

# Arbitration Requirements

## Policy Change Approved on First Reading

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The Higher Learning Commission (HLC) Board of Trustees (“the Board”) approved this policy on first reading at its meeting on February 23–24, 2023.

### Background

Federal regulations require that an adverse action taken by an accreditor be subject to specific arbitration requirements as detailed in accompanying statutes. Specifically, the requirements state that an institution’s accreditation will not be recognized unless it “agrees to submit any dispute involving [adverse actions] to initial arbitration prior to [taking] any other legal action” against its accreditor (20 U.S.C. 1099b(e)).

Likewise, HLC’s Obligations of Membership include an arbitration obligation.

The proposed policy changes would clarify that the scope of the arbitration provision in the Obligations of Membership is limited to adverse actions and only includes an “initial arbitration” requirement.

### Comments Invited

HLC invites comments on this change before the Board takes final action at its meeting on June 22–23, 2023. Comments can be sent to [policycomments@hlcommission.org](mailto:policycomments@hlcommission.org). Comments are due by May 15, 2023.

### Proposed Change

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**).

#### Policy Title: **Obligations of Membership**

Number: **INST.B.30.020**

While seeking and holding membership with HLC, an institution voluntarily agrees to meet obligations set forth by HLC as follows:

1. The institution participates in periodic evaluation through the structures and mechanisms set forth in HLC policies, submission of reports as requested by HLC, filing of the Institutional Update, and any other requirements set forth in its policies.
2. The institution regularly reviews current HLC policies and procedures. It adheres to such policies and procedures in good faith.
3. The institution designates an Accreditation Liaison Officer in accordance with HLC requirements.
4. The institution is candid, transparent, and forthcoming in its dealings with HLC, including cooperating with all requests for information from HLC.
5. The institution notifies HLC of any condition or situation that has the potential to affect the institution's status with HLC, such as a significant reduction in program offerings, potential institutional closure or serious legal investigation (including, but not limited to, conditions or situations included in HLC's policy on special monitoring).
6. As further defined and explained in HLC policy, the institution informs HLC of its relationship with any related entity wherein institutional decision-making is controlled by that entity and of any changes in that relationship that may affect the institution's compliance with HLC accreditation requirements.
7. The institution describes itself in identical terms to HLC and to any other recognized accreditor or regulatory body with which it holds or seeks membership with regard to purpose, operating authority, governance, programs, locations, degrees, diplomas, certificates, personnel, finances, and constituents.
8. The institution notifies HLC when it receives a pending or final adverse action from or has been placed on sanction by any other recognized accreditor; if a state has issued a pending or final action that affects the institution's legal status or authority to grant degrees; or if it is placed on, or removed from, a provisional certification for participation in Title IV by the U.S. Department of Education; or if it is placed on, or removed from, the Reimbursement payment method or the Heightened Cash Monitoring 2 payment method by the U.S. Department of Education.
9. The institution notifies its constituents when it receives a pending or final adverse action from or has been placed on sanction by any other recognized accreditor or if a state has issued a pending or final action that affects the institution's legal status or authority to grant degrees.
10. The institution notifies applicable constituents whenever HLC has required it to submit a Provisional Plan for approval, and provides an accurate explanation as to the rationale for that Provisional Plan.
11. The institution accepts that HLC will, in the interest of transparency to the public, publish outcomes from its accreditation process in accordance with HLC policy.

12. The institution portrays its accreditation status with HLC clearly to the public, including the status of its branch campuses and related entities. The institution posts the electronic version of HLC's Mark of Accreditation Status in at least one place on its website, linking users directly to the institution's status on HLC's website.
13. The institution provides its constituents and applicants with any Public Disclosure Notice or Public Statement it receives from HLC and accurately communicates the significance of, and underlying reasons for, such Public Disclosure Notice or Public Statement as required by HLC.
14. The institution maintains prominently on its website a telephone number that includes an option for both current students and the public to speak with a representative of the institution.
15. The institution ensures that any information submitted to HLC generally will not include unredacted personally identifiable information (PII). If the institution submits information with unredacted PII because it is necessary for evaluative purposes or otherwise, it will clearly identify the information as such, if applicable.
16. The institution submits timely payment of dues and fees in accordance with the published Dues and Fees Schedule and accepts the fact of surcharges for late payment.
17. **Prior to taking legal action against HLC,** ~~the institution agrees to accept binding arbitration regarding actions by HLC, including an~~ **submit to initial arbitration any dispute it may raise regarding an** adverse actions, **as such term is defined in HLC policy** ~~that the institution disputes and~~ **that it** is not able to resolve through HLC's processes. ~~The institution agrees to grant immunity to HLC from claims of civil liability related to decisions made by HLC in the course of its work of accrediting institutions provided that HLC was acting in good faith and within the scope of its responsibilities.~~
18. The institution agrees that in the event it, or any third party, takes legal action against HLC related to any accreditation action or makes any legal inquiries of HLC related to the institution, the institution shall, to the extent allowed by law, be responsible for all expenses, including but not limited to attorneys' fees, expert witness, and related fees, incurred by HLC in responding to such legal inquiries and/or defending the action.

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