

Association of Specialized and Professional Accreditors – Analysis

CHEA's Call for Increased Public Information: What has been Proposed and Why it Matters

Concern - Inappropriate expansion of CHEA's requirements related to transparency (public information), i.e., the requirement of providing reasons for every accreditation decision, both positive and negative.

Although this proposed addition uses the current buzz word “transparency,” its real focus is public information. The ASPA member accrediting organizations routinely provide an appropriate level of public information while maintaining an appropriate level of confidentiality. Although we don't hear it said very often in the current climate, confidentiality is an honorable principle. It is enshrined in American law and practice. It is an important feature of democratic, free societies. It is not in any way against the public interest. Claiming that confidentiality is against the public interest is in itself against the public interest. Having joined together to protect the basic concept of confidentiality during the time leading up to the adoption of HEOA in mid-2008, we must once again rally our support for it in the face of the recently revived proposal from CHEA. **When it comes to basic concepts and foundational principles, if something was not acceptable when proposed at the federal level it is unlikely to be acceptable when proposed by CHEA.**

Finding the right balance between confidentiality and disclosure of public information has been and is key to the success of the accreditation system in the United States. Although some accrediting bodies provide more public information than others, all fulfill their public service mandate by providing at a minimum, basic public information about the accreditation standards upon which reviews are based and a list of accredited programs or institutions which includes the accreditation status of each program or institution, and the dates of the most recent and next scheduled reviews.

One of eight principles adopted by ASPA in 2005, addresses “Public Information and Confidentiality” (page 7) URL: <http://www.aspa-usa.org/documents/ASPAPrinciplesStatementFinal40605.pdf> Principle seven says, in part, ASPA supports time-tested principles and policies now in effect in the accreditation community regarding public information and confidentiality. Beyond the provision of basic public information, it is the right of “accrediting organizations and their accredited institutions and programs to determine what should be made public and what should remain confidential.” Further, the ASPA *Principles* statement indicates that:

- Public information and confidentiality both serve the public interest.
- A climate of litigation is not conducive to the free exchange of ideas or information that encourages and produces excellence in education.
- The base of trust needed for accreditation to be effective must be preserved.
- Confidentiality protects both volunteers and volunteerism. The public benefits greatly from the experts in each field who volunteer their time and talents to participate in accreditation reviews.
- Institutions must publish accurate information about their programs, faculties, resources, requirements, and achievements and accreditors must publish the results of accreditation reviews. Student use this information to select schools and are protected by accreditation activities while they are enrolled in school.
- Accreditation helps support a positive climate for the development and improvement of higher education.
- Whether federal or national, policies that affect accreditation must preserve an appropriate balance of power between institutions and accreditors. **To mandate full disclosure would raise exponentially the kinds of public relations leverage accreditors would have over institutions.** Most accreditors do not want the current balance of power to be disrupted in this manner. Institutions should not want it either.

Analysis of the Public Disclosure Proposal

Transparency (page 6) – URL to CHEA Document: <http://www.chea.org/pdf/2010%20Proposed%20Revisions.pdf>

ASPA Concerns:

ASPA does not support CHEA's inclusion of additional requirements related to transparency (public disclosure) in the *CHEA Recognition Policy* for the following reasons:

- The current diversity must be maintained and protected and not infringed upon by any third party requirement to go beyond the realm of fair practice that is embraced by institutions/programs and their accrediting organizations.
- If CHEA believes that the public is best served by requiring the proposed addition to Recognition Standard 12B.5, the additional information should be provided by the true "owner/recipient" of the information – i.e., the institutions. **CHEA could require its member institutions to provide the information as a condition of membership in CHEA. CHEA should not make this a recognition requirement for accrediting organizations.**

Further, if adopted, the CHEA proposal would:

- Not allow accreditors to give an institution even a short private period to answer questions, address deficiencies, or debate the decision of the accreditor.
- Provide incentives for institutions to hide problems and for accreditors to be less rigorous or to delay making the "hard decisions"; both will want to avoid the creation of long-lasting public relations problems for institutions and programs.
- Put accreditors and institutions/programs in conflict with each other from the beginning to the end of the process.
- Focus accreditation on public relations considerations instead of achievement and quality in matters of content and operations.
- Give accreditors too much control or influence over the public image of institutions and programs. In the end, this will be harmful to higher education and to accreditation.
- Provide a means for the eventual regulation of content and other academic decisions. The power to determine what must be disclosed is ultimately the power to determine what must be done – taught, evaluated, reported, etc. **Control of public information is a key that unlocks the door to eventual control of academic content.**
- Undermine the principles regarding institutional and accreditor independence. (See the analysis of issues related to inappropriate expansion of Scope also attached.)

For the reasons listed above, the proposed language should not be adopted.

Note: This is part one of ASPA's analysis of the proposed revisions to the 2006 *CHEA Recognition Policy and Procedures* released by CHEA on April 1, 2010. If you did not receive part two and wish to see it, it is available at: <http://www.aspa-usa.org/documents/CHEA-Comments-Scope-Issues.pdf>

Historical Timeline

Note: The following timeline is provided to assist those who are new to the discussion of public disclosure. The history will be familiar to those who experienced it.

March 22, 2004: CHEA proposes change to its recognition standards just as HEA reauthorization gets underway in earnest, and includes language "...and the reasons for these decisions" identical to that proposed again on April 1, 2010.

Spring/Summer of 2005: HR 4283, the first House draft of HEA reauthorization, contains provisions functionally identical to those proposed by CHEA. CHEA's impact on the drafters of HR 4283 is not known.

2005 – 2008: Higher education associations and accrediting organizations and coalitions work continuously to get this provision removed from HR 4283 and subsequent HEA reauthorization proposals, and ultimately are successful. The Congress recognizes the many dangers inherent in such a policy. However, debates continue throughout the reauthorization process about the specifics of public information responsibilities for accreditors recognized by USDE.

January 2006: CHEA Board approves revised CHEA recognition standards without the "...and reasons for these decisions" language after opposition from many accreditors who were joined in this by the major higher education associations.

April 2006: CHEA monograph, "Presidential Perspectives on Accreditation: A Report of the CHEA Presidents Project" – p.10 – "Despite recent calls for it, presidents remain wary of increased public disclosure of the results of accreditation reviews. While all believe in openness and candor, a lot of presidents also believe that public disclosure may lead to information distortion and a tendency to 'game' the process."

August 2008: HEOA is signed into law without the language of HR 4283 or any language that would require accreditors to provide reasons for decisions except in the case of certain specified adverse actions. HEOA provisions on accreditation reflect agreement among higher education associations, accrediting organizations, and Congress and, very importantly, explicitly protect the independence of institutions and accreditors with regard to academic decision making.

October 2008: Prior to the opening of negotiations regarding regulations to implement the HEOA, CHEA proposes and goes to Congressional staff with an "initiative" that includes CHEA's assumption of academic authority for all of higher education and that overturns the agreements that higher education, accreditors, and Congress reached regarding HEOA. After the views of accreditors and the higher education community are voiced, these and similar proposals are subsequently dropped from the next iteration of the CHEA initiative.

January 2009: USDE process to write regulations to implement the accreditation portions of the HEOA begins and continues into early 2010 with debates over the appropriateness and content of so-called sub-regulatory guidance. Published regulations regarding public information follow the provisions in the HEOA. In the final regulations themselves, there is no attempt to require disclosure of rationale for every accreditation decision but only those specified in the law. Law and regulation are consistent.

February 2010: USDE distributes for comment a draft Guide to the Accrediting Agency [USDE] Recognition Process. Under compliance factors regarding public information, the proposed sub-regulatory guidance is not as clear as the texts of the law and the regulations, and indeed can be read to expand the publication requirement to include "reasons" that extend beyond the scope specified by law. Accreditors object to such interpretative expansions beyond law and regulation throughout the "Guide." The status of this USDE effort remains unclear as a revised draft Guide has not yet been released and no closure has been reached. During this time, USDE is likely to be influenced by related events in the accreditation arena.

April 1, 2010: CHEA proposes revisions to its recognition standards that include language identical to that proposed on March 22, 2004. This language is inconsistent with the principles and approaches broadly agreed to in the reauthorization of HEOA. These proposals are also put forth in the midst of accrediting community debates with USDE about regulatory texts and action, prior to the first USDE recognition reviews under the revised HEOA, and with the next HEOA reauthorization just four or five years away.