

February 5, 2019

#### NACIQI Subcommittee Report on Substantive Change.

During the May 2018 meeting of NACIQI the committee held a session entitled, "Oversight of For-Profit Institutions' Conversions to Non-Profit Entities." The committee heard extensive comments on campuses converting from for-profit to non-profit tax status. Several presenters raised questions whether accreditors, especially regional associations, were conducting sufficient reviews to assure the financial and academic integrity of these changes. In response to the testimonies, a motion was made and adopted to establish a Subcommittee to examine the issue more closely and to make appropriate regulatory recommendations as necessary.

The Subcommittee held numerous phone conferences to discuss the issue and examine current federal regulations related to substantive change. As well, the Subcommittee hosted calls with a regional accreditor and representation from C-RAC to better understand the current scope of practice and frequency related to tax status change requests. General issues related to substantive change were discussed as well.

Subsequent to the NACIQI May 2018 meeting, the Government Accountability Office (GAO) initiated a study to closely examine the current activity surrounding college and university tax status conversions from for-profit to non-profit. In addition, the US Department of Education announced an extensive negotiated rulemaking process to address a wide range of accreditation issues. Numerous parties are drafting comments related to institutional accreditation. NACIQI believes that this recently announced activity will provide important and in-depth analysis of the substantive change issue.

Based on the Subcommittee's discussions and considering the ongoing evaluation of the topic, we offer the following limited observations:

- The regional accreditor consulted indicated that there are multiple levels of review which occur when an institution seeks a substantive change resulting in tax status conversion from for-profit to non-profit. These reviews begin with preliminary conversations prior to formal review, preapplication reviews, a formal review process with a site visit to the institution, and if the change is approved, mandatory follow up following implementation of the change. The accrediting associations undertake a review of the impact on governance, academic quality, and the availability of financial resources to ensure that quality will be maintained. If needed, additional financial expertise is brought in for these reviews. The accrediting agency also consults with officials responsible for such reviews in the US Department of Education. The Subcommittee was advised that there is good communication with the Department related to this issue. It should be noted that not all proposed conversions have been accepted. In certain tax status change requests, accreditors have identified where changes were needed, which led to changes in governance and academic quality assurance. The focus of financial reviews in such conversions is on assurance of adequate resources to protect the integrity and quality of academic programs and student support. In sum, the Subcommittee was satisfied that the depth and substantive quality of review conducted by the regional accrediting associations is appropriate for their role in assuring the quality and integrity of accreditation.

- Given the above, we believe accrediting agencies should be primarily concerned with institutional integrity, transparency of operations, and programmatic quality. Tax status should not enhance nor diminish the review of an institution's compliance with all the criteria of accreditation. Proper control of the institution's programs and contracts, transparency in governance, and resolution of conflicts-of-interests are all key components to the accreditation process. If, however, the peer review system is not adequate in evaluating complex financial or control issues, the agency should continue to seek outside expertise to assist in the review.
- Interdependency among other accountability agencies is critical. Often referred to as the "TRIAD," institutions are held accountable to accreditors, the federal government, and the state government. Whereas, accrediting agencies focus on quality of programs and institutional capacity to meet the stated mission, the US Department of Education, the Internal Revenue Service, and states also hold responsibility in ensuring that campuses follow the proper procedures when approving the change in institutional tax status. Students and families rely heavily on this independent interagency review to protect them from fraudulent activities.
- Current statutory and regulatory requirements provide for the accountability structure noted above. The Subcommittee feels as if the current structure is adequate if all the parties involved in the approval process adequately fulfill their oversight role. Should Congress seek to more strictly address the tax status change issue, legislative action will need to be considered.
- Concerning more broad issues related to substantive change, the Subcommittee points to the previous paper issued in February 2018 where NACIQI offered guidance on deregulating and reducing unnecessary costs embedded in the accreditation process. Specifically, the report notes:

*To further encourage institutional responsiveness and innovation, the Committee believes that "substantive change" and "additional procedure" report should be managed in a risk informed approach. Consequently, the Committee recommends:*

- ***Allow accreditors to limit the kinds of "substantive changes" that would require approval by accreditors for high performing institutions. Established institutions should have flexibility to make changes necessary to address their needs and those of their students.***
- ***Allow accreditors to limit "additional procedures" for high performing to only those cases where there are substantive changes or when branch campuses are up for accreditation reviews.***

NACIQI will continue to monitor issues related to substantive change. The Committee will be paying particular attention to rulemaking activities related to accreditation and the results of the GAO study examining tax status changes among higher education institutions. Further comments may be provided at that time.

