

## **Related Entities Procedures**

*Effective Date: July 1, 2022*

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#### **I. Purpose**

The Mid-Atlantic Region Commission on Higher Education (MARCHE), doing business as the Middle States Commission on Higher Education (MSCHE or the Commission), seeks to ensure that the Commission receives sufficient information and cooperation from an institution and any related entities as defined in *Section VI Definitions* in order to determine that the institution appears to meet the minimum requirements and is eligible to apply for accreditation or that the institution appears to demonstrate continued compliance with Commission standards for accreditation, requirements of affiliation, policies and procedures, and applicable federal regulatory requirements. The purpose of these procedures is to implement the *Related Entities Policy* and describe the Commission's requirements for the institution and any related entities to provide full disclosure, cooperate and respond to the Commission's requests, and engage in the accreditation process. The policy and procedures apply equally to institutions and their related entities.

#### **II. Procedures for Disclosure of Information about Related Entities**

- A. The Commission must have sufficient information to determine that an institution appears to meet minimum requirements and is eligible to apply for accreditation or that an institution appears to demonstrate continued compliance with Commission standards for accreditation, requirements of affiliation, policies and procedures, and applicable federal regulatory requirements.
- B. The institution is responsible for disclosing, documenting, and explaining all significant matters and relationships involving related entities that may impact its compliance including but not limited to governance, independence and autonomy, management and administration, and financial viability and stability.
- C. The institution will fully disclose and provide documentation (e.g. formation or governing documents) of its legally constituted governance structure that allows Commission representatives to assess governance, control and decision-making, level of independence, and autonomy from undue political, financial, or other influence.

- D. The related entity will fully disclose and provide documentation (e.g. formation or governing documents) of its legally constituted governance structure, including the legal authority and operating control it exercises over the institution if applicable.
- E. The institution will fully disclose and provide financial information (e.g. financial statements, audits, or financial reports, plans, or budgets) that allows Commission representatives to assess the financial viability and management of the institution, including where appropriate, an accurate description of the flow of funding to or from the institution and the related entity.
  - 1. The institution should have audits prepared in such a way that an analysis of the finances of the independently accredited institution can be conducted.
  - 2. If necessary, the Commission may request independent financial information for the institution including but not limited to audited financial statements with management letters, Single Audits, or financial plans or budgets.
- F. The Commission may request additional information from the institution or the related entity itself, and in some cases, about partner institutions or other related organizations that may not meet the definition of a related entity, to clarify information and verify compliance. Such information may include but is not limited to financial information, legislative staff funding analyses, annual reports, United States Securities and Exchange Commission (SEC) Form 10-K, or other filings.
- G. The institution or the related entity itself will provide additional information as requested by Commission representatives.
- H. The institution will submit this information on behalf of the related entity in conjunction with its written report and/or evidence for accreditation activities.

### **III. Procedures for Communication between the Commission and Related Entities**

- A. The Commission staff will establish appropriate and clear lines of communication with identified representatives from related entities in accordance with the Commission's *Communication in the Accreditation Process Policy and Procedures*.
- B. The Commission staff will communicate with identified representatives from related entities in order to share or obtain information necessary for the accreditation decision-making process.
  - 1. The institution will provide appropriate contact information for a liaison or representative from the related entity with which the Commission may communicate.
  - 2. The institution and related entity will communicate with the Commission in English, both orally and in writing.
  - 3. The Commission staff will notify identified representatives from related entities of upcoming accreditation activities.
  - 4. The Commission staff will copy the institution on all correspondence of record with the related entity.

5. The Commission staff will retain correspondence of record with a related entity as part of the confidential institutional record.
  6. The Commission will safeguard the confidentiality of communication with the related entity.
  7. The Commission may request other information from the related entity.
- C. The Commission will share information with identified representatives of the related entity, including but not limited to accreditation materials and Commission policies and procedures, for the purpose of informing the related entity about the accreditation decision-making process and the expectations of the Commission.
- D. The Commission may require the participation of representatives of the related entity in accreditation activities, including but not limited to attendance at visits or at other proceedings before the Commission. The range of accreditation activities conducted by the Commission including reviews or proceedings and any related, reports, and visits is described in *Accreditation Activities Guidelines*.
- E. The Commission will require the related entity to provide detailed information for a teach-out to ensure the equitable treatment of students should an institution close.
- F. While it is the responsibility of the institution to notify the Commission of any substantive changes that require Commission review and prior approval in accordance with the *Substantive Change Policy and Procedures*, the related entity is expected to inform the institution of any such changes in a timely manner.
- G. The institution is responsible for submitting a complex substantive change request for review and prior approval by the Commission before making changes to legal status, form of control, or ownership, even when those changes are initiated by the related entity and may consist of structural changes to ownership and control of the related entity and not the institution itself. Even through the complex substantive change process, the Commission may not allow certain structural changes that violate Commission policy and procedures.

#### **IV. Procedures for Required Disclosures and Certification Statement by Related Entities**

- A. At the time of accreditation activities such as application, candidacy, grant of accreditation, reaffirmation, and at other times at the discretion of the Commission, representatives from the institution and each related entity must complete and sign a single *Related Entities Required Disclosures and Certification Statement*.
- B. The Commission may request that the institution obtain and submit the statement for certain types of substantive changes including but not limited to changes in legal status, form of control, or ownership.

- C. The related entity will certify, through the *Related Entities Required Disclosures and Certification Statement*, that it recognizes the Commission's standards for accreditation, requirements of affiliation, policies and procedures, and applicable federal regulatory requirements and will ensure that responsibilities that relate to areas controlled or influenced by the related entity are fulfilled.
  - D. The institution will submit the *Related Entities Required Disclosures and Certification Statement* on behalf of its related entities and will submit it in conjunction with its written report and/or evidence for accreditation activities.
  - E. Failure of an institution or a related entity to provide the required disclosures, certification statement, other relevant information requested by the Commission may result in additional monitoring activities or a non-compliance action.
- V. Procedures for Commission Review of the Institution's Relationship with Related Entities**
- A. At the time of pre-application, the institution's relationship to any related entities will receive intense scrutiny to determine whether the institution meets the minimum requirements and is eligible to apply for accreditation. In particular, the institution must demonstrate its ability to operate as an academic institution with appropriate autonomy and independence from undue political, financial, or other influence.
  - B. At the time of application, candidacy, grant of accreditation, self-study evaluation, substantive change, and at any other time deemed relevant by the Commission, the Commission will review the institution's relationship to the related entity to determine that the institution demonstrates continued compliance with the Commission's standards for accreditation, requirements of affiliation, policies and procedures, and applicable federal regulatory requirements.
  - C. The institution will provide, at a minimum, the following information to the Commission as evidence of compliance:
    - 1. Description of its legally constituted governance structure which clearly delineates the particular way functions, roles, and responsibilities are distributed between the institution and the related entity;
    - 2. Description of the nature of the relationship and the extent of any liability arising out of the relationship with the related entity;
    - 3. Description of multiple layers of ownership and how decisions are made;
    - 4. Description of the legal authority and operating control the related entity exercises over the institution;
    - 5. Description of the nature of the relationship with any subsidiaries, affiliates, controlled or supporting institutions or organizations;
    - 6. Description of any entities that may be partnered with the member institution through shared services agreements, system membership agreements, or other similar contractual arrangements;

7. Adequate financial information that allows Commission representatives to assess the financial viability and management of the institution, including where appropriate, an accurate description of the flow of funding to or from the institution and the related entity;
  8. Formation or governing documents for both the institution and the related entity.
- D. At any time it is necessary to determine compliance and understand the nature of the relationship between the institution and the related entity, the Commission may request a review by legal counsel of the information submitted by the institution or related entity.
- E. Commission representatives may request additional evidence that is required to clarify information or verify compliance.
- F. The institution or the related entity will provide any additional evidence as requested by Commission representatives.
- G. The Commission will provide training to Commission representatives on how to review the institution's relationship with related entities.
- H. If the Commission determines that the institution does not meet the Commission's standards for accreditation, requirements of affiliation, policies and procedures, and applicable federal regulatory requirements because of the nature of the institution's relationship with a related entity, the Commission will take an accreditation action in accordance with its *Accreditation Actions Policy and Procedures*.
- I. 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.
- J. While it is the responsibility of the institution to ensure the timely submission of all required follow-up reports or other information requested under ongoing monitoring activities, the related entity is also expected to provide pertinent information on areas controlled or influenced by the related entity. The institution will submit this information on behalf of the related entity in the secure MSCHE portal.

## VI. Definitions

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

- A. Accreditation activities.** All activities including but not limited to reviews, reports, on-site visits conducted by Commission representatives related to the institution's accreditation phase, accreditation status, or scope of accreditation occurring throughout the accreditation review cycle and during monitoring activities for an applicant or member institution.
- B. Governing documents.** Any charter, articles, bylaws, certificate, statement, statutes, or

similar document adopted, filed, or registered in connection with the creation, formation or organization of an entity, and any contract among all equity holders, partners or members of an entity.

**C. Institution of higher education.** An educational institution that is legally authorized by an appropriate jurisdiction to provide an educational program beyond secondary education in the jurisdiction in which it is physically located (34 CFR § 600.3), and an institution is physically located in a jurisdiction if it has a campus or other instructional site in that jurisdiction (*federal definition in 34 CFR § 600.5(ii)(b) slightly modified to replace the word “state” with “jurisdiction”*).

**B. Related entity.** An entity, regardless of form, that is legally distinct from the institution but has a relationship, connection, or interdependency with the institution. Examples include but are not limited to (1) an individual, partnership, corporation, other entity, layer or group of ownership, or institution of higher education that exercises legal authority or control over the institution; (2) a subsidiary, controlled or supporting organization, other entity, or another institution of higher education for which the institution exercises legal authority or control over and thereby assumes liability; (3) an entity that has a voting interest and/or is granted a certain number of seats or representation on the institution’s governing body such as a funding or religious sponsor; (4) a public college or university system administration or board which has legislative authority from an individual state, territory, or federal district over a group of institutions, or (5) a private college or university system administration or board which has legal authority over a group of institutions. Alumni associations, fundraising organizations, and teaching hospitals are not considered related entities. Local, county, and state legislatures, other accreditors, local advisory boards, and government agencies or jurisdictions are not considered related entities. External non-accredited entities with which the institution has a written contract for the provision of limited student services or programs are not considered related entities.

Number: P3.5

Version: 2022-07-01, APPROVED

Effective Date: July 1, 2022

Previously Issued Title:

Approved: Approved by Executive Leadership Team, June 2022

Revisions:

Standards: Standard VII Governance, Leadership, and Administration

Requirements of Affiliation: Requirement of Affiliation #12;

Federal Regulations:

Related Documents: *Related Entities Policy; Substantive Change Policy; Substantive Change Procedures; Complex Substantive Change Procedures; Substantive Change Guidelines; Application and Candidacy Review Cycle and Monitoring Policy and Procedures; Accreditation Review Cycle and Monitoring Policy; Accreditation Review Cycle and Monitoring Procedures; Accreditation Activities Guidelines;*