

**COUNCIL FOR
HIGHER EDUCATION ACCREDITATION**

**THE COUNCIL FOR
HIGHER EDUCATION
ACCREDITATION
AND
RECOGNIZED ACCREDITING
ORGANIZATIONS**

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CHEA

The Council For Higher Education Accreditation and Recognized Accrediting Organizations

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The Council for Higher Education Accreditation (CHEA), established in 1996, is now the largest institutional membership organization in higher education in the United States of America, with almost 3,000 members. Following the past 50 years of recognition of accrediting bodies by the academic community (the National Commission on Accrediting, 1949-74; the Council on Postsecondary Accreditation, 1975-1993 and the Commission on Recognition of Postsecondary Accreditation, 1993-96), CHEA has developed an improved national recognition system. Currently, its “recognition” list contains 60 accrediting organizations that accredit over 4,100 institutions. This is almost 97 percent of those institutions recently listed on the Carnegie Commission’s 2007 compilation and classification of higher education institutions.

The CHEA listing of “recognized accrediting institutions” has many current uses by states, foundations, corporations and various government agencies. Another additional critical use of this extensive list could be, and probably should be, to meet the current requirements of the Congress that the Secretary of Education

“shall publish a list of nationally accredited agencies or associations that the Secretary determines, pursuant to sub-part 2 of part H of Title IV, to be reliable authority as to the quality of education offered (by educational institutions).”

This law was originally passed in 1952 as part of the Veterans Adjustment Act, and established this “listing” responsibility for the first time. There had been a wave of protests and concern about fraud and abuse in the implementation of the G.I. Bill and in the Congressional hearings it became clear that revisions were necessary. Although vigorously opposed by the Veterans Administration, a compromise was worked out with Earl McGrath (the Commissioner of Education) that incorporated a dual approach. The Office of Education would use the work of accrediting bodies, some from state agencies, but primarily from voluntary, non-profit accrediting associations, to determine the quality of training offered by educational institutions. The resulting legislation clearly assumed that such agencies or associations existed as reliable authorities, and a list of them and their accredited institutions could be published. The State Approving Agencies of the Veterans Administration would use these lists to approve the support of veteran students who were eligible for the G.I. Bill.

The Commissioner of Education published a limited list, essentially from the National Commission on Accrediting, which included only four-year institutions. In the years since 1952, the Congress has added several other types of institutions and additional approval systems that allow students to participate in federal funding programs. By 1977 the Commissioner, Ernest Boyer, reported an approved list of 8,544 highly varied institutions, including 854 foreign institutions. The list also includes (1) a few federally-chartered military colleges, (2) a few federally-chartered universities in the District of Columbia, (3) several thousand hospital-based allied-health programs, (4) a fairly large number of institutions that are state-approved, institutionally-certified or eligible under other vocational student loan insurance plans. Thirty years later, the list is probably at least 10,000 institutions, with almost 1,000 foreign institutions, approved with minimal review. Many of the foreign

institutions are medical schools. In this postsecondary area, some were vocational, unaccredited schools for which there were no accrediting associations, so governmental officials had encouraged their development. For example, William Goddard, an owner of several well-known profit-making schools, organized the National Association of Trade and Technical Schools after such encouragement.

With the further development of the Department of Education's Division of Eligibility in the 1970s and the National Advisory Committee on Institutional Quality and Integrity, there has been considerable federal staff effort to establish some operational regulations controlling voluntary accrediting bodies and the autonomy of their accredited members. This is an appropriate time to strongly consider using the CHEA recognition of accrediting bodies and their 4,100 accredited colleges and universities as the basis for supporting their students applying for federal financial aid programs.

Several diverse, and seemingly unrelated, background topics provide supporting reasons for the proposed use of the CHEA recognition of nongovernmental accrediting bodies. They are:

1. The constitutional basis in the United States of America for providing "education," including higher education.
2. Our tripartite system of providing goods and services in America.
3. Congressional actions to control the regulations developed by the staff of the Department of Education.
4. Recent improvements by institutional groups, voluntary accrediting bodies, and the Council for Higher Education Accreditation in accrediting processes.

The Constitutional Basis for Providing Higher Education

The United States of America, a federal republic, was established in 1781 by a group of states loosely connected by Articles of Confederation. The new Constitution approved by 11 of the states went into effect in 1789. It provided limited powers to the central government and reserved the remaining general powers to the states. Article I, Section 8 of the Constitution listed 18 powers of the Congress, such as the powers to borrow money, to provide two-year budgets to support armies, to declare war, to regulate interstate commerce, to maintain a navy and to establish post offices and post roads. However, there is no mention of any form of education. In fact, there was consideration of a proposal to establish a national university but it was rejected and not included on the list of congressional powers. Many powers were left to the states such as (1) levying taxes to support the administration of their governmental duties, (2) conducting local, state and national elections, (3) establishing criteria for entrance into professions such as lawyers, medical doctors and accountants and (4) the establishment, support and supervision of all schools, including higher education. The 10th amendment, which was instrumental in approval of the required nine states, finally stated:

Article X: The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, or to the People.

In the decades since, these points have been recognized by the judicial powers established in Article III of the Constitution, Section 2. Three examples are indicative and illustrate the opinions of both the justices of the Supreme Court and its inferior, appellate, regional courts. First, John Marshall, the first Chief Justice, in the famous case of McCullough vs. Maryland, ruled that the "federal government is 'supreme in its sphere of action' but it is 'limited in its powers' and should 'perform the right duties assigned to it so long as its actions are within the scope of the Constitution'." Second this same point was re-emphasized in the famous case, Marbury vs. Madison, in 1803. The decision stated that "...the powers of the legislature are defined and limited, the

Constitution is written.” Further, it stated that the Constitution established “...certain limits not to be transcended by those (federal government) departments.” A third case, two centuries later, is particularly applicable to voluntary accrediting bodies and the actions proposed by the 2005-6 Spellings Commission and later proposed regulations. The decision by federal judge Frederick O. Johnson in the Nasson College case (Maine, Chapter 11, Case No. 282-00416, January 5, 1988) came after his citing several supporting cases. In his opinion he ruled that “...the federal government is not involved in the accreditation process. One of the distinctive features of American education is that the development and maintenance of education standards are the responsibilities of non-governmental voluntary accrediting associations.” Finally, he stated that a regional accrediting body “...the New England Association of Schools and Colleges is not a governmental unit.”

The American Tri-partite System of Providing Goods and Services

In the United States of America, our pluralistic social organization provides “consumption goods” and “private goods and activities” through three different forms:

1. A private enterprise sector (profit-seeking business and commerce, taxed to support the government activities).
2. A public enterprise sector (local, state and federal governments).
3. A voluntary enterprise sector (many thousands of tax-free organizations operating under the first amendment rights to peaceably assemble, petition government and speak freely when they act essentially in the public interest and provide a public good).

Higher education institutions, in the main, are chartered, licensed and allowed to operate by state governments. Profit-seeking institutions are in the first private enterprise group, taxed as business concerns and subject, in many cases, to federal regulations by the Post Office and/or the Federal Trade Commission. Accrediting associations are in group three. They operate regionally or nationally and with minimal paid staff plus thousands of volunteer professionals doing much of the evaluative work of the organizations.

The work and findings of these accrediting bodies in the third sector have been used for state government purposes for many decades, and more recently for federal government purposes. Other voluntary organizations also have been used in cooperative ways by various government agencies. States have used programmatic accreditation in many ways. Examples include (1) as a basis for licensing persons in professional fields (architecture, accounting, forestry, nursing, engineering and many health fields), (2) exempting accredited institutions from some state laws in such areas as bonding requirements and tuition recovery funds, (3) special treatment by the Veterans Department’s State Approving Agencies and (4) state requirements that its public colleges receive accreditation of BA/BS degree programs before they can offer master’s degrees in the field.

At the federal level, a prime example of the use of a voluntary nonprofit organization along with a key federal department is the Federal Accounting Standards Board (FASB). Since 1934, the Securities and Exchange Commission (SEC) has had statutory authority to establish the standards of publicly held companies to report their financial accounting and reporting to the public. Since 1973, the SEC has designated the FASB as the organization to establish the authoritative standards for all of the financial accounting and reporting of companies engaged in interstate commerce. In addition, FASB develops broad concepts regarding accounting, provides guidance in implementing the standards and conducts research as a basis for establishing the standards. FASB’s structure is independent of all other business and commercial organizations. However, its members are appointed by the Financial Accounting Foundation (an IRS Section 501(c)(3) organization), which also appoints its Advisory Council and assures it adequate funding, primarily from related commercial sources. In many ways the FASB example is similar to the Council for Higher Education Accreditation which will be subject to additional review later.

***Congressional Actions to Control the Regulations Developed
by the Department of Education***

For a half century, since the original 1952 Veterans Readjustment Act required the Commissioner of Education to “publish a list of recognized agencies or associations,” officials of the Department of Education have had problems developing appropriate regulations related to this listing authority. Governmental police powers are not transferable to a voluntary, non-governmental enterprise. In 1972 and 1976, Congressional legislation provided the Department with the power to audit fiscal records of institutions participating in student financial aid programs, to be sure they met “reasonable standards of fiscal responsibility.” In the same 1976 legislation, Congress rejected a request of the Commissioner of Education for express authority to require accrediting bodies to determine “institutional probity” as a condition of being listed. Since 1958, the National Defense Education Act has contained the following definitive language.

“Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee control over the curriculum, program of instruction, administration, or personnel of any education institution or school system.”

Again, Congress has addressed this problem by a similar introductory limiting statement as part of the General Education Provisions Act, 1972, Section 432. Note for the current discussion that the Higher Education Act of 1965 (and therefore its re-authorization and amendments to date are included).

“PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

Sec. 432. No provision of the Act of Sept. 30, 1965, Public Law 874, Eighty-first Congress; the National Defense Act of 1958; the Act of Sept. 23, 1950, Public Law 815, Eight-first Congress; the Higher Education Facilities Act of 1963; the Elementary and Secondary Education Act of 1965; the Higher Education Act of 1965; the International Education Act of 1966; the Elementary School Act; or the Vocational Education Act of 1963 shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system.”

Recent Changes and Improvements in Accreditation

The voluntary, nongovernmental accreditation bodies of the United States. have been developed over the past 125 years. As non-profit organizations, they have been modified in different periods to meet differing needs. Originally they set standards to differentiate the college’s preparatory programs from the actual collegiate offerings of the institutions. In the 1930s and later, they developed quality standards based on the varied missions of the many diverse types of institutions needed by the various states and adapted their accrediting processes accordingly.

As these accrediting bodies increased in numbers and expense, the institutions began “recognition” systems and began serious efforts to evaluate educational results and student learning outcomes. After World War II they completed a total, national set of regional bodies, a limited number of national associations, and an ever-increasing group of programmatic disciplinary accrediting associations. When the federal government started the listing plan described earlier (in 1952), there were only a few limited number evaluating and approving vocational schools, and several were developed and approved by the Secretary of Education. Most recently the Council for Higher Education Accreditation was developed by a surprisingly strong national vote and soon based on a new system of institutional funding of membership. It established a new recognition process, which included a few private career accrediting bodies along with the previous regional, national, and specialized, programmatic associations. The federal approval process included a larger group of career approving bodies, some approved by the Secretary. In recent years, a number of them have been heavily fined for regulatory violations, although the

profit-making companies often have not been required to admit wrongdoing when paying the fines. This emphasizes the need for the Department of Education to have the police power to cope with fraud and abuse potential in the student aid programs.

Many of the national higher education associations and accrediting bodies have been moving for the past 25-30 years toward emphasis on student learning outcome measures. For example, the American Association of State Colleges and Universities adopted a policy statement in 1971 stressing measurement of institutional quality based on student success, retention to the degree, value-added measures rather than input data, and student later success as citizens and creative workers in society. In 2001, the Association of Community College Trustees publicized a model set of accrediting standards with 12 criteria assessing student success and satisfaction as a significant part of their accountability-oriented model. A more recent example is the Voluntary System of Accountability prepared and adopted by the National Association of State Universities and Land Grant Colleges and the American Association of State Colleges and Universities in 2007-2008. It provides standards for an Academic Profile of an institution for parents, students, and all other interested parties (such as accrediting bodies) to get information about student learning on campus, core educational outcomes, costs, and any other additional information the institution or system may wish to add. These few examples are indicative of recent efforts shown in hundreds of articles and studies. All of the accrediting associations have moved from emphasis on input data to outcomes and excellence in meeting particular missions at varying types of institutions.

The Council for Higher Education Accreditation in its first decade has published many documents emphasizing this important shift in accreditation policy and processes. And even more critical, it developed and revised and updated policies for its recent *Recognition Policy and Procedures*, effective in 2006. Its goals are “to advance quality assurance through accreditation, assure accountability to contribute to continuing improvement in higher education, and to advance self-regulation of higher education through the accreditation process.” Section 12 of the Recognition Standards points out that “Advancing academic quality is at the core of voluntary accreditation” and stresses the need to measure “student achievement consistent with mission.” These new standards are extensive and will contribute greatly to expanding the usefulness of the voluntary accreditation process in advancing academic quality, demonstrating accountability to the community, and helping institutions to continually adapt and improve their service to society.

Summary

The original 1952 legislation provided that the Commissioner (now Secretary) of Education should “...publish a list of nationally recognized agencies or associations.” The current CHEA recognition of accrediting bodies, and the resulting list of 4,100 accredited institutions, is the best one meeting the original criteria in the past 50 years. CHEA has a membership of almost 3,000 institutions, was established by a large plurality of favorable votes by the nation’s colleges and universities, and has developed a thoroughly-studied, impressive “recognition” policy for accrediting bodies. Accordingly, it would be appropriate for the Secretary of Education to designate the CHEA recognition list as its recognized and published list of nationally recognized associations.

Several additional reasons cited earlier support this proposal, particularly the following:

Congress has added to the 1952 legislation and provided a number of additional ways for the Secretary to approve students participating in federal funding programs. By 1977, 8,544 institutions were approved, and by 2008 this total has to be much greater, at least 10,000, and quite possibly much more. Reviewing almost 1,000 foreign institutions, many medical schools, is an enormous task. Coupled with reviewing many career schools (with several already heavily fined for violating regulations), and several thousand other state-approved allied health programs the task is even greater. And in some cases minimal!

1. Congress has clearly legislated limits on the controls which department officials may introduce that can affect the listing process.

2. Congress has established a pattern for a governmental agency to work in coordination with a voluntary nonprofit organization. The SEC/FASB cooperative relationship has been operative for 35 years and quite successful. Although there are some differences between CHEA and FASB, the general principle exists and could be very helpful to the Department of Education.

The United States of America is unique in its depending on thousands of voluntary, IRS Code 501(c)(3) associations for many essential services. The 125-year historical development of voluntary accrediting has culminated in the establishment of the Council for Higher Education Accreditation and its 2006 improved system of recognition of differing voluntary regional, faith-based and specialized programmatic accrediting bodies. The Secretary of Education could publish the CHEA list and provide time for its small staff to more carefully review the other thousands of currently listed institutions.

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