**The CHEA Arbitration Program**

**What Is the CHEA Arbitration Program?**

The Council for Higher Education Accreditation (CHEA) Arbitration Program is an impartial process with trained arbitrators to facilitate non-binding arbitration between institutions of higher education and recognized postsecondary accrediting organizations, consistent with federal law and regulation. The arbitration is designed to address and resolve disputes regarding adverse final accreditation decisions (denial, withdrawal, or termination of accreditation of an institution).

**What Is Non-Binding Arbitration?**

Non-binding arbitration is a private form of dispute resolution entered into by an agreement of both parties, and conducted before an impartial arbitrator. An impartial arbitrator hears the evidence and renders a decision on the dispute being addressed. While the arbitrator comes to a decision, this determination is not binding, and no enforceable arbitration award is issued. If either party is dissatisfied with the outcome, further action may be pursued through the federal courts.

**When and Why Do Accreditation Disputes Between Institutions and Accrediting Organizations Go Through Arbitration?**

Federal statutes and U.S. Department of Education regulations state that the Department may not recognize the accreditation of an institution unless it agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action. Accredited institutions may submit any dispute to arbitration following the final decision of its appeal of a decision to deny, withdraw, or terminate its accreditation. After an institution has exhausted its accreditor’s appeal options (excluding arbitration), it may seek to initiate CHEA arbitration.

**Are Accreditors required to participate?**

It is CHEA’s expectation that CHEA-recognized accrediting organizations would want to participate in CHEA’s non-binding, impartial arbitration program, as it will further enhance confidence in accrediting decisions. In general, the U.S. Department of Education has been opposed to mandatory binding arbitration among parties with unequal power. The CHEA Arbitration Program allows both parties to enter into a process of a non-binding, impartial review and with equal representation of their points of view. Although there is no CHEA Recognition mandate for accrediting organizations to participate, CHEA highly encourages their engagement.

**What Are the Grounds for Arbitration?**

The questions to be resolved by the arbitrator are limited to whether the accrediting organization’s final decision was (a) not reasonably supported by the facts or evidence in the record at the time the adverse action was appealed; (b) inconsistent with or attributable to a misapplication of the accrediting organization’s standards or policies; (c) not informed by relevant information that was available at the time the decision or was; or (d) the result of bias, conflict of interest, or unethical behavior.

**Who Is Eligible to Participate in the CHEA Arbitration Program?**

The CHEA arbitration program is open to all CHEA-recognized and/or U.S. Department of Education-recognized accrediting organizations and to all higher education institutions accredited by a recognized U.S. accrediting organization. It is not a condition of either CHEA recognition or of CHEA membership that institutions or accrediting organizations utilize the CHEA arbitration program.

**How Is Arbitration Initiated?**

Upon completing all appeal options that exist with the accrediting organization (excluding arbitration) and receiving written notice of a final decision, the institution must within 20 business days (a) submit a letter requesting review by an independent arbitrator to CHEA and (b) submit the written notice of a final decision from the governing body of the accrediting organization, as well as a brief letter describing the grounds for an appeal and the exact issues to be resolved.

**How Is an Arbitrator Assigned?**

Arbitration will be conducted by a single arbitrator who has familiarity and experience in higher education or related areas and has competency in the federal rules governing accreditation. CHEA will provide a list of qualified arbitrator candidates; the institution and the accrediting organization, in good faith, will review and chose an arbitrator from CHEA’s list. If an agreement is not reached, CHEA will select the arbitrator.

**How Long Does the Arbitration Process Take?**

The CHEA arbitration program is designed to take approximately 120 days from the request for a review by an independent arbitrator to the arbitrator issuing a decision. This is dramatically shorter than litigation, which easily can take more than a year to complete.

**Where and When Does the Arbitration Take Place?**

The venue for the arbitration shall be agreed upon by the parties. If both parties are unable to agree, CHEA will identify the venue. The venue will be a reasonably convenient location considering parties’ ability to travel and other pertinent circumstances. Virtual deliberations will be also considered if agreeable by all parties.

**Who Has the Burden of Proof for the Arbitration?**

The institution bears the burden of proof that the accrediting organization’s final accreditation decision did not adhere to that accrediting agency’s standards or policies, based on information available at the time the decision was reached.

**What Does the Arbitrator Decide?**

The arbitrator may affirm, affirm in an amended form, or remand the accrediting organization’s final accreditation decision, with recommendations. The decision of the arbitrator will include a summary of the reasoning supporting the decision. The decision may be considered by state and federal courts in any subsequent proceeding.

**How is the CHEA’s Arbitration process useful after the arbitrator’s decision?**

After an adverse final accreditation decision, the CHEA arbitration process is useful because it provides institutions with a low-cost, impartial, non-binding review of the accreditor’s determination. With this information, institutions can make an informed decision about how to move forward.

**What Is the Institution’s Accreditation Status During the Proceedings?**

The accreditation of the institution remains in effect until the arbitration decision is reached.

**What Does Arbitration Cost?**

For complete information on the costs and fees for the arbitration process, including advance deposit requirements, arbitrators’ fees, and administrative fees, visit the CHEA website at [www.chea.org](http://www.chea.org)/CHEA Arbitration Program.