



## SHOW-CAUSE (PROCEDURAL ORDER)

### Policy Change Adopted on Second Reading

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The Higher Learning Commission (HLC) Board of Trustees (“the Board”) adopted this policy on second reading at its meeting on June 25–26, 2020.

#### Background

The adopted policy change, in part, would allow peer review teams, the Institutional Actions Council and the HLC President to recommend the issuance of a Show-Cause Order by the Board. This recommendation ability allows the Board to more accurately discern the extent to which the institution is expected to succeed in ameliorating the conditions led to its noncompliance with HLC requirements. The revisions also expand the range of findings that might lead to the issuance of a Show-Cause Order to include not only an institution’s noncompliance with the Criteria for Accreditation, Federal Compliance Requirements and Assumed Practices, but also its noncompliance with the Eligibility Requirements and Obligations of Affiliation. Institutions are thus apprised that noncompliance with any of the aforementioned requirements constitute legitimate grounds for the issuance of a Show-Cause Order.

Beyond HLC’s Board-driven enhancements, the policy changes also bring HLC policy into compliance with [federal regulations](#) effective July 1, 2020. When the Board issues a Show-Cause Order for an institution, HLC is required to disclose the Board’s action on its website within one business day of notifying the institution. The institution is required to notify its constituents, including prospective students, of the action within seven business days. The change also references additional requirements in federal regulations for certain new substantive change approvals that apply to any institution that the Board places under a Show-Cause Order after July 1, 2020. Such new substantive change approvals also apply to an institution for three academic years following the Board’s removal of a Show-Cause Order after July 1, 2020. See the [adopted policy changes related to substantive change](#) for details. Finally, the proposed change alludes to an [adopted change to the policy on Denial or Withdrawal of Status](#) that would set a maximum timeframe for noncompliance with HLC requirements.

HLC circulated these policy changes to the membership and other interested parties after the Board's February 2020 meeting. No comments were received.

Conforming changes in numerous policies (not fully set forth herein) have been made as follows:

- INST.B.20.040 Change of Control, Structure or Organization
- INST.B.30.020 Obligations of Affiliation
- INST.C.10.030 Process Requirements Leading to Commission Action for Reaffirmation
- INST.D.20.010 Institutional Actions Council
- INST.D.40.010 Institutional Actions Council Processes
- INST.E.20.010 Probation
- INST.F.10.010 Routine Monitoring and Data Collection
- INST.F.20.010 Special Monitoring
- INST.F.20.080 Monitoring of Change of Control, Structure or Organization
- INST.G.10.020 Official Records
- FDCR.A.10.010 Federal Compliance Requirements
- COMM.B.10.020 Staff Authority for Minor Changes Related to an Institution's Relationship With the Commission

## Implementation

This policy is effective immediately.

## Adopted Policy

Wording that was deleted or revised is shown as strikethrough (~~old wording~~); new language, whether through addition or revision, is shown in bold (**new wording**). These revisions have been made on HLC's website at [hlcommission.org/policies](http://hlcommission.org/policies).

Policy Title: Show-Cause (Procedural Order)

Number: INST.E.30.010

Upon recommendation by a peer review team, the Institutional Actions Council, the President, or at its discretion, ~~t~~The Board of Trustees may **issue an order** requiring ~~an~~ accredited institution to show cause, typically within one (1) year (the Show-Cause period), 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 **HLC requirements, which may include** the Criteria for Accreditation, ~~or~~

the Federal Compliance Requirements, ~~or is out of conformity with~~ the Assumed Practices, **the Eligibility Requirements or the Obligations of Affiliation**. The Board of Trustees may consider shortening the Show-Cause period based on factors including but not limited to the following:

- a. the institution has spent a period of time immediately preceding the issuance of the Show-Cause Order on Probation;
- b. findings of noncompliance pose a serious risk of imminent harm or danger to students.

The Show-Cause Order is public. The institution remains accredited while it is on Show-Cause. ~~An order to~~ **The issuance of a Show Cause Order** 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) submit in a timeframe defined by the Show-Cause order a Provisional Plan comporting with HLC **Teach Out** requirements for such plans to the Institutional Actions Council for review and approval during the Show-Cause period, (2) 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~~ **all** 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 (3) 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~~ **ultimately determine** that ~~the~~ a Show-Cause Order has been **satisfactorily** addressed, and that the institution has demonstrated compliance with ~~the Criteria for Accreditation and the Federal Compliance Requirements and conformity with the Assumed Practices~~ **HLC requirements**.

### 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~~ **all** the Assumed Practices and **all** 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~~ **HLC requirements**, but remains at risk related to those areas of non-compliance or other deficiencies. ~~No language in other Commission policies including but not limited to the policy on Probation shall be interpreted to create a right by an institution to additional time after a period of Show-Cause concludes to demonstrate compliance with the Criteria for Accreditation or Federal Compliance Requirements.~~

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~~ **all HLC 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 **and** 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~~ **the maximum time period of noncompliance as stated in INST.E.60.010 Denial or Withdrawal of Status is not exceeded.**

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 **of at least two (2) weeks** 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~~ **require** a Board Committee Hearing in keeping with INST.E.70.010 Special Protocols Related to Sanctions and 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~~ **under a Show-Cause Order** is removed from any reaffirmation pathway until ~~it is removed from the Show-Cause Order has been removed.~~

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 another Pathway.

### Substantive Change During the Show-Cause Period

The Commission will not consider for approval any substantive change during the Show-Cause period other than a Provisional Plan as required under this policy and any accompanying Teach-Out Agreements, 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. **Under the federal regulations, additional requirements for prior approval for certain substantive changes apply specifically to institutions placed under a Show-Cause order after July 1, 2020 as well as for three academic years following removal of such Show-Cause order, and may be found in HLC's policies on substantive change (see INST.F.20.040 Substantive Change).** 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~~ **one (1) business day** 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~~ **seven (7) business 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~~ **determine the length of the on-site visit or to 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 Processes*

*Chapter E: Sanctions, Adverse Actions, and Appeals*

*Part 30: Show Cause*

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*Last Revised: June 2020*

*First Adopted: June 2000*

*Revision History: June 2006, November 2012, February 2014, February 2015, November 2018, June 2020*

*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 Sanctions and Adverse Actions, INST.B.30.040 Public Disclosure, COMM.B.10.010 Staff Role and Responsibility*