

Dr. Barbara Brittingham
President of the Commission
New England Commission of Higher Education
3 Burlington Woods Drive, Suite 100
Burlington, MA 01803

Re: Standards and Policy Revisions

May 1, 2020

Dear Dr. Brittingham and the New England Commission of Higher Education,

Thank you for the opportunity to provide comment on the New England Commission of Higher Education's (NECHE) proposed standards and policy revisions. Accreditation is a critical quality control for the nation's students and taxpayers. We write today to provide feedback on the proposed policy changes related to noncompliance with commission standards, accreditor actions, and teach-out plans.

For students and taxpayers, accreditation acts as a safety seal of approval, signaling that a college has been vetted by an expert. For students in particular, this seal matters, since enrolling in college may be one of the biggest investments that students make in their future. We are concerned that some of the proposed policy revisions will send the wrong signal to students, that a college meets quality standards and is a good investment, even when it is potentially not. These concerns are heightened as institutional membership associations lobby Congress for relaxing oversight and for-profit colleges anticipate enrollment increases, at the same time higher education faces mounting pressure during a global pandemic, a resulting recession, and as many institutions will face potential permanent closure. It is imperative that accreditors serving as federal gatekeepers provide thorough oversight, protect students first in the actions it takes, not the institutions it oversees, and provide greater transparency when a college does not meet the commission's quality standards. This comment proposes several recommendations that NECHE should consider in its policy changes. Specifically, we recommend that NECHE:

1. Require all actions, including show cause, be made public and disclosed to students before an institution appeals;
2. Strictly limit periods of noncompliance, probation, and ensure public transparency to protect students and taxpayers; and
3. Protect students attending colleges at risk of closure by developing guidelines around use of teach-out agreements

Require all actions be made public and disclosed to students before an institution appeals

NECHE's policy on issuing probation, which allows an opportunity for an institution to first show cause that it should not be placed on probation and an opportunity to appeal the decision before it is ever made public, protects institutions over students.¹ NECHE should change its policy in accordance with most other accrediting agencies and require the action be made public and disclosed to students before an institution appeals. The actions accreditors take are an important tool to communicate to institutions, the public, and students when a college is underperforming. However, NECHE's policy sweeps problems under the rug, to the potential harm of students.

Take for example, the case of Lincoln College of New England, a publicly traded institution accredited by NECHE.² In May of 2018, the company that owns Lincoln revealed to investors that NECHE required it to show cause why it should not be placed on probation because it did not meet seven of the agency's standards, including concerns about its financial resources. Lincoln was unable to make its case, and at the end of June, NECHE voted to move forward with placing the school on probation. Rather than informing students, the company that owns Lincoln first informed its investors--in August--that it had been placed on probation. Some weeks later, the information was disclosed to students along with the announcement that the institution would cease enrollment and close at the end of December. In the case of Lincoln, the college informed investors twice, months before students were ever aware of a problem. Secretive show cause and probation processes allow investors or other decision makers to make financial decisions about the future of a college all while students and parents are kept in the dark and key information they need for making their own enrollment decisions is withheld.

NECHE's policy differs from most other regional accrediting agencies. For example, the Southern Association of Colleges and Schools Commission on Colleges, the Middle States Commission on Higher Education, and the Higher Learning Commission do not provide institutions the opportunity to appeal a probation decision.³ This provides greater public transparency for students and parents when a problem exists that could inform decisions in the future and it is particularly important that information is revealed as soon as possible when institutions are facing financial trouble and potential closure, a scenario that may become more common in the coming months and years as colleges manage the effects of any pandemic-related economic downturn. NECHE should align its policies with other agencies and be transparent when an institution does not meet quality standards. Doing so incentivizes institutions to be honest about their failures and publicly accountable for putting a plan in place to improve and safeguard students.

If NECHE maintains its appeals process, it should still create greater transparency, making its decisions public and holding an open hearing that allows for public comment. These types of decisions that influence potentially millions in taxpayer funds and the fates of thousands of students should not be made in the dark. Creating a transparent appeals process would remove the veil of secrecy in which accreditor decisions are made, help ensure public confidence that

actions against poor-performing institutions are being taken when warranted and consumer and taxpayer funds are safe.

Strictly limit periods of noncompliance, probation, and ensure public transparency to protect students and taxpayers

Under the proposed changes, NECHE will allow institutions that are out of compliance with one or more standards the ability to apply for approval for a period of noncompliance up to three years for extraordinary circumstances, with the potential for extension for good cause.⁴ In addition, it will double the maximum amount of time an institution has on probation to a maximum of four years for institutions whose longest programs are four years. We are concerned that each of these changes individually and in combination weakens the expectation that accreditors ensure quality and take swift action to protect students and taxpayers.⁵ This toxic combination creates loopholes in enforcement of standards and allows institutions the ability to remain out of compliance for an inordinate and seemingly limitless amount of time. The new regulations make this additional flexibility optional, not mandatory and therefore should be used with extreme caution.

To ensure that colleges that do not meet standards are held accountable and to high expectations and that the maximum timeline does not become the default, we recommend NECHE limit any initial approval for a period of noncompliance to one year and then require an extension, not to exceed three years in aggregate. For institutions placed on probation, we recommend limiting initial probation to no more than two years as allowed under current regulation, and then requiring an extension. The use of the added flexibility and extended period of probation should require that institutions submit outcomes and financial data at least annually to ensure that students are not harmed by the period of noncompliance. In the event an institution receives approval for a full three years of non-compliance, NECHE should limit any additional time the institution receives to demonstrate compliance through show-cause or probation and consider the interaction of this flexibility with the additional time an institution may already have been granted using an accreditor action such as probation. Additionally, any use of this flexibility should require full transparency and disclosure to students including the areas of noncompliance, the timeline for resolution, and updates on the institution's progress toward meeting standards. This ensures that additional time and flexibility are used only with an abundance of caution, that the maximum timeline does not become the default, and the additional time is not abused as a free-for-all.

If the commission chooses to use the maximum timelines allowed under non-compliance and probation, it could result in a school failing to meet standards for a period nearly double or triple the time that students will enroll in the institution, subjecting many additional cohorts of students to an education that does not meet the agency's standards. This flexibility undermines the guarantee that students are enrolling and receiving degrees from an institution that meets minimum quality standards.

Use of this flexibility is particularly worrisome as higher education faces mounting pressure amidst a global pandemic, financial uncertainty, and as many institutions will face potential permanent closure. While some flexibility may be necessary, it should only be used in limited scenarios where the institution has the potential to remedy the problem and while ensuring that students are protected.

Protect students attending colleges at risk of closure by developing guidelines around use of teach-out agreements

While we support greater clarity and focus on the use of teach-out plans, NECHE's proposal does not clarify any circumstances where teach-out agreements will be required. For students enrolled in a college at significant risk of closure, teach-out plans are not sufficient because they do not obligate any other institution to follow through on the plan in the event of closure and lack the detail needed to be placed into effect. While they may be helpful in beginning the work of finding a teach-out partner, until an agreement is secured that ensures equitable treatment of students, a teach-out plan is effectively meaningless. One of the challenges in recent closures is that accreditors have failed to secure or even ask for a formal teach-out agreement. Take for example, NECHE-accredited Mount Ida College. Mount Ida College had teach-out plans in place but these did not cover all programs, leaving many students without a clear way to complete their education after closure.⁶

In today's environment, securing high-quality agreements for students enrolled in any institution at risk of closure is imperative. NECHE's policy revision should clarify the circumstances when it will require a teach-out agreement be in place. For example, NECHE proposes allowing candidate institutions that fail to secure accreditation additional time up to 120 days to execute teach-out plans.⁷ For any extension, NECHE should require the institution to have a teach-out agreement in place and only allow the school to teach-out students who are capable of completing within the extended window.

Conclusion

As one of the first agencies to propose changes to its policies in anticipation of the new regulations, NECHE has an opportunity to be a leader among accrediting agencies by creating strong policies and setting high expectations for institutions that do not meet the commission's standards. We hope you will take these recommendations into consideration as you finalize the proposed policies. Thank you for the opportunity to provide comment. My colleagues and I are available to answer questions or discuss these recommendations further.

Sincerely,

Center for American Progress
Center for Law and Social Policy (CLASP)
Generation Progress

National Association for College Admission Counseling (NACAC)
National Student Legal Defense Network (Student Defense)
New America Higher Education Program
Stephanie Hall, The Century Foundation
Student Veterans of American
Third Way
U.S. Public Interest Research Group (PIRG)
Veterans Education Success

¹ Policy referenced applies to the following proposed revisions: Policy on Notification of Actions Affecting the Accreditation Status of Affiliated Institutions and Providing Other Information, <https://www.neche.org/wp-content/uploads/2020/03/Pp21-Policy-on-Notification-of-Actions-Affecting-the-Accreditation-Status-Under-Revision.pdf>; Policy and Procedures for the Appeal of Adverse Accreditation Action Affecting Institutional Accreditation or Candidate for Accreditation Status, <https://www.neche.org/wp-content/uploads/2020/03/Pp03-Policy-and-Procedures-for-Appeals-1.pdf>; Policy on the Status of Probation, <https://www.neche.org/wp-content/uploads/2020/03/Pp46-Status-of-Probation-Under-Revision.pdf>; Range and Meaning of Commission Actions Affecting Institutional Status, https://www.neche.org/wp-content/uploads/2020/03/Pp58_Range-and-Meaning-of-Commission-Actions-Under-Revision.pdf.

² Rick Seltzer, "Due Process or Delayed Announcements?," *Inside Higher Ed*, September 18, 2018, available at: <https://www.insidehighered.com/news/2018/09/18/summer-probations-raise-question-when-accreditor-should-disclose-colleges-status>.

³ Middle States Commission on Higher Education, "Accreditation Actions Procedures," available at <https://msche.my.salesforce.com/sfc/p/#46000000ZDJj/a/46000000PHqf/ZbBQXrxryPtzn7REdcknz1xLVuzYaY96MkcilY5RiG4>; Southern Association of Colleges and Schools Commission on Colleges, "Disclosure of Accrediting Documents and Actions," available at <https://sacscoc.org/app/uploads/2019/08/disclosure.pdf>; Higher Learning Commission, "Probation," available at <https://www.hlcommission.org/Policies/probation.html>.

⁴ Policy on Noncompliance with Commission Standards, available at <https://www.neche.org/wp-content/uploads/2020/03/NonCompliance-Policy-NEW.pdf>.

⁵ Policy on the Status of Probation, available at <https://www.neche.org/wp-content/uploads/2020/03/Pp46-Status-of-Probation-Under-Revision.pdf>.

⁶ Jared Colston, Gregory Fowler, PhD, Amy Laitinen, Clare McCann, Jamiene Studley, David Tandberg, PhD, & Dustin Weeden, "Anticipating and Managing Precipitous College Closures" available at https://d1y8sb8igg2f8e.cloudfront.net/documents/Anticipating_and_Managing_Precipitous_College_Closures_FINAL_IFQ7I7L.pdf.

⁷ Range and Meaning of Commission Actions Affecting Institutional Status, available at https://www.neche.org/wp-content/uploads/2020/03/Pp58_Range-and-Meaning-of-Commission-Actions-Under-Revision.pdf.