy and Procedures*.
  4. The institution will notify the designated Commission staff liaison, at any time, of revisions or amendments to a substantive change throughout or after the review process.
- B. The Commission staff liaison will document the conversation in writing and provide a written summary for the institution about whether or not a proposed change is considered a complex substantive change and direct the institution to relevant Commission policy, procedures, guidelines, and forms.
- C. The Commission staff may determine that a regular substantive change should be considered "complex" because the nature and scope of the change requires in-depth review (examples include but are not limited to a change in the status of multiple locations, multiple types of change that are submitted simultaneously, and some institutional closures).
1. The institution will use the appropriate request form for the type of substantive change as directed by the Commission staff liaison.
  2. The institution may not need to complete the complex substantive change preliminary review form described in Section III and may be directed by the Commission staff liaison to skip to Section IV of these procedures.
  3. The review will follow the schedule and procedures for a complex substantive change.
  4. The institution will be billed for a complex substantive change.
- D. When an institution that participates in Title IV funding (student financial aid programs) anticipates a change in ownership or acquisition of an additional location, it should notify its United States Department of Education (USDE) Financial Student Aid (FSA) School Participation Division as early as possible to ensure that it remains in compliance with the requirements of 34 CFR § 600.20(g) and (h).
1. The institution may notify USDE that it has permission to communicate directly with MSCHE on complex substantive change transactions.
  2. The Commission strongly recommends that the institution begin communications with the USDE/FSA as early as possible.

### **III. Procedures for Submission and Review of the Complex Substantive Change**

### Preliminary Review Form

- A. Prior to implementation, the institution will submit a substantive change request form for all changes that are considered substantive as delineated in the *Substantive Change Policy* and in federal regulation *34 CFR § 602.22(a)(1)(ii)(A-K)*. The *Substantive Change Guidelines* contain definitions for each sub-type of a change in legal status, form of control or ownership.
- B. The institution is required to submit the *Complex Substantive Change Preliminary Review Form* prior to the submission of a substantive change request for a change in legal status, form of control, or ownership.
1. The institution will download the *Complex Substantive Change Preliminary Review Form* from the MSCHE website.
  2. The institution will not include attachments that have not been referred to in the request.
  3. The institution will use appropriate excerpts or isolate specific pages rather than provide lengthy documents.
  4. The institution will specifically reference all required attachments within the narrative so that the relevance of the attachment is explicit.
  5. The institution will label all attachments exactly as stated in the form.
  6. The substantive change request form, including attachments, should not exceed 150 pages.
  7. Submissions exceeding 150 pages will be returned to the institution for editing and must be resubmitted.
  8. The institution will submit the *Complex Substantive Change Preliminary Review Form* according to instructions.
  9. The *Complex Substantive Change Preliminary Review Form* and supporting documents are considered part of the institutional record and are made available to peer evaluators.
- C. For institutions considering a complex substantive change involving mergers, consolidations, acquisitions, or other changes of control, a temporary shared presidency may be proposed as part of the complex substantive change request for a period no longer than three years as the institutions work through the process. The institution must document this request and provide the rationale for it in the *Complex Substantive Change Preliminary Review Form*.
- D. If the institution is in a non-compliance status, is subject to an adverse action (warning, probation, or show cause) or is otherwise subject to any limitation on its accreditation or candidate for accreditation status, the institution will also prepare a brief but persuasive justification for why the complex substantive change request should be considered. The schedule for review may be delayed.
1. The institution will email the justification to the designated Commission staff liaison (Vice President) at least 4 weeks prior to the submission deadline.
  2. The Commission staff liaison assigned to the institution will add comments to the justification.
  3. The Commission staff liaison for the institution may waive the requirement if he or she determines that review by the Executive Committee is not necessary. This determination depends on the context and nature of the proposed change and is at the discretion of the Commission staff.

4. If the requirement is not waived, the Commission staff will forward the justification to the Executive Committee for review.
  5. The justification will be reviewed by the Executive Committee of the Commission to determine if the request may proceed.
  6. The Executive Committee will take an accreditation action in accordance with *Accreditation Actions Policy and Procedures*.
  7. The institution will be notified of the action taken by the Executive Committee and the next steps in the review process.
- E. The Commission staff liaison and MSCHE General Counsel will conduct a careful internal review of the *Complex Substantive Change Preliminary Review Form* examining the following factors as applicable to the change:
1. Verify the type and structure of a transaction related to a change in legal status, form of control or ownership;
  2. Review and verify the parties involved in the transaction;
  3. Review any changes to the governance structure of the institution and the impact of the change on decision making for all the entities involved in the transaction;
  4. Review the flow of funding and sufficiency of resources after the change;
  5. Review the accreditation history of the parties involved in the transaction;
  6. Determine the potential impact of the transaction on the continuation of MSCHE accreditation and/or degree granting authority;
  7. Prepare a realistic and appropriate schedule for review;
  8. Identify any additional policy or legal issues which may be important for accreditation; and
  9. Outline the scope and progression of all required approvals that will be monitored as the transaction evolves.
- F. The Commission staff may request additional information from the institution. Such requests may increase the time for review.
- G. The institution will upload all additional information into the secure MSCHE portal by established deadlines.
- H. If potential violations of Commission policy and procedures or other legal issues are identified through the preliminary review, the Executive Committee will review the request and determine the next course of action. The Executive Committee may take action to reject the complex substantive change or offer the institution the opportunity to withdraw the complex substantive change.
1. Based on the preliminary review, the Commission staff may determine that the change does not meet the definition of one of the transaction sub-types and/or is an excluded transaction in accordance with Commission policy and procedures and federal regulation 34 CFR § 600.31(e)(1-3). Excluded transactions are described in the *Substantive Change Guidelines*.
  2. The Commission staff liaison will inform the institution in writing that it is not necessary to submit a subsequent complex substantive change request form.
  3. The Commission staff will take an administrative action to note that the preliminary review was completed and the institution is not required to submit a

- complex substantive change request.
4. The institution may view the accreditation action in the Institution portal.
  5. The institution will be invoiced for the preliminary review form when this review is complete.
- I. For reviews that continue to the substantive change request form, the Commission staff liaison will provide formal written feedback on the *Complex Substantive Change Preliminary Review Form* to the institution and upload it into the secure MSCHE portal.
1. The Commission staff liaison may schedule a consultation with the institution to discuss the requirements for the submission of the *Substantive Change Request Form*.
  2. The Commission staff liaison may request that the institution provide specific documentation in the subsequent request form, including but not limited to a teach-out plan and agreement(s), *documentation* or written evidence of all required approvals from state, federal (including the United States Department of Education (USDE)), regulatory, or other quality assurance agencies as applicable, updated legal documents, or other documentation related to the type of change.
  3. The Commission staff liaison will direct the institution to relevant Commission policy and procedures.
- J. As part of the feedback provided to the institution, the Commission staff liaison will provide a potential schedule for submission, review, and Commission action, in accordance with the Commission's meeting schedule and review procedures.
1. The Commission staff liaison will use a template to develop the schedule.
  2. The Commission staff liaison will determine the schedule based on the circumstances, progress made, the scope of review required, and the date of the next feasible Commission meeting at which the Commission could take action on the complex substantive change.
  3. The Commission meets three times a year.
  4. The schedule for review may be adjusted at any time at the discretion of the Commission staff.
  5. The Commission is closed for all federal holidays, the week between Christmas day and New Year's Day, and at other times as may be necessary.
  6. Commission closures are excluded from any scheduled time for review.
- K. Upon completion of the review of the *Complex Substantive Change Preliminary Review Form*, the Commission will invoice the institution in accordance with the Commission's *Dues and Fees Policy and Procedures*.

#### **IV. Procedures for Submission of the Substantive Change Request Form**

- A. The institution will submit the request form for a complex substantive change according to the deadlines established in the schedule for submission provided to the institution by the Commission staff liaison during the preliminary review.
1. A complex substantive change may necessitate consideration of academic, financial, and legal matters, and it may take as long as one year from the date of submission of the substantive change request form to complete the review.
  2. The Commission may request additional information which may increase the time

- necessary for review.
3. The schedule may be adjusted at the discretion of the Commission staff.
  4. The Commission will complete its review within one calendar year of the date that the complex substantive change request form was submitted.
- B. The institution will download the appropriate *Substantive Change Request Form* (i.e. Change in Legal Status, Form of Control, or Ownership or the appropriate type) from the MSCHE website.
- C. The institution must demonstrate, to the satisfaction of the Commission, that the change does not adversely affect the institution's ability to sustain ongoing compliance with the standards for accreditation, requirements of affiliation, policies and procedures, and federal compliance requirements in accordance with federal regulation *34 § CFR 602.22(a)(i)*.
- D. The institution will develop a substantive change request form that is thorough, analytical, and materially complete pursuant to the directions provided in that document.
1. If a submission is materially incomplete, the schedule for Commission review and action may be delayed.
  2. The institution must demonstrate, in the request form, that any affiliation with a related entity or partner institution does not adversely affect the institution's capacity to sustain ongoing compliance.
  3. The institution will compile all required attachments, which clearly and concisely provide documentation and evidence to support the institution's request.
  4. The institution will use appropriate excerpts or isolate specific pages rather than provide lengthy documents.
  5. The institution will specifically reference all required attachments within the narrative so that the relevance of the attachment is explicit.
  6. The institution will label all attachments exactly as stated in the *Substantive Change Request Form*.
- E. If the substantive change involves changing accreditors, the Commission must have written documentation in the substantive change request form that the institution has obtained the approval of the United States Department of Education before it will include the change within the institution's scope of accreditation.
1. The institution must follow the requirements of 34 CFR. §600.11(a) and (b) and the Department's procedures and obtain approval prior to submitting an application to a new accrediting agency.
  2. The institution can find more information in the Department's Dear Colleague Letters DCL ID GEN-22-10 and DCL ID GEN-22-11, both dated July 19, 2022.
- F. The institution's Accreditation Liaison Officer (ALO) will verify and certify the submission.
- G. The institution's ALO will upload the *Substantive Change Request Form* into the secure MSCHE as a single PDF document.
1. The ALO must click "complete".
  2. The ALO will receive a confirmation email that the form has been uploaded.

- H. The Commission will invoice institutions in accordance with the Commission's *Dues and Fees Policy and Procedures*.
- I. The institution must wait until the substantive change request is submitted before advertising, marketing, or recruiting for the planned substantive change. Until the change is included within the scope of the institution's accreditation, the institution must include a written notification on all relevant advertising, marketing, or recruiting materials that a proposed substantive change is "pending approval by the Middle States Commission on Higher Education."

#### **V. Procedures for the Submission of the Teach-Out Plans and Teach-Out Agreements**

- A. In accordance with the Commission's *Teach-Out Plans and Agreements Policy and Procedures* and federal regulation *34 CFR § 602.24(c)*, the institution will submit a separate teach-out plan and/or agreements for any complex substantive change transaction that requires a teach-out plan and/or agreements.
- B. The institution must use the [Teach-out Plans and Agreements Form](#) and will upload it into a separate Teach-Out review in the MSCHE Institution portal at the same time as the complex substantive change.
- C. An institution that is planning a complex substantive change that is a merger or acquisition of an institution as an additional location of the surviving institution must submit a teach-out plan that adequately describes the plans to assist students with completing their education or transferring to a new institution.
- D. Under the circumstances set forth in A through C, and with a teach-out plan approved by the Commission, the Commission will extend the one semester maximum timeframe for maintaining accreditation outlined in the *Teach-Out Plans and Agreements Procedures* (Section II.E.4.b) for up to one year on the conditions set forth in the approved teach-out plan.

#### **VI. Procedures for Commission Review and Action**

- A. The Commission will review the complex substantive change request prior to implementation in accordance with federal regulation *34 CFR § 602.22(a)(1)(i)*.
- B. The Commission will not include a change within the institution's scope of accreditation if the change will adversely affect the institution's compliance with the Commission standards for accreditation, requirements of affiliation, policies and procedures, and applicable federal regulatory requirements in accordance with federal regulation *34 CFR § 602.22(a)(1)*.
- C. The Commission staff will review all substantive change request forms to ensure they are materially complete and submitted according to established procedure.
  - 1. The Commission staff have the authority to determine whether a complex substantive change request is complete at any time during the review process.
  - 2. The Commission staff may request additional information from the institution

- before proceeding with the review process.
3. If requested additional information is not yet available, the review may be delayed or the institution may withdraw the substantive change request and re-submit when the information is available.
  4. If requested information is not provided, the Commission staff may consider the submission incomplete and reject the substantive change request.
- D. The Commission staff will review the teach-out plan and teach-out agreements to ensure they are materially complete and submitted according to established procedure.
- a. The Commission staff have the authority to determine whether a teach-out plan is materially complete at any time during the review process.
  - b. The Commission staff may request additional information from the institution before proceeding with the review process.
  - c. If requested additional information is not yet available, the review may be delayed.
  - d. If requested information is not provided, the Commission staff may consider the submission incomplete and reject the teach-out plan.
- E. The Commission staff will assign peer evaluators in accordance with the Commission's *Peer Evaluators Policy and Procedures*.
1. Peer evaluators selected for complex substantive change have specialized training related to the type of substantive change, relevant experience, and/or professional expertise, including legal or financial as required.
  2. The Commission will assign an evaluator who will be responsible for handling some logistics, communicating with the institution and the Commission staff, and finalizing and uploading reports to the secure MSCHE portal.
  3. Peer evaluators must disclose any conflict of interests and agree to the *Statement of Ethical Conduct* if they choose to accept the invitation.
  4. The institution will review and affirm that there is no conflict of interest with the proposed roster within 10 calendar days.
  5. The Commission will reassign a peer evaluator if a conflict of interest is identified in accordance with Commission policy and procedures.
- F. Peer evaluators may request additional information and/or request a conference call with individuals from one or all entities involved in the transaction as required to clarify information or verify compliance.
1. Peer evaluators will formally request specific documents that are required to clarify information or verify compliance.
  2. Peer evaluators will create a list of specific documents and forward the list to the institution according to established deadlines.
  3. All additional information that is requested must be documented by peer evaluators in the *Complex Substantive Change Review Report*.
  4. The institution will upload all requested additional information into the secure MSCHE portal according to the established deadlines. All additional information that is requested must be documented and uploaded to the secure MSCHE portal.
  5. If requested additional information is not yet available, the review may be delayed or the institution may withdraw the substantive change request and re-

- submit when the information is available.
6. The peer evaluators may consider the submission incomplete and recommend that the Commission reject the substantive change request.
- G. Peer evaluators will review the request form and all documentation to determine whether the institution appears to demonstrate that it has the capacity to implement the complex substantive change and the change will not adversely affect the institution's compliance with the Commission's standards for accreditation, requirements of affiliation, policies and procedures, and applicable federal regulatory requirements.
  - H. Peer evaluators will review the teach-out plan and teach-out agreements to determine whether the institution has addressed all programs of study and made satisfactory arrangements for all enrolled students to transfer to a new institution or complete their degree.
  - I. Peer evaluators will review the request form and all documentation to verify the surviving institution's scope of accreditation (credential levels, main campus, branch campuses, additional locations, other instructional sites, and alternative delivery methods). The revised scope of accreditation is noted in the action language.
  - J. Upon the completion of the review, the peer evaluator(s) will complete the *Complex Substantive Change Review Report* and summarize their findings. The report does not include the action that the peer evaluators are proposing to the Commission.
  - K. The lead evaluator will upload the *Complex Substantive Change Review Report* to the secure MSCHE portal according to established deadlines.
  - L. The institution has the opportunity to respond to the *Complex Substantive Change Review Report* in writing through an *Institutional Response*.
  - M. The lead evaluator will prepare a *Confidential Brief* summarizing the *Complex Substantive Change Review Report* and conveying the proposal for action.
    1. The lead evaluator will consider the information provided in the *Institutional Response* in formulating the proposal for action.
    2. The Confidential Brief is not made available to the institution.
    3. The lead evaluator will upload the Confidential Brief to the secure MSCHE portal according to established deadlines.
  - N. The Commission, through its multi-level decision making process, will analyze all of the accreditation materials and any other appropriate and substantiated information available to it.
  - O. The Commission will take an accreditation action in accordance with its *Accreditation Actions Policy and Procedures*.
    1. The accreditation action will specify the effective date of the change and the date of the transaction as applicable, which are determined by the Commission.
    2. The accreditation action will explain changes to the institution's scope of accreditation (credential levels, alternative delivery methods, and locations) as applicable.

3. The accreditation action will request a supplemental information report (SIR) and will identify a due date and the standards for accreditation, requirements of affiliation, policies and procedures, and applicable federal regulatory requirements the institution should address in the report.
  4. The SIR should include the following, at a minimum:
    - a. All outstanding or necessary documentation to the Commission.
    - b. The actual date of the closing of the transaction to the Commission staff liaison if it has not already been verified.
    - c. Written evidence of any outstanding approvals from all necessary licensing, regulatory, or other legal entities to the Commission.
  5. The accreditation action will direct a complex substantive change site visit in accordance with federal regulation *34 CFR § 602.24(b)*.
  6. The accreditation action may direct a Commission Liaison Guidance Visit which can be conducted virtually.
  7. The accreditation action will direct the institution to conduct a new comprehensive evaluation in accordance with federal regulation *34 CFR § 602.22(h)*.
- P. The Commission will provide notification of accreditation actions in accordance with *Communication in the Accreditation Process and Procedures* and federal regulation *34 CFR § 602.26*.
- Q. Institutions that participate in Title IV funding (student financial aid programs) must follow the USDE's requirements for a change in ownership (CIO) in accordance with *34 CFR § 600.31* and *§ 600.20(g)* and (h).
1. The institution is responsible for ascertaining and completing any required activities related to federal Title IV funding (student financial aid programs).
  2. The inclusion of a substantive change within the institution's scope of accreditation by the Commission does not guarantee the continuation of Title IV eligibility.
  3. The institution must submit all written documentation of USDE approvals, including but not limited to the Eligibility and Certification Approval Report (E-CAR), the post-acquisition determination letter, and the provisional program participation agreement (PPPA), to the Commission in a supplemental information report and/or whenever they are obtained.

## **VII. Procedures for Complex Substantive Change Supplemental Information Reports and Complex Substantive Change Site Visits**

- A. The Commission action will request a supplemental information report (SIR) and direct a complex substantive change site visit to one or all of the entities and any locations involved in the transaction as soon as practicable, but no later than six months after the date of the transaction in accordance with these procedures and federal regulation *34 CFR § 602.24(b)*. If the date of the transaction changes, the Commission will note the change and direct the visit within six months of the revised date.
- B. The institution will submit the supplemental information report (SIR) addressing the areas identified in the Commission's action pursuant to the Commission's *Follow-Up Reports and Visits Procedures*.

- C. The complex substantive change site visit will be conducted by peer evaluators selected by the Commission who may be one or more of the same evaluators who conducted the initial review. A Commission staff member may or may not accompany peer evaluators.
- D. The purpose of the visit is to verify the information submitted in the substantive change request and confirm that the change does not adversely affect the institution's compliance with the Commission's standards for accreditation, requirements of affiliation, policies and procedures, and applicable federal regulatory requirements in accordance with federal regulation *34 CFR § 602.22(a)(1)*.
- E. The Commission staff will assign peer evaluators in accordance with the Commission's *Peer Evaluators Policy and Procedures*. The Commission will identify an evaluator who will be responsible for handling some logistics, communicating with the institution and the Commission staff, and finalizing and uploading reports to the secure MSCHE portal.
- F. The Commission staff will provide peer evaluators with the following information:
  - 1. Institutional information, including institutional contact(s)
  - 2. Sample Visit Schedule
  - 3. Substantive Change Request Form and other materials
  - 4. Complex Substantive Change Site Visit Report
  - 5. Complex Substantive Change Site Visit Deadlines
- G. The peer evaluators will schedule the date of the visit in consultation with the institutional contact. The lead site visitor will inform the Commission staff of the date of the visit.
- H. The peer evaluators will develop a proposed visit schedule in consultation with the institution. The visit schedule should include time to interview institutional constituencies such as students, faculty, and staff (including the site administrator) and conduct a tour of the facilities if applicable. The visit schedule may be modified based on circumstances.
- I. The peer evaluators will make travel arrangements independently in accordance with the Commission's *Travel Policy and Procedures*.
- J. The peer evaluator(s) will review the *Substantive Change Request Form* submitted by the institution prior to the visit, along with the *Complex Substantive Change Review Report*, *Institutional Response*, and *Confidential Brief*.
- K. The peer evaluator(s) may request additional information that is required to clarify information or verify compliance prior to arriving on-site.
  - 1. Peer evaluators will formally request specific documents that are required to clarify information or verify compliance.
  - 2. Peer evaluators will create a list of requested additional information and forward the list to the institution according to established deadlines.
  - 3. Peer evaluators must make this request in a timely manner according to established deadlines.
  - 4. All additional information that is requested must be documented by peer evaluators in the *Substantive Change Site Visit Report*.

- L. The institution will upload all requested additional information into the secure MSCHE portal. All additional information that is requested must be documented and uploaded to the secure MSCHE portal.
- M. The institution will host the complex substantive change site visit.
- N. The peer evaluator(s) will complete the *Complex Substantive Change Site Visit Report* summarizing the findings of the site visit.
- O. The lead site visitor will upload the completed *Complex Substantive Change Site Visit Report* to the secure MSCHE portal in PDF format according to established deadlines.
- P. The Commission staff will make the *Complex Substantive Change Site Visit Report* available to the institution.
- Q. The institution will have the opportunity to respond to the *Complex Substantive Change Site Visit Report* in writing through an *Institutional Response*.
- R. The lead site visitor will prepare a *Confidential Brief* summarizing the *Complex Substantive Change Site Visit Report* and conveying the proposal for action.
  - 1. The lead site visitor will consider the information provided in the *Institutional Response* in formulating the proposal for action.
  - 2. The Confidential Brief is not made available to the institution.
  - 3. The lead site visitor will upload the Confidential Brief to the secure MSCHE portal according to established deadlines.
- S. Peer evaluators will submit travel expenses in accordance with the Commission's *Travel Policy and Procedures*.
- T. Once peer evaluators have submitted travel expenses, the Commission will invoice the institution in accordance with the Commission's *Dues and Fees Policy and Procedures*.
- U. The Commission, through its multi-level decision making process, will analyze all of the accreditation materials and any other appropriate and substantiated information available to it.
- V. The Commission will take an accreditation action in accordance with its *Accreditation Actions Policy and Procedures*.
- W. The Commission will provide notification of accreditation actions in accordance with *Communication in the Accreditation Process Policy and Procedures* and federal regulation *34 CFR § 602.26*.

#### **VIII. Procedures for Ongoing Monitoring Activities**

- A. The Commission staff liaison will schedule a post-transaction meeting with authorized representatives from member institutions to explain any required subsequent activities and fees related to the complex substantive change. The purpose of the post-transaction

meeting is to verify the surviving institution's scope of accreditation and identify how the surviving institution will manage future accreditation activities, including reporting in the Annual Institutional Update (AIU). Additional MSCHE staff from the Finance, Legal Affairs, Policy, and Research Units may participate in the meeting.

- B. The Commission will monitor the implementation of a complex substantive change through any of the ongoing monitoring activities described in *Accreditation Review Cycle and Monitoring Policy and Procedures*.
1. Annual Institutional Update (AIU)
  2. Recommendations Responses
  3. Follow-Up Reports and Visits
  4. Out of Cycle Monitoring
- C. As part of the AIU, the Commission will collect and analyze key data and indicators on an annual basis, which include but are not limited to financial indicators, enrollment, and student achievement in accordance with federal regulation *34 CFR § 602.19(b-c)* and *§ 602.22(f)(3)*.
- D. As part of the AIU or whenever changes occur, the institution will enter or update certain data or information in the secure MSCHE portal or the Annual Institutional Update (AIU).
1. Institutional data are used to convey information to the public about the institution's scope of accreditation.
  2. The data are used in other accreditation activities for ongoing monitoring and for the calculation of dues and fees so it is important that the institution keep the information up to date.
  3. The institution will continually review and update data to ensure accuracy.
- E. At any time, the institution may report data related to a substantive change such as the date instruction commenced or ceased at a location, as applicable, and as required in a previous accreditation action.
1. The location status is updated based on information reported by the institution.
    - a. **Approved.** The location is included within the institution's scope of accreditation and the institution has notified the Commission that instruction has commenced at the location by entering the actual open date into the secure MSCHE portal.
    - b. **Approved to Open.** The location is included within the institution's scope of accreditation, but the institution has not yet notified the Commission that instruction has commenced at the location by entering the actual open date into the secure MSCHE portal.
    - c. **Approved to Close.** The site closure has been reviewed by the Commission and the substantive change is included within the institution's scope of accreditation. However, the institution has not yet notified the Commission that instruction has ceased at the location by reporting the actual close date in the secure MSCHE portal.
    - d. **Closed.** The site closure was reviewed by the Commission and the substantive change was included within the institution's scope of accreditation. The institution has also notified the Commission that instruction has ceased at the location by entering the actual close date into

- the secure MSCHE portal. The Commission will take an action to remove the site from the institution's scope of accreditation. The institution will not be invoiced for annual site dues for closed locations.
- e. **Never Opened.** The location was reviewed by the Commission and was included within the institution's scope of accreditation but instruction did not commence within the required time frame, all required approvals were not received, or the institution decided not to open the location. The Commission will rescind the action and remove the location from the institution's scope of accreditation.
  2. The Commission will display information about the institution's scope of accreditation, including credential levels, alternative delivery methods, and locations on its website.
- F. The Commission will require the institution to submit sufficient and verifiable documentation of any outstanding required approvals.
1. The Commission staff will send reminders at regular intervals to the CEO and ALO that documentation of required approvals must be submitted.
  2. The institution will submit all required documentation in the secure MSCHE portal.
  3. The Commission may contact other government agencies or accreditors to verify approvals.
  4. The Commission staff will take an administrative action to acknowledge receipt of documentation of approvals.
  5. The Commission staff will take an administrative action to rescind the substantive change if required approvals are not received.
- G. For all complex substantive changes, the Commission will, at the time of the substantive change action, direct the institution to conduct a new comprehensive evaluation, in accordance with Commission policy and procedure and federal regulation *34 CFR § 602.22(h)*.
1. The Commission will establish the surviving institution's accreditation review cycle after a complex substantive change if applicable.
  2. The institution will attend the next regularly scheduled self-study institute (SSI). If the institution attended SSI in the past two years, it will continue in its assigned accreditation review cycle.
  3. The surviving institution is responsible for submitting any outstanding follow-up reports or addressing any findings from the most recent review of a partner institution(s).
- G. On the Secretary of Education's request, the Commission will conform its designations of an institution's branch campuses and additional locations with the Secretary's if it learns its designations diverge in accordance with federal regulation *34 CFR § 602.24(f)(2)*.
- H. The Commission will ensure it does not accredit or preaccredit an institution comprising fewer than all of the programs, branch campuses, and locations of an institution as certified for title IV participation by the Secretary of Education, except with notice to and permission from the Secretary, in accordance with federal regulation *34 CFR § 602.24(f)(3)*.
1. The Commission will request additional information, such as the Eligibility and Certification Approval Report (ECAR), to verify that the programs and/or locations that are certified for Title IV participation are included within the

- institution's scope of accreditation.
2. The institution will provide appropriate documentation as necessary to verify that a program or location is certified for Title IV participation.
  3. If the Commission learns that any offerings, locations, or modes of delivery are not currently included within the scope of accreditation but are certified for Title IV participation, the Commission may require the institution to submit a substantive change request.
- I. Upon review of these monitoring activities, the Commission may take any action in accordance with its *Accreditation Actions Policy and Procedures*.
  - J. The Commission will provide notification of accreditation actions in accordance with *Communication in the Accreditation Process Policy and Procedures* and federal regulation 34 CFR § 602.26.
  - K. The Commission staff reserves the right to rescind a substantive change action when:
    1. Appropriate and substantiated information comes to light that would have affected the Commission's decision.
    2. Conditions identified in the Commission's action have not been met, including but not limited to:
      - a. Required approvals from all necessary licensing, regulatory, or other legal entities are not received by the Commission;
      - b. A required substantive change site visit does not take place;
      - c. Instruction does not commence at a branch campus or additional location;
      - d. The institution decides not to open a branch campus or additional location; or
      - e. The substantive change is not implemented within one calendar year from the date of the Commission's action.
        - i. The institution may request, in writing, an extension to the one-year stipulation when there is evidence that a required approval is in progress and there is a delay on the part of the approving agency that is beyond the institution's control.
        - ii. The extension time may not exceed 3 months under any circumstance.
        - iii. The Commission staff, at their discretion, will approve a request for an extension.

## IX. Definitions

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

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

accordance with the Commission's *Maintenance and Retention of Commission Records Policy and Procedures*.

- B. Additional location.** A domestic or international physical facility or location that is geographically separate from the main campus and within the same ownership structure of the institution, at which the institution offers at least 50 percent of the requirements of an educational program. An additional location participates in Title IV programs only through the certification of the main campus. A federal, state, or local penitentiary, prison, jail, reformatory, work farm, juvenile justice facility, or other similar correctional facility is considered to be an additional location even if a student receives instruction primarily through distance education or correspondence courses at that location. The Commission utilizes the federal definition of additional location found in *34 CFR § 600.2* and will conform its designation to match the Secretary of Education's if it learns its designations diverge in accordance with federal regulation *34 CFR § 602.24(f)(1-3)*.
- C. Branch campus.** A domestic or international physical facility or location of an institution that is geographically separate from the main campus of the institution, and that is also (1) approved by the Secretary as a branch campus, and (2) is independent of the main campus. The branch campus is considered independent of the main campus if it is permanent in nature; offers credit bearing or Title IV eligible courses in educational programs leading to a degree, certificate, or other recognized educational credential; has its own faculty and administrative or supervisory organization; and has its own budgetary and hiring authority. The Commission utilizes the federal definition of branch campus found in *34 CFR § 600.2* and will conform its designation to match the Secretary of Education's if it learns its designations diverge in accordance with federal regulation *34 CFR § 602.24(f)(1-3)*.
- D. Change of ownership or control.** A transaction or modification of the ownership or governing body of the institution that changes or has the potential to change the control of the institution or its fundamental structure or organization. Examples include but are not limited to the types of transactions reflected in *34 CFR § 600.31*) and described in the *Substantive Change Guidelines*.
- E. Clock hour.** A period of time consisting of: (i) A 50- to 60-minute class, lecture, or recitation in a 60-minute period; (ii) A 50- to 60-minute faculty-supervised laboratory, shop training, or internship in a 60-minute period; (iii) Sixty minutes of preparation in a correspondence course; or (iv) in distance education, 50-60 minutes in a 60 minute period of attendance in a synchronous class, lecture, or recitation where there is opportunity for direct interaction between the instructor and students. (*federal definition in 34 CFR § 602.3*)
- F. Commission representative.** Any individual who represents or serves the Commission, including peer evaluators, Commission staff, and Commissioners.
- G. Competency Based Education (CBE).** A program that organizes content according to what a student knows and can do, often referred to as a "competency."

CBE programs also generally have very clear claims for student learning, stress what students can do with the knowledge and skills they acquire and have assessments that provide measurable evidence of competency. Student progress is determined by mastery of each competency. Because CBE focuses on whether students have mastered these competencies, there is a focus on learning outcomes rather than time spent in a classroom.

- H. Complex substantive change.** Complex substantive changes are defined as a proposed change which requires more in-depth review and/or requires the Commission to assign or engage a peer evaluator with specialized professional expertise (e.g., accounting, legal, etc.). Changes in legal status, form of control, or ownership are always considered complex. In addition, any of the types of substantive change may be considered “complex” at the discretion of the Commission staff. Examples depend on the nature and scope of the change and include but are not limited to a change in the status of multiple locations, multiple types of change that are submitted simultaneously, and some institutional closures. See *Complex Substantive Change Procedures*.
- I. Control.** Control (including the terms controlling, controlled by, and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an institution, corporation, partnership, other entity, or individual, whether through the ownership of voting securities, by contract, in governance documents, or otherwise (*federal definition in 34 CFR § 600.31(b)*). The indirect power to direct or cause the direction of management of an institution means the right of another entity to appoint a majority of the governing board representatives or the reservation by another entity of the right to decide or to approve certain fundamental decisions of an institution.
- J. Correspondence course.** A course provided by an institution under which the institution provides instructional materials, by mail or electronic transmission, including examinations on the materials, to students who are separated from the instructors. Interaction between instructors and students in a correspondence course is limited, is not regular and substantive, and is primarily initiated by the student. If a course is part correspondence and part residential training, the course is considered to be a correspondence course. A correspondence course is not distance education. (*federal definition in 34 CFR § 602.3*)
- K. Credit hour.** An amount of student work defined by an institution, as approved by the institution’s accrediting agency or State approval agency, that is consistent with commonly accepted practice in postsecondary education and that (1) reasonably approximates not less than (i) One hour of classroom or direct faculty instruction and a minimum of two hours of out-of-class student work each week for approximately fifteen weeks for one semester or trimester hour of credit, or ten to twelve weeks for one quarter hour of credit, or the equivalent amount of work over a different period of time; or (ii) At least an equivalent amount of work as required in (1) of this definition for other academic activities as established by the institution, including laboratory work, internships, practica, studio work, and other academic work leading to the award of credit hours; and (2) permits an institution,

in determining the amount of work associated with a credit hour, to take into account a variety of delivery methods, measurements of student work, academic calendars, disciplines, and degree levels. (*federal definition in 34 CFR § 600.2*).

- L. Direct assessment program.** An instructional program that, in lieu of credit hours or clock hours as a measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others and meets the conditions of 34 CFR § 668.10. Direct assessment of student learning means a measure of a student's knowledge, skills, and abilities to provide evidence of the student's proficiency in the relevant subject area. (*federal definition in 34 CFR § 602.3*). Direct assessment is a subset of competency-based education (CBE).
- M. Distance education.** Education that uses one or more of the following technologies to deliver instruction to students who are separated from the instructor or instructors and to support regular and substantive interaction between students and the instructor or instructors, either synchronously or asynchronously: (i) the internet; (ii) one-way or two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices; (iii) audio conferencing; or (iv) Other media used in a course in conjunction with any of the technologies listed above. Please see the complete federal definition of distance education, including substantive interaction in the *Substantive Change Guidelines*. (*federal definition in 34 CFR § 602.3*)
- N. Educational program.** A legally authorized postsecondary program of organized instruction or study that: (i) Leads to an academic, professional, or vocational degree, or certificate, or other recognized educational credential, or is a comprehensive transition and postsecondary program, as described in 34 CFR part 668, subpart O; and (ii) May, in lieu of credit hours or clock hours as a measure of student learning, utilize direct assessment of student learning, or recognize the direct assessment of student learning by others, if such assessment is consistent with the accreditation of the institution or program utilizing the results of the assessment and with the provisions of § 668.10. (*federal definition in 34 CFR § 600.2*). The Commission may also use the terms credential levels (Substantive Change) or certificates and/or degree levels (Standard III – Design and Delivery of the Student Learning Experience).
- O. Family member.** (1) Parent or stepparent, sibling or step-sibling, spouse, child or stepchild, or grandchild or step-grandchild; (2) Spouse's parent or stepparent, sibling or step-sibling, child or stepchild, or grandchild or step-grandchild; (3) Child's spouse; and (4) Sibling's spouse. (*federal definition in 34 CFR § 600.21(f)*)
- P. Location status.** A status assigned to each additional location and branch campus by the Commission to monitor substantive change; it is also used for billing purposes and to determine which locations will be visited during the self-study evaluation (self-study site visits).
- Q. Main campus.** The primary physical facility at which the institution offers eligible programs, is within the same ownership structure of the institution, and is certified as the main campus by the Commission (and the USDE if applicable). The

institution's primary administration, classroom buildings, residence halls, library, and other buildings are housed within the same reasonably contiguous geographic area or parcel of land of the main campus. For an institution that only offers distance education programs, the main campus is where its administrative offices are located.

- R. Other Instructional Site (OIS).** Any off-campus site, other than those meeting the definition of a main campus, branch campus, or additional location, at which the institution offers one or more credit-bearing or Title IV eligible courses, including dual enrollment courses at high schools. Sites offering less than 50 percent of an educational program are not defined in Federal regulation.
- S. Peer evaluator.** An individual who is selected and assigned to an accreditation activity by the Commission staff. This individual is part of the multi-level accreditation decision-making process and will participate in the proposal of an accreditation action. Peer evaluator is not intended to include a Commissioner serving in an official Commissioner capacity on a committee or the Commission. Peer evaluator is not intended to include an assistant or any other observer of an accreditation activity.
- T. Reclassification.** When educational offerings at an existing site change enough to move the site into a new category (see definitions of main campus, branch campus, additional location, and other instructional site).
- U. Relocation.** When an institution moves an existing approved main campus, branch campus, or additional location to a new physical location.
- V. Scope of accreditation.** The institution's accreditation status covers a defined scope of educational offerings, including but not limited to credential levels, delivery methods, and locations (additional locations, branch campuses, and other instructional sites) which have been reviewed by the Commission during accreditation activities. Any changes proposed by a member institution that are considered substantive must be reviewed through the substantive change review process prior to implementation in order to be included within the institution's scope of accreditation by the Commission.
- W. Site closure.** A site or location (main campus, branch campus, or additional location) at which instruction has ceased or will cease and the institution has no plans to use the location to offer instruction any longer. The location will be removed from the institution's scope of accreditation. If the site provides 100 percent of at least one program, the institution must also submit a teach-out plan describing how any students remaining in the program will be assisted with the completion of a credential in accordance with *34 CFR § 602.24(c)(1)(iii)*.
- X. Teach-out.** A process during which an institution or institutional location that provides 100 percent of at least one program engages in an orderly closure or when, following the closure of an institution or campus, another institution provides an opportunity for the students of the closed school to complete their program, regardless of their academic progress at the time of closure. (*federal definition in 34*

*CFR § 600.2, slightly modified to remove the word “program”*)

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

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