

**COUNCIL FOR  
HIGHER EDUCATION ACCREDITATION**

**RECALIBRATING THE  
ACCREDITATION-FEDERAL  
RELATIONSHIP**

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# **Recalibrating the Accreditation–Federal Relationship**

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Several forces coalesce to require a recalibration of the accreditation–federal relationship.

The purposes of this paper are to:

1. Identify those forces, including the changes and challenges confronting the future of accreditation, culminating in the most recent reauthorization of the Higher Education Act.
2. Search for a new accreditation governance model that attempts simultaneously to respond to legitimate concerns yet preserve the values inherent in American higher education accreditation.
3. Discuss alternative models and their benefits and risks.
4. Recommend a Congressional charter as a preferred option worthy of further exploration.
5. Suggest specific next steps to transform CHEA into a Congressionally-chartered organization charged with integrating higher education accreditation.

## **1. Forces Confronting Accreditation’s Future**

### **Changes in the Academy**

Of the many forces affecting higher education and its mechanisms to assure quality, perhaps none are more critical than the changes confronting the academy itself. Institutions of higher education have become more complex. Beyond the traditional mission-driven purposes of teaching, research and service, colleges and universities are undertaking enterprises and managing activities that stretch and expand their origins and make them more complicated organizations to manage, understand and accredit.

Simultaneously, all institutions, public and private, are moving in the direction of increased privatization,<sup>1</sup> and the increase in the number and enrollments of for-profit, proprietary institutions has changed the nature and dynamics of the higher education landscape. Students, too, have changed. The student of today and tomorrow is older, more likely to enroll on a part-time basis, and less ready for the academic rigors required for success. These demographic trends, which are likely to continue for the foreseeable future, have profound implications for any curriculum and how it is to be delivered and evaluated.

Faculty members also are different. The majority of instruction in this nation is conducted by adjuncts and other part-time faculty. Faculty today are seen more as independent agents than

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<sup>1</sup> Dickeson and Figuli, (2007)

permanent, loyal partners in institutional governance. For an accreditation system that relies on full-time faculty to conduct self-studies, serve on site teams or perform the other accreditation-related tasks, the available volunteer base may be in danger of shrinking.<sup>2</sup>

The technological advances that impact higher education are as compelling as they are far-reaching. Distance learning, for example, ignores state, regional and national borders, and assessing its quality requires new skills and analytic tools. When M.I.T. places its entire curriculum on-line for the world to see and use, traditional answers to “What is a college?” seem passé. Technology, of course, also offers extraordinary opportunities for the conduct of accreditation to be streamlined and improved.

### **Heightened Expectations**

The late Frank Newman used to observe that higher education ought to treat increased public scrutiny as a compliment; it showed how important it had become. For years colleges and universities complained that the public and its elected representatives were not paying enough attention. Now the reverse is true, as institutions that value highly their autonomy see increased oversight as unwelcome and even threatening. The reality is that the public finally sees that higher education is not only important but critical to the nation’s future. A public policy *laissez faire* attitude about higher education might have been understandable when only five percent of high school graduates went to college, but when nearly two-thirds of such students now pursue some form of postsecondary education, this important – and still not well-understood – enterprise is subject to increased scrutiny.

Public colleges and universities have always been the subjects of legislative and executive oversight as the states routinely probe the activities and expenditures of their governing boards and institutions. What the last half century has wrought, however, are the increasing demands made by the federal government for information, compliance and action. The reasons for this expanded interest are clear enough. The federal government now invests over \$111 billion a year in American higher education<sup>3</sup> and has some expectation that these dollars will be well and properly spent.

International comparisons that reveal America’s vaunted higher education position among industrialized nations may have slipped are cause for concern. National reports that college graduates are faring worse on measures of prose literacy and document literacy raise legitimate questions about quality. In its most fundamental form, the basic public policy question is reduced to: What are we getting for our money? The question is made more poignant when one assesses the nation’s future in an increasingly global economy where success will be measured in brainpower as well as financial capital.

For over forty years, since the enactment of the first Higher Education Act, colleges and universities have been pressing for more and more federal support – for Pell Grant increases

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<sup>2</sup> The eight regional associations in the six regions relied on 3,580 volunteers to conduct their business in 2007, compared with only 129 full-time staff. (CHEA Quality Review, 2008).

<sup>3</sup> Total student aid, \$86,288,000,000; federal research and development, \$25,010,740,000; FY 2006.

to keep up with the purchasing power necessary to afford ever-increasing tuition; for grants for research, equipment and buildings; for guaranteed loans to students and their families; and for earmarks for pet projects. It is somewhat disingenuous for higher education to ask for – and receive – billions of federal dollars without expecting concomitant strings, conditions, reporting requirements and other forms of accountability that inevitably accompany appropriations.

### **The Overloaded Pack Animal**

The way higher education accreditation is conducted in the United States is unique in the world. Formed and developed for reasons that relate to its history and values, accreditation has been burdened with expectations and duties far beyond either its design or its capabilities. Accreditation is often likened to a pack animal, saddled with more of a load than can reasonably be sustained.

The evolution of this unique accreditation-federal relationship has been well-documented.<sup>4</sup> Beginning with the second GI Bill and continuing apace for five decades, the federal government has used accreditation as its low-cost proxy for quality assurance and fiduciary adherence. Accreditation has become a willing if outwardly reluctant debutante in this love-hate relationship, primarily because its member institutions fear the alternative – nationalized control – exercised by other countries. Accreditation also benefits from the relationship. Institutional accreditation is theoretically “voluntary,” but most institutions today would go bankrupt without federal support, the ticket to which is continued accreditation. Turning down federal money is not a realistic option. What results is a series of anomalies: an accreditation system designed by institutions to meet institutional needs but cast in the large and growing role of serving public purposes; a guild-centric system imbued with regulatory responsibilities; a pass/fail process in a world that craves rankings; a duality of purpose that seeks compliance at the same time that it offers consultation; a series of national mandates for action (like standards) and a regional distribution system that eschews sameness (like standardization); a call for transparency in a field not easily understood; and a series of frugal initiatives that are woefully undercapitalized. Not surprisingly, the overburdened pack animal is in danger of collapsing.

### **Loss of Credibility**

In the recent past, accreditation has been tried in several public tribunals and found wanting. Numerous reports and calls to action from business and public policy entities have challenged accreditation to do more: more about transparency of accreditation practices and reports; more about measuring and then publicizing student learning outcomes; more about transfer-of-credit problems; more about rising college costs; and the list goes on.

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<sup>4</sup> Ewell, (2008).

In 2006, the final report of The Secretary's Commission on the Future of Higher Education (The Spellings Commission) weighed in on accreditation.<sup>5</sup> Besides being characterized as a barrier to innovation,

Accreditation, the large and complex public-private system of federal, state and private regulators, has significant shortcomings. Accreditation agencies play a gatekeeper role in determining the eligibility of institutions and programs to receive federal and state grants and loans. However, despite increased attention by accreditors to learning assessments, they continue to play largely an internal role. Accreditation reviews are typically kept private, and those that are made public still focus on process reviews more than bottom-line results for learning or costs. The growing public demand for increased accountability, quality and transparency coupled with the changing structure and globalization of higher education requires a transformation of accreditation. (Page 15)

Specific recommendations for accrediting organizations that followed from the Commission's findings included: eliminating barriers to new models in higher education; acting in a more timely manner; making performance outcomes a priority over inputs or processes; establishing a framework that allows comparisons among institutions; and making findings of final reviews more accessible to the public.

The accreditation system thus finds itself in the unenviable dilemma of losing credibility for not having acted on pressing public concerns over which it (in many instances) does not have the authority to act.

It may well be that some loss of credibility is earned. Forty years after the assessment movement began in higher education, for example, accreditation agencies generally have been slow to achieve acceptable measures of student learning outcomes.<sup>6</sup>

Whether justified or not, the verdict that accreditation cannot deliver on pressing public concerns about higher education has led to the inexorable trend of increasing federal invasion into higher education matters, including accreditation. This trend culminated in the most recent reauthorization of the Higher Education Act.

### **The 2008 Reauthorization**

Last August President Bush signed into law the Higher Education Opportunity Act. This reauthorization took the longest time to complete (nearly six years), involved three Congresses, and required fourteen extensions before final action. Ironically, the reauthorization took this inordinate amount of time because higher education was seen as a relatively low federal priority, yet when it was completed, it imposed the most intrusive inroads into higher education affairs in the law's 43-year history.

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<sup>5</sup> USDE (2006).

<sup>6</sup> Ewell (2008), pp. 126-127.

The mood of Congress, as reflected in the new provisions of the reauthorization, was to shift oversight of higher education from self-regulation to federal regulation. In addition to a significant increase in institutional reporting requirements (which will add to the costs of higher education), the law now places the federal government as arbiter in several key areas formerly viewed as within the exclusive province of accrediting organizations or institutions. As CHEA President Judith Eaton has reported,

...[There are] alterations in federal language addressing (1) student achievement, (2) appointments of the national advisory committee, (3) due process associated with accreditor review and appeals procedures, (4) institutional mission, (5) distance education, (6) transfer of credit, (7) monitoring of enrollment growth, (8) information to the public, and (9) religious mission.<sup>7</sup>

In sum, the new law imposes monitoring and reporting requirements in areas which heretofore have been solely accreditation or institutional matters. The specifics of implementation will unfold over the coming months as the Department of Education and the accreditation/higher education communities wrestle with negotiating rules and regulations.

Some observers argue that, despite numerous warnings to reform its shortcomings, higher education ignored these signals, to its peril. Others are content to accept the law's new intrusions by comparing the results of the legislation with language in earlier, more onerous drafts and conclude that it could have been worse.

Notwithstanding these views, it should be clear to the accreditation and higher education communities that a new model for quality assurance is needed, if for no other reason than to forestall future federal intrusion that may have even more deleterious effects.

## **2. Search for a New Model**

### **The CHEA Initiative**

Prompted by the changes in the federal law and animated by a tenth anniversary review of its own efficacy, the Council for Higher Education Accreditation inaugurated a new initiative in 2008.<sup>8</sup>

Called "The CHEA Initiative," the multiple-year effort seeks to improve public confidence in higher education accreditation and re-direct federal attention from academic to traditional accreditation issues.

The Initiative's first goal, to strengthen accreditation and enhance public confidence and trust in self-regulation, contains such options as:

- Emphasizing public accountability and transparency.
- Strengthening the CHEA Recognition Policy to enhance credibility.

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<sup>7</sup> Eaton (2008a).

<sup>8</sup> CHEA (2008a).

- Exploring variation in accreditation practice through possible gradations or levels of accredited status or examining the need for core standards.

The second goal – refocusing federal attention – may prove more tricky. The Initiative may explore options to reduce duplicative federal/CHEA standards, try to restructure the newly reauthorized and newly restructured federal advisory committee, and seek to

...eliminat[e]...oversight of accreditation through federal recognition, relying instead on the recognition service provided by CHEA. (CHEA 2008a)

Given the events leading up to the 2008 reauthorization, and reading its clear if lengthy intent, this second goal is a tall order indeed. CHEA intends to carry out the Initiative through a series of meetings, commissioned white papers and outreach activities to academic, policy and public stakeholders.

The CHEA Initiative seeks a “new balance” between self-regulation and government oversight. It is hard to imagine the achievement of such a balance without a fundamental restructuring of the accreditation–federal relationship.

### **Elements of a Structural Solution**

Over the years, a great deal of time and attention have been paid to the restructuring of accreditation itself. Numerous papers and reports have suggested that the way accreditation is organized in the United States is inefficient, cumbersome and difficult for outsiders – like the public – to understand. Attention is often centered, for example, on the continued efficacy of regional associations. Suffice it to say that the structure of accreditation is more historical than logical.

Yet this paper seeks instead to focus on structural aspects of the accreditation–federal relationship. If accreditation were to seek a new structural relationship, what would be its key desirable elements? And what values ought it want to preserve, no matter the desirability of a structural solution?

#### **A. Desirable Elements**

##### **· Strengthened Authority**

Centralized coordination of the complex accreditation system in the United States is maintained by an institutional membership organization (CHEA) created by a vote of college presidents in 1996. It is the successor organization to similar entities whose off-and-on existence, since 1949, has been tenuous. For an entity charged with being the nation’s primary means of addressing and assuring academic quality, the central coordinator should operate with a stronger authority. Such an improvement would help legitimize accreditation in the eyes of its many stakeholders. A strengthened authority would also be necessary to withstand the pressures that will inevitably buffet a strengthened accreditation system. There will be strong forces to maintain the status quo or to show favoritism or to play national politics. The new entity must be built in such a way as to maintain an optimum degree of

independence. Finally, a strengthened central coordinator should have the clout sufficient to dissuade a future Congress contemplating academic mischief in the next reauthorization.

· **Legal Standing**

In our increasingly litigious society, institutions that come up short on accreditation reviews (particularly when such reviews might jeopardize their receiving Title IV funds) have resorted to the courts to enjoin accrediting agencies from implementing their sanctions. Accrediting associations are not exempt from this trend. Most of the actions against accreditors have been initiated in state circuit or district courts, thus yielding the opportunities for fifty versions of accreditation law. The court is no place to render sound judgments about academic quality. Most courts are loath to substitute their academic judgments for those of institutions in institutional academic matters and of accrediting agencies in accreditation matters. Where accrediting agencies have been called to task by judicial courts (and courts of public opinion) is in the adequacy – or lack of it – of procedural due process guarantees. It is small wonder that the 2008 reauthorization contained more explicit mandates on accreditor due process, reviews and appeals. It would be desirable for a new entity to be constructed in such a way as to establish a more consistent, nationwide standard for judicial review of accrediting decisions, rather than to continue to operate with multiple, often conflicting, local jurisdictions.

· **Capitalization and Specialized Expertise**

Given its enormous importance as the quality assurance mechanism both for institutional and public purposes, accreditation is run on a financial shoestring. It essentially is a volunteer organization, subsidized by released-time help from institutions. Institutional dues provide the lion's share of funding for accreditation, and that source is under increasing pressure as the economy worsens, institutional budgets tighten, and finance officers go shopping for expenditure items to cut. If a new entity is to be formed with the requisite management and legal teeth, it will necessarily require more funds to operate it. If the continued adjunctification of the professoriate results in fewer qualified volunteers to deliver accreditation, academic professionals may have to be hired to do some of the work. Accreditation tomorrow will require more specialists to conduct increasingly sophisticated reviews. Two areas come to mind: Institutional finance, which is the number one subject of current accreditation concern, and learning outcomes measurement, which is the number one subject of current public policy concern. Relying on volunteers to deliver consistently in these highly-specialized arenas is unrealistic. The new entity therefore should be accompanied by a companion national foundation, whose purpose would be to generate additional financial resources through gifts, grants and contracts for the administration of accreditation. A foundation incorporated to operate exclusively for charitable, educational, scientific and literary purposes within the meaning of Section 501 (c) (3) of the Internal Revenue Code would be responsible for securing, investing, managing and disbursing funds for the new accreditation entity. The companion foundation would solicit unrestricted grants from foundations, corporations and other individuals and organizations who believe in the value of quality assurance and who recognize the critical importance of quality higher education to America's future. The addition of a foundation to the accreditation entity would lend substantial credence to the overall reform effort. The foundation's board of trustees could be composed of national leaders and other major public figures whose commitment to

this cause could reflect positively on the purposes of accreditation, secure additional approbation for it and provide auxiliary clout to accreditation's legislative efforts.

- **Sustainability**

Every aspect of developing the new entity should focus on its sustainability for the long term. Its legal structure must be such that it is unlikely to be easily disbanded. Its authority must be proximate to its tasks, especially controversial or unpopular ones. Its funding should be relatively secure from day-to-day vagaries or whims. Its leadership should include champions of quality higher education whose commitment and service demonstrate that quality assurance is central to their professional lives. The coordination of accreditation has been around, in one form or another, for a long time. But its history has been more episodic than enduring; the new entity should change that.

- **Academic Credibility**

The distinguishing characteristic of accreditation as practiced in this country as against other countries has more to do with who conducts it than how it's done. Without exception, U. S. accreditation, at all of its levels and throughout all of its processes, is conducted by academic professionals. A general accreditation site team typically will be composed of a variety of academic disciplines. A specialized accreditation site team will be composed, usually, of specialists. Each member typically is a scholar in her own right, capable of conducting independent research. Evaluators know the subject matter, having taught it, advised about it, and in some cases, managed it. The nexus between quality assurance and academic credibility is strong. By contrast, government agents, conducting accreditation elsewhere, no matter how well-intentioned, cannot rise to the same level of credibility as practiced here. The new entity cannot lose sight of this distinguishing characteristic, and it will not want to surrender this element as planning for change goes forward.

## **B. Essential Values**

The structural future of the accreditation–federal relationship also will be built on institutional and cultural values. From the point of view of the federal government, we can anticipate that these values will include at least, fiscal accountability, transparency, quantification of results, comparability and consumer protection. From the point of view of accreditation, the essential values are well established.

- **Self Regulation and Autonomy**

Inherent in the collective psyche of American higher education is the notion of autonomy. Autonomy to non-academics smacks of arrogance not permitted most organizations. To the academic, however, autonomy is to the institution what academic freedom is to the faculty member. The ideal – that one is free to seek the truth wherever it leads, despite whose toes may be stepped upon – is central to teaching, learning and scholarship. Whether conducted individually in a laboratory or collectively across a campus, learning resists dogma. We don't need to search very far to uncover numerous examples of repression of ideas, generated for political, social or religious reasons. The symbiotic relationship between autonomy and self-regulation is a hallmark of accreditation.

- **Mission-centered Review**

There is no fear of federal interference more often expressed than that of the government imposing some “one size fits all” standard for quality. Whether real or imagined, this fear reflects the value of institutional diversity in the United States. Because of the history and evolution of American higher education, its types, charters and varieties are as exciting to behold as they are difficult to categorize. Often listed as a national strength, the plethora of missions and the means to achieve them confound universal standards of performance. How accreditation and the federal government eventually achieve the appropriate balance between institutional diversity on the one hand and meaningful standards of quality performance on the other will presage the success of the relationship.

- **Self-Study**

Appropriately conducted, institutional self-study is the most valuable part of the current accreditation process. Usually conducted by a faculty committee selected for this purpose, an intensive review of the institution’s programs, policies and practices leads to an analysis of strengths and weaknesses and, if encompassing outside-in elements, opportunities and threats. Done well, self-study is akin to strategic planning and analysis and carries its own weight, notwithstanding the verification process to follow. If accreditation going forward is to value this ritual of introspection, its inclusion would seem necessary.

- **Peer Review**

Professionals of all stripes permit and embrace review by peers. But only by peers. As with the discussion on academic credibility, above, who does the reviewing is as important as how the review turns out. Ewell (2008, pp. 76-77) has pointed out a couple of problems with peer review, however, that need to be addressed. First, peer reviewers, while they know a great deal about a specific content area, may not be as adept at institution-wide analysis or with observing organizational processes. Second, non-academics are usually suspicious of a peer review process that appears to be self-referential. Thus, maintaining the strengths of peer review while minimizing the effects of its weaknesses will become important in developing the new accreditation structure.

In sum, the search for a new model should attempt simultaneously to respond to legitimate institutional and public concerns, establish new hallmarks for organizational strength, and preserve the values worth keeping in American higher education accreditation.

### **3. Alternative Models –Benefits and Risks**

An exploration of alternative models for a new accreditation governance entity requires a review of structure and process, as well as inherent benefits and risks. Accordingly, several alternatives emerge for consideration.

## **A. Maintain the Status Quo**

This model represents a passive approach that takes the path of least resistance. CHEA and the federal government, through the newly-structured NACIQI<sup>9</sup>, would co-exist in recognizing accrediting organizations, albeit for different purposes. The duplication of effort would continue. This option does not solve any existing problem or provide any additional protection. It does not comply with the CHEA Initiative. Finally, by doing nothing, both the accreditation and the higher education institutional communities can expect the trend line of increasing federal intrusion to continue unchallenged.

## **B. Abandon Self-Regulation and Turn Accreditation over to the Federal Government**

Although unlikely and undesirable, this option may appeal to some. This approach is practiced by most other nations and would represent the ultimate in centralization, standardization and uniformity. It would transfer the administration and costs of accreditation from institutions to the Department of Education. It would not honor the desirable elements nor the essential values identified in Section 2, above. This approach would require institutions and the president-based associations to beef up lobbying efforts in Washington to protect against likely and frequent forays into institutional autonomy.

## **C. Assign More Responsibility to the States**

The fifty states have significant stakes in accreditation. In addition to owning and supporting those postsecondary institutions that enroll a majority of America's students, states regulate which institutions can operate within their borders, for consumer protection purposes. States also support students who attend private as well as public colleges and thus have an interest in the quality of that investment. Finally, states typically see higher education as an important element in economic development and quality of life and thus are motivated to assure higher education's success. Within a particular state, accreditation, recognition and/or licensing activities are decentralized among numerous agencies, commissions and bureaus. Given the relative low priority of higher education as evidenced by the declining portion of states' budgets higher education has received over the past decade, it is unlikely that most states (all of whom currently are in structural deficit) would be willing to take on more responsibilities for accreditation.

One intriguing subset of this alternative would be to open the Pandora's box of the SPREs. The State Postsecondary Review Entities, authorized in the 1992 reauthorization, were designed to conduct fifty-state reviews of institutions, essentially creating an alternative to accreditation. After all hell broke loose, the SPREs were eliminated in the subsequent reauthorization of 1998. It is unlikely that any reasonable person would re-open that box, but it should be listed as an option. Decentralization to the states, in any form, represents a reversal of the tendency toward greater coordination of accreditation. This approach also abandons desirable elements and threatens essential values and ignores the issue of growing federal involvement in the conduct of higher education.

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<sup>9</sup> National Advisory Committee on Institutional Quality and Integrity

#### **D. Find a Responsible Entity to Which Accreditation Could be Outsourced**

Inasmuch as outsourcing has become a major organizational phenomenon – all higher education institutions do it – perhaps this approach could work for accreditation. Throughout the nation, sizable entities have arisen to take on non-mission critical work that organizations think can be done more cheaply or better. There are, no doubt, companies willing to contract with CHEA and the federal government to deliver accreditation services. The contract with such an entity could include specifications to honor academic values and protect accreditation and federal interests. Services would be delivered and rated for compliance with the specifications. Contracts could be renewed or bidding re-opened in subsequent years.

#### **E. Transfer CHEA Responsibility to Another Higher Education Organization**

From time to time, various authors suggest structural reorganization of accreditation and assign its responsibilities to other organizations. Although each of these organizations has other, primary missions and purposes that do not include accreditation, this alternative should be explored. Among the possibilities, the following candidates emerge.

- **American Council on Education**

Often called the “umbrella organization” for American higher education, ACE is composed of a plurality of colleges, universities and higher education organizations. It is often the spokesperson for higher education when national questions arise. It has worked closely with accreditation over the years (sponsoring a standards conference as early as 1922, for example) and has conducted research and published reports relating to accreditation. Greenburg (1994, 2008) has suggested ACE as a logical organization to provide overall coordination of institutional accreditation. As a multiple-purpose organization with dozens of programs and services, it is questionable where accreditation would fit in its large portfolio and what degree of attention accreditation could command. ACE is also a member-driven organization, and as such it may find itself in conflict with member institutions when accreditation decisions arise. Finally, ACE is regarded as the coordinator of lobbying efforts on behalf of higher education. How ACE could maintain that important role while administering federal recognition responsibilities could be problematic.

- **Carnegie Foundation for the Advancement of Teaching**

Founded in 1905 and chartered by Congress in 1906, the Carnegie Foundation for the Advancement of Teaching has a long and distinguished history. Its influential activities over the past century have included the development of the Carnegie Unit, the founding of the Educational Testing Service and the establishment of the *Carnegie Classification of Institutions of Higher Education*. Its research, landmark reports and advocacy efforts have helped shape reform in K-12 and higher education. Now located in Palo Alto, the Foundation and its companion organizations – Carnegie Commission on Higher Education and Carnegie Council on Policy Studies in Higher Education – are prestigious organizations of extraordinary value to the nation. The Foundation has long valued its own independence.

Were the Foundation to take on the coordination and administration of accreditation, however, it may not be seen as consistent with either its purposes or with its bully pulpit.

· **The President-Based Associations**

Higher education divides itself into type. Most American colleges and universities are members of one (or more) of the associations that provide member services, advocate at the national level and conduct a myriad of programs.<sup>10</sup> Greenburg (2008) has suggested that these associations replace the regional accrediting organizations for general accreditation purposes. Granting the president-based associations authority over all of accreditation, however, does not seem realistic. Both national and specialized accreditors would find such a relationship difficult and unwieldy. The president-based groups would face the same problem as identified for ACE, above: the potential for conflict between member institutional interests and the regulatory nature of accreditation.

· **Other Organizations**

The list of other possible recipient organizations for CHEA's responsibilities is probably endless. Examples of alternatives could include the College Entrance Examination Board, American College Testing, the Association of American Colleges and Universities, or other organizations with broad-based goals and structures.

Despite the alternatives suggested, CHEA realistically is best positioned to undertake the development of a new entity going forward. No other organization represents the wide range of accrediting organizations. No other organization has the depth of experience in recognizing accreditors, dealing with NACIQI on a regular basis, securing feedback from multiple sources about accreditation efficacy or advocating for accreditation reform. It would seem most sensible to secure stronger teeth for CHEA to achieve the high expectations for American higher education accreditation.

## **F. Adapt the FASB Model to Accreditation**

The Financial Accounting Standards Board (FASB) offers a model for accreditation restructuring that is worth examining. The statutory authority to establish financial accounting and reporting standards for publicly held companies resides with the Securities and Exchange Commission. The SEC, however, has relied on the private sector for this function so long as the private sector acts responsibly in discharging this duty in the public interest. The designated organization since 1973 for this purpose has been FASB. FASB establishes and updates standards for financial reporting and accounting used by accountants, auditors and users of financial information. The consistency of its standards is a great strength of the American financial system. (While the current financial system is in crisis, it's not the standards that got us there, it's the inadequate adherence to standards that's the problem.) FASB works to keep standards current, improves on any known deficiencies and promotes international convergence of accounting standards. FASB operates with certain "precepts": objectivity, openness to constituent feedback, cost/benefit

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<sup>10</sup> American Association of Community Colleges, American Association of State Colleges and Universities, Council of Independent Colleges, National Association of Independent Colleges and Universities, National Association of State Colleges and Land Grant Universities.

considerations, minimal disruption to continuity of practice, and review and interpretation of past decisions.

Unlike accreditation, however, FASB operates independently of all other business and professional organizations and jealously guards this independence in order to sustain its high credibility. FASB has several sub-entities: Among them are an advisory council that consults on technical issues, a government accounting standards board for setting standards for state and local governments and the Financial Accounting Foundation. The Foundation has two functions: to select the members of FASB and its advisory council and to raise money for FASB's operation. The Board of Trustees of the Foundation includes representatives from eight constituent organizations as well as at-large trustees. FASB operates an ambitious educational program, subjects itself and its proposed standards to public scrutiny and review, and conducts an open decision-making process (FASB, 2008). Harclerod (2008) suggests similarities between FASB and CHEA.

For CHEA to emulate FASB, it would require, among other things, two key actions: (1) a designation by a governmental authority (presumably the Department of Education) as the entity to set and administer accreditation standards and (2) a separation of CHEA's relationship with its constituents. The FASB alternative also raises other questions about fit with the accreditation arena. FASB, to be successful, insists on one-size-fits-all standards, an anathema to higher education. With accounting standards, moreover, there is no self-study to examine particular differences among using institutions; differences cannot be permitted. FASB enjoys the statutory authority, legal standing, foundation funding and high credibility desired by the accreditation community, but comes at a price that makes it an unlikely model for precise emulation. At the same time, its foundation structure and relationship should appeal to those who seek a strengthened CHEA.

## **Summary**

In sum, there are alternative approaches and models for a new accreditation governance entity, each with strengths to command its consideration and weaknesses to discourage it.

The author is of the opinion that the best alternative is for CHEA to pursue a Congressional Charter.

## **4. A Congressional Charter as the Preferred Option**

Since 1791 Congress has issued charters that either establish a corporation at the federal level or, more typically, recognize an existing organization already incorporated at the state level. The value of a charter depends on the content of its enabling language.

Some charters are mostly honorific in nature, but all tend to provide a sense of official imprimatur to the designee's activities. The charter designation usually affords a degree of prestige and may induce some financial benefit. Eligibility for a charter is based on the group's activities, whether they are unique and whether or not they are in the public interest. If these

criteria are met, a bill can be introduced in Congress and if enacted, the charter is granted. Typically the granting of a charter does not necessarily include congressional oversight of the designee.

Charters should not be confused with government corporations. The federal government has authorized certain government corporations (the Federal Reserve Bank, Fannie Mae, Freddie Mac, etc.) that were thought by nature to be better suited than typical government agencies to handle policy areas that required commercial-type activities. There have been questions about the federal government's power to manage such corporations. Because of the issue of who's responsible for the activities of these entities, the issuance of these kind of designations was officially stopped in 1992.

The type of charter, however, most relevant to the CHEA alternative, is contained in Title 36 of the *United States Code*. Title 36 outlines three categories of charters, one of which, Subtitle II, is relevant for the purposes of this analysis. (Title I relates to patriotic and national observances and ceremonies; Title III relates to Treaty Obligation organizations, like the American Red Cross). Title II organizations, "Patriotic and National Organizations," would be the target category for CHEA.

Interestingly, Title II groups already include a number of organizations with academic purposes and strong ties to the higher education community. Thus, CHEA, while a unique organization with its own aims and purposes, would find academic company within this designation.

Examples include:

- American Academy of Arts and Letters [II.B.203]
- American Chemical Society [II.B.205]
- American Council of Learned Societies [II.B.207]
- American Historical Association [II.B.213]
- National Academy of Public Administration [II.B.1501]
- National Academy of Sciences [II.B.1503]
- National Education Association of the United States [II.B.1511]

Within the above examples, two emerge as having certain duties that pertain to serving national public purposes and thus may inform any proposals for legislation that would charter CHEA. The National Academy of Public Administration, chartered under Title 36 in 1984, is a nonprofit, nonpartisan organization focused on analyzing emerging trends in governance and public administration. Though the Academy's funding comes primarily from studies that are Congressionally requested or mandated, it is not considered a government agency. The Academy provides advice to six federal agencies and to other organizations, including universities. Its studies focus on a range of government issues. (NAPA-US, 2008)

The National Academy of Sciences was chartered in 1863. Its enabling legislation states that:

[T]he Academy shall, whenever called upon by any department of the Government, investigate, examine, experiment, and report upon any subject of science or art, the actual expense of such investigations, examinations,

experiments, and reports to be paid from appropriations which may be made for the purpose, but the Academy shall receive no compensation whatever for any services to the Government of the United States. (USNAS, 2008)

The case for seeking a Congressional Charter for CHEA can be summarized as follows:

- A Congressional Charter would recognize accreditation of higher education as a unique enterprise of significant value to the public interest.
- A Congressional Charter would designate CHEA as the central coordinator of higher education accreditation, thus strengthening CHEA's authority to act.
- By operating under a Congressional Charter, the case could be made that accreditation legal matters are more appropriately adjudicated under federal, rather than state, jurisdictions.
- By including a foundation structure, either as an adjunct of CHEA or as the Charter designee itself (as with the Carnegie example) the opportunity of increasing financial resources for accreditation is enhanced.
- Congressional Charter status for accreditation may secure a heightened likelihood of sustainability for the long term.
- Congressional Charter designation has usually been accompanied by strengthened credibility for the organization that has acquired it.
- Depending upon the specifics of the enabling legislation granting the Charter, current accreditation duties outlined in the Higher Education Opportunity Act (including those delegated to NACIQI) could be transferred to CHEA for implementation.
- By integrating accrediting responsibilities under such a new Congressionally-chartered organization, the academy's essential values – self-regulation and autonomy, mission-centered review, self-study, and peer review – stand a stronger chance of being preserved.

In conclusion, the objectives of the CHEA Initiative – and accreditation itself – are more likely to be achieved, strengthened and sustained by initiating and obtaining a Congressional Charter designation.

## **5. Specific Next Steps**

In order to proceed in a systematic way toward obtaining a Congressional Charter for CHEA, the following steps would appear to be necessary.

**A. Retain experienced legal and communications counsel at the outset to provide step-by-step advice and representation.**

Legal counsel should be familiar both with Title 36 legislation and the current dynamics of the education committees of reference in both houses of Congress. The communications firm should have a strong Washington presence and expertise in marketing research, branding, communications, coalition-building and government relations.

**B. Secure the consensus of the higher education and accreditation communities on this action.**

Inasmuch as CHEA was formed by a consensus of university presidents, it seems advisable to obtain a similar consensus representative of the higher education community about this proposal. CHEA, among its many duties, recognizes and coordinates a myriad of accrediting organizations; they too, should weigh in on the concept of the proposal. This consensus-building is important for two reasons: (1) to assure that the proposal meets the expectations of the institutions and the organizations that accredit them and their programs and (2) to assure that both communities are aligned with the proposal and will actively support it when it reaches the legislative stage.

**C. Authorize a working task force to develop the key elements of the draft legislation.**

There are a lot of details to be worked out and fundamental decisions to be made concerning the draft legislation. The CHEA Board of Directors should appoint a working task force with the time, experience and savvy to be able to debate and come to closure on such key elements as:

· **Name**

The name of the new entity presumably would be the Council for Higher Education Accreditation. However, alternatives are possible. Throughout the history of accreditation coordination, the name of the organization has included the terms “commission,” “federation,” and “council.” Existing Congressional Charters of a similar nature are labeled “Academy,” “Association,” and “Society,” in addition to “Council.” A name is important, and a new one may help communicate the thrust of this new effort and avoid confusion with the existing organization.

· **Purposes**

The listing of purposes would include similar language to CHEA’s current purposes, but with the addition of such other matters as would strengthen the organization. If the transfer of authority from NACIQI to this entity is contemplated, the specific language of the succession would appear here.

· **Governance Structure**

How the new entity will be structured will be a critical issue for the Congress as well as the higher education and accreditation communities. If Congress is to authorize this new entity to succeed to the powers of NACIQI, for example, it will likely demand the same kind of representation that it has ordained in the Higher Education Opportunity Act. On the other

hand, Congress may not choose to appoint members of the new governance structure, preferring to eschew the impression of Congressional oversight, which has been an issue with some Title 36 charters.

· **Foundation Role**

The creation of a foundation as a companion organization to CHEA is strongly recommended for the purposes outlined in this paper. It may be desirable to have the foundation seek the Congressional Charter (as with the Carnegie example), and then the foundation could designate the CHEA organization to conduct the work of accreditation recognition.

· **Principles, Values and Precepts**

It may be tempting to forestall inclusion of principles, values and precepts in the enabling legislation, leaving it to the organization to create them later. But the higher education and accreditation communities are steeped in principles and values, the most notable of which are outlined in Section 2 of this paper. It would no doubt provide a degree of comfort to the communities to include such elements in the enabling legislation, thus communicating a sense of permanence.

**D. Secure sponsors for the legislation**

With advice from the legal and communications counsel, sponsors for the legislation should be obtained. As a nonpartisan effort going forward, it will be important to practice optimum inclusion, not exclusion, in signing on sponsors. In addition to committees of reference leadership, members in both houses with higher education backgrounds and connections could be courted as co-sponsors.

**E. Determine if there is to be federal financial support**

Strengthening the coordination and recognition of accreditation will be expensive. A realistic budget should be prepared, *a priori*, and then a key determination made: Should the new entity seek federal funding for part or all of the expense? Or does federal funding – and its attendant conditions – hamstring the independence of the new entity? If federal financial support is not sought, can the combination of fees (in lieu of dues) and gifts, grants and contracts (to be obtained by the foundation) add up to the required revenue to be successful?<sup>11</sup>

**F. Engage in efforts to secure approval and enactment**

The overwhelming majority of bills introduced in the Congress die a-borning. A realistic plan, guided by knowledgeable professionals, undergirded by support from a variety of interests and communicated with compelling messages, will be required for the initiative to be successful and eventually signed into law by the President. Success may take more than a year, and timing of introduction, competition for attention and other issues beyond CHEA's control must be factored into the plan. It will be easy to get discouraged, but most observers will attest that perseverance in these matters is a high virtue.

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<sup>11</sup> It may be desirable to seek a planning grant from a foundation for start-up costs associated with this effort.

## **G. Model the value of outcomes measurement**

It would send a powerful message to the higher education and accreditation communities – and especially to the public – for the newly chartered organization to build in to its operation and practice measures that evaluate its effectiveness and provide regular, open feedback to its many stakeholders.

### **Conclusion**

It is time for a recalibration of the relationship between accreditation and the federal government. For a variety of reasons and buffeted by a combination of forces, the relationship is out of balance. The most recent reauthorization of the Higher Education Act includes several provisions that overreach. The nation is in danger of losing the value of an independent higher education system, replacing it instead with a government bureau bent on the three Rs of rules, regulations and reports. What is required is a recalibration that balances institutional interests with public interests. Such a balance can best be obtained by strengthening the accreditation recognition system, preserving the values that matter, and doing so through a thoughtful but aggressive initiative that charters independent accreditation coordination, as a national value.

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