



Maryland Independent College
and University Association

Letter of Information

Senate Finance Committee
Senate Bill 66 (Patterson) Labor and Employment – Hiring – Education
Requirements (Give Me A Chance – Job Opportunities Act of 2022)

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On behalf of Maryland's independent colleges and universities and the 58,000 students we serve, I thank you for the opportunity to provide this letter of information in reference to ***Senate Bill 66 (Patterson) Labor and Employment – Hiring – Education Requirements (Give Me A Chance – Job Opportunities Act of 2022)***. This bill prohibits an employer from: developing or implementing an application process that uses an education credential as a limitation for a specified position; using an applicant's lack of education credential to deny the applicant an opportunity to apply for the position; and inquiring about the applicant's lack of education credential during the interview process.

Institutions of higher education are bound by specific accreditation standards to hire faculty that meet minimal educational requirements to ensure students are instructed by subject matter experts and have the requisite knowledge to educate students. Qualified faculty, which includes part-time, temporary, and non-tenure track faculty, are expected to have attained the college-level courses and post-graduate education requirements prior to teaching academic courses at higher education institutions to prepare students for post-graduation opportunities and further advanced education. SB 66 would intervene with an institution's ability to employ individuals that demonstrate and possess the higher education degrees to teach students in certain disciplines and programs. Attached are guidelines from the Higher Learning Commission, a national accreditor, that provides a framework for hiring qualified faculty to instruct and train students enrolled in higher learning.

A key factor in granting accreditation is for institutions to use academic credentials to determine minimum faculty qualifications. There are a few programs at some MICUA institutions that would have their accreditation jeopardized if specific credentialing requirements were removed from faculty positions such as computer science, engineering, and cybersecurity. Students apply and enroll in MICUA institutions that offer highly specialized programs with the expectation that they will be educated by faculty with the academic expertise to prepare them for tests and the field. Several programs are nationally recognized and increase our competitiveness to attract the best and brightest students.

While we understand the sponsor's intent to increase access to employment opportunities to individuals who have been met with roadblocks and barriers due to their lack of academic attainment, institutions of higher education would be mistakenly swept into the broad application of SB 66 if passed. Institutions of higher education are the primary source for students to pursue their academic interests and increase their economic mobility. One of the key elements on this pathway is the recruitment and hiring of faculty members with the appropriate educational credentials to prepare a student for the workplace or advanced study.

MICUA thanks you for your attention and appreciates the opportunity to provide these comments for your consideration of Senate Bill 66. If you have any questions or would like additional information, please contact Irnande Altema, Associate Vice President for Government and Business Affairs, ialtema@micua.org.



Determining Qualified Faculty Through HLC's Criteria for Accreditation and Assumed Practices

Guidelines for Institutions and Peer Reviewers

Introduction

The following information provides guidance to institutions and peer reviewers in determining and evaluating minimal faculty qualifications at institutions accredited by HLC. These guidelines explain the Criteria for Accreditation and Assumed Practices that speak to the importance of institutions employing qualified faculty for the varied and essential roles that faculty members perform.

HLC's requirements related to qualified faculty seek to ensure that students have access to faculty members who are experts in the subject matter they teach and who can communicate knowledge in that subject to their students. When an institution indicates that a faculty member is qualified by means of an offer of employment, it is asserting its confidence in the faculty member's content expertise along with the ability of the faculty member to help position students for success not only in a particular class, but also in their academic program and their careers after they have completed their program.

The following guidelines apply to all faculty members whose primary responsibility is teaching, including part-time, adjunct, dual credit, temporary and/or non-tenure-track faculty. An institution committed to effective teaching and learning should be able to demonstrate consistent procedures and careful

consideration of qualifications for all instructional faculty. This demonstrates academic integrity and is verifiable through peer review processes.

Background on HLC's Qualified Faculty Requirements

Together, HLC's Criteria for Accreditation and Assumed Practices define the quality standards that all member institutions must satisfy to achieve and maintain HLC accreditation.

In June 2015, HLC revised Assumed Practice B.2. to ensure academic quality by requiring institutions to demonstrate that faculty members who deliver college-level content are appropriately qualified to do so, and to ensure that institutions establish clear policies and consistent procedures to achieve such quality. It must be noted that the revisions to Assumed Practice B.2. reflect longstanding HLC expectations that had appeared in various written forms in previous years and that through this revision process, HLC sought to support its mission of assuring and advancing the quality of higher learning.

When HLC's Board of Trustees approved the revisions to Assumed Practice B.2. in June 2015, it also extended the date of compliance to September 1, 2017, to allow institutions time to work through the

details of the requirement and to bring their faculty into compliance through individual professional development plans. Later, during its meeting in November 2015, the Board acted to allow institutions with dual credit programs to apply for a five-year extension to bring faculty for those programs into compliance with Assumed Practice B.2. In June 2020, the Board extended the deadline for those institutions by one year, to September 1, 2023, due to the disruptive effects of the COVID-19 pandemic.

In these guidelines, HLC seeks to offer important additional perspective on Assumed Practice B.2. and to convey its expectations and timeline for compliance. The guidelines provide information related to earned faculty credentials, tested experience and dual credit. Further, these guidelines seek to clarify the role of peer reviewers in determining the minimal qualifications of faculty teaching at institutions accredited by HLC.

HLC'S COMMITMENT TO THE IMPORTANCE OF QUALIFIED FACULTY

Core Component 3.C. refers to “the faculty and staff needed for effective, high-quality programs and student services,” which entails, in part, a faculty member’s ability to understand and convey the essentials of a specific discipline in a collegiate environment. Minimally qualified faculty should be able to engage professionally with colleagues regarding the learning objectives for program graduates, as well as possess the knowledge, skills and dispositions appropriate to the credential awarded. HLC expects that through the curricula and learning contexts that faculty develop, the exercise of intellectual inquiry and the acquisition, application and integration of broad learning and skills are integral to an institution’s educational programs. Qualified faculty should also be aware of student learning through the ongoing collection and analysis of appropriate data, because an institution should be able to demonstrate its commitment to educational achievement and improvement through ongoing assessment of student learning. It is important to note that none of these abilities are intended to substitute for content expertise or tested experience, as described below.

Note: See HLC’s Criteria 3 and 4 (specifically, 3.B. and 4.B.) for more information on expectations regarding teaching and learning.

Relevant Criteria and Assumed Practices

Criterion 3 speaks to faculty qualifications, specifically Core Component 3.C., subcomponents 3.C.2., 3.C.3., and 3.C.5. Assumed Practice B.2.a. and B.2.b. are also central to this topic.

CRITERION 3. TEACHING AND LEARNING: QUALITY, RESOURCES, AND SUPPORT

[Effective September 1, 2020.]

The institution provides quality education, wherever and however its offerings are delivered.

Core Component 3.C. The institution has the faculty and staff needed for effective, high-quality programs and student services.

3.C.2. The institution has sufficient numbers and continuity of faculty members to carry out both the classroom and the non-classroom roles of faculty, including oversight of the curriculum and expectations for student performance; establishment of academic credentials for instructional staff; involvement in assessment of student learning.

3.C.3. All instructors are appropriately qualified, including those in dual credit, contractual, and consortial programs.

3.C.5. The institution has processes and resources for assuring that instructors are current in their disciplines and adept in their teaching roles; it supports their professional development.

ASSUMED PRACTICE B. TEACHING AND LEARNING: QUALITY, RESOURCES, AND SUPPORT

[Effective September 1, 2017.]

B.2. Faculty Roles and Qualifications

- a. Qualified faculty members are identified primarily by credentials, but other factors, including but not limited to equivalent experience, may be considered by the institution in determining whether a faculty member is qualified. Instructors (excluding for this requirement teaching assistants enrolled in a graduate program and supervised by faculty) possess an academic degree relevant to what they are teaching and at least one level above the level at which they

teach, except in programs for terminal degrees or when equivalent experience is established. In terminal degree programs, faculty members possess the same level of degree. When faculty members are employed based on equivalent experience, the institution defines a minimum threshold of experience and an evaluation process that is used in the appointment process. Faculty teaching general education courses, or other non-occupational courses, hold a master's degree or higher in the discipline or subfield. If a faculty member holds a master's degree or higher in a discipline or subfield other than that in which he or she is teaching, that faculty member should have completed a minimum of 18 graduate credit hours in the discipline or subfield in which they teach.

- b. Instructors teaching in graduate programs should hold the terminal degree determined by the discipline and have a record of research, scholarship or achievement appropriate for the graduate program.

Quality Assurance Expectations in Determining Minimally Qualified Faculty

Accreditation agencies expect that accredited institutions will use *credentials* as the primary mechanism to ascertain minimal faculty qualifications. HLC recognizes that experience also may be considered in determining faculty qualifications. (See page 4.) In some situations, a combination of these may be appropriate.

USING CREDENTIALS AS A BASIS FOR DETERMINING MINIMALLY QUALIFIED FACULTY

Faculty credentials refer to the degrees that faculty have earned that establish their credibility as content experts and thus their competence to teach that content in the classroom. Common expectations

for faculty credentials in higher education include the following:

- Faculty teaching in higher education institutions should have completed a program of study in the discipline or subfield¹ (as applicable) in which they teach, and/or for which they develop curricula, with coursework at least one level above that of the courses being taught or developed. Completion of a degree in a specific field enhances an instructor's depth of subject matter knowledge and is easily identifiable.
- With the exception noted in the bullet immediately following, faculty teaching in undergraduate programs should hold a degree at least one level above that of the program in which they are teaching. If a faculty member holds a master's degree or higher in a discipline other than that in which he or she is teaching, that faculty member should have completed a minimum of 18 graduate credit hours in the discipline in which he or she is teaching.

If an individual faculty member has not achieved 18 graduate credit hours in the discipline in which he or she teaches, the institution should be able to explain and justify its decision to assign the individual to the courses taught. These decisions should be supported by policy and procedure that are acceptable to the professional judgment of HLC peer reviewers. See the following subsection for more information about how experience may be considered in determining faculty qualifications.

- Faculty teaching in career and technical education college-level certificate and occupational associate's degree programs should hold a bachelor's degree in the field and/or a combination of education, training and tested experience. (Note: See the Tested Experience section below.) Such qualifications are allowable even in instances where technical/occupational courses transfer, which HLC recognizes is an increasing practice.
- Faculty teaching in graduate programs should hold the terminal degree determined by the discipline

¹ Assumed Practice B.2. refers to academic subfields. An academic subfield refers to a component of the discipline in which the instruction is delivered. The focus, in the context of HLC accreditation, is on the courses being taught and the general appropriateness of faculty qualifications with reference to such courses. The key consideration is whether a degree in the field or a focus in the specialization held by a faculty member appropriately matches the courses the faculty member would teach in accordance with the conventions of the academic field.

and have a record of research, scholarship or achievement appropriate for the graduate program.

USING TESTED EXPERIENCE AS A BASIS FOR DETERMINING MINIMALLY QUALIFIED FACULTY

Tested experience may substitute for an earned credential or portions thereof. Assumed Practice B.2. allows an institution to determine that a faculty member is qualified based on experience that the institution determines is equivalent to the degree it would otherwise require for a faculty position. This experience should be tested experience in that it includes a breadth and depth of experience outside of the classroom in real-world situations relevant to the discipline in which the faculty member would be teaching. (Note: Tested experience, as is explained in the following section on dual credit, is typically not based exclusively on years of teaching experience, although other experiential factors as noted below may be considered on a case-by-case basis.)

The value of using tested experience to determine minimal faculty qualifications depends upon the relevance of the individual faculty member's experience both to the degree level and to the specific content of the courses the faculty member is teaching. An institution that intends to use tested experience as a basis for hiring faculty must have well-defined policies, procedures and documentation that demonstrate when such experience is sufficient to determine that the faculty member has the expertise necessary to teach students in that discipline. In their policies on tested experience as a basis for hiring faculty members, institutions are encouraged to develop faculty hiring qualifications that outline a minimum threshold of experience and a system of evaluation. Tested experience qualifications should be established for specific disciplines and programs and could include skill sets, types of certifications or additional credentials, and experiences. Documented qualifications would ensure consistency and transparency in hiring and human resources policies. The faculty hiring qualifications related to tested experience should be reviewed and approved

through the faculty governance process at the institution—a step that should be highlighted for peer review teams, as appropriate.

Determining Minimally Qualified Faculty in the Context of Dual Credit

The subject of *dual credit*² was the focus of HLC's national study completed in 2012. This research entailed the analysis of dual credit activities across 48 states and revealed the dramatic expansion of dual credit offerings. Citing research conducted by the National Center for Education Statistics, HLC's study reported that by 2010–2011 dual credit enrollments had reached 2.04 million students, up from 1.16 million in 2002–2003, an increase of 75 percent. Even though the study was a descriptive analysis of dual credit and by design did not advocate a position, it did report on both the benefits and the drawbacks of dual credit arrangements and prompted HLC to address some critical concerns, including inadequate instructor qualifications.

(See [Dual Credit for Institutions and Peer Reviewers](#))

To address these concerns, HLC determined that accredited institutions awarding college credit by means of dual credit arrangements must ensure the quality and integrity of such offerings and their comparability to the same college credit offered on the institution's main campus or at the institution's other locations. As such, the faculty members teaching dual credit courses should hold the same minimal qualifications as required by the institution of its own faculty. These expectations extend to minimally qualified dual credit faculty, as stated in Criterion 3 (3.A., 3.C.3.), Criterion 4 (4.A.4.), and Assumed Practice B.2.

This requirement is not intended to discount or in any way diminish the experience that the high school teacher brings into a dual credit classroom. Such classroom experience alone, however lengthy or respected, is not a substitute for the content knowledge needed for college credit.

² Dual credit refers to courses taught to high school students at the high school for which the students receive both high school credit and college credit. These courses or programs are offered under a variety of names; HLC's Criteria on dual credit apply to all of them, as they involve the accredited institution's responsibility for the quality of its offerings.

HLC recognizes that many high school teachers possess tested experience beyond their years in the classroom that may account for content knowledge for the dual credit courses they may teach. These teachers may have gained relevant experience while working in other sectors or through professional development or other relevant experience that now informs their teaching. They may be active in professional organizations and learned societies through presentations and publications on topics relevant to the dual credit courses they may teach. In combination with other credentials and/or tested experience, they may be able to provide direct evidence of their students' achievement on college-level tests that reflects a level of teaching and learning akin to a college classroom. However, evidence of students' achievement, on its own, is not sufficient to demonstrate minimal qualifications.

HLC also recognizes that dual credit faculty members who have obtained a Master of Education degree but not a master's degree in a discipline such as English, Communications, History, Mathematics, etc., may have academic preparation to satisfy HLC's expectations. In this context, the curricula of graduate degrees in the field of Education, when inclusive of graduate-level content in the discipline and methods courses that are specifically for the teaching of that discipline, satisfy HLC's dual credit faculty expectations. In other words, the attainment of a Master of Education degree does not demonstrate a qualification to teach dual credit courses in a particular discipline unless it is demonstrated that the content of that faculty member's Master of Education degree is sufficiently related to the discipline of the dual credit course.

Accredited institutions should monitor closely the earned credentials along with the tested experience of dual credit faculty with the understanding that allowances for tested experience may occur.

The Centrality of Peer Review in Evaluating Faculty Credentials

In keeping with HLC's commitment to peer review processes, it must be stressed that the professional judgment of HLC's peer review teams has always

been and remains central to the evaluation of member institutions and the credentials of the faculty members who work there. HLC's reliance on the expertise of its Peer Corps members—reviewers who are drawn from the member institutions themselves based upon their knowledge and expertise—is an honored and time-tested tradition. It is as much valued as it is necessary given the wide range of institutional types that HLC accredits across an even wider array of geographical and political contexts. Such diversity presents incredible opportunities for advancing learning and deeper understanding among higher education professionals by means of accreditation, although it also makes especially challenging (if not impossible) the enforcement of “one-size-fits-all” requirements. HLC and its peer reviewers understand that there may be circumstances that will need to be explained and justified to the peer review teams charged with assuring the quality and integrity of educational offerings within an institution.

Peer reviewers are charged to evaluate the entire institution and its compliance with policy and not to evaluate the hiring of specific faculty members. If systemic non-compliance is identified, the peer review team will seek additional information and, possibly, recommend HLC follow-up to ensure that the institution meets HLC's expectations. Several specific scenarios are outlined in the next section.

HLC's Review of Faculty Qualifications Related to Assumed Practice B.2.

HLC has identified circumstances under which Assumed Practice B.2. will influence the review of an institution. These descriptors are intentionally brief, as information about HLC's processes is documented on hlcommission.org.

INSTITUTIONS HOSTING COMPREHENSIVE EVALUATIONS

Institutions in good standing hosting routine comprehensive evaluations, whether on the Standard or Open Pathway, need not write specifically to the Assumed Practices. However, all institutions preparing for a comprehensive evaluation must write specifically to Core Component 3.C.

1. Peer review teams conducting comprehensive evaluations may randomly select a sample of faculty members and request to see their personnel records (i.e., curriculum vitae and transcripts) in conjunction with the list of courses to which said faculty members are assigned.
2. Peer reviewers may also legitimately probe what process the institution uses to determine that its faculty members are appropriately credentialed to teach the courses to which they are assigned.
3. Reviewers may evaluate the institution's policies and procedures for determining qualified faculty, particularly when tested experience is a determining factor.

INSTITUTIONS FOR WHOM HLC RECEIVES COMPLAINTS RELATED TO FACULTY

HLC may request information about institutional conformity with Assumed Practice B.2. if the HLC staff's review of a complaint received about a faculty member's credentials is deemed to merit additional inquiry. Following HLC's [complaint protocol](#), this inquiry may take place even though the institution has not yet hosted a comprehensive evaluation after the revised Assumed Practice became effective. As is typical for complaints meriting additional inquiry, the institution may be asked to provide documentation that is responsive to HLC questions about the perceived accreditation issue. Should the response be deemed sufficient, HLC will conclude the complaint process with a response letter. Should the outcome of the complaint review be a determination that the institution is not in conformity with the Assumed Practice, HLC will follow up with monitoring.

INSTITUTIONS NOT IN CONFORMITY WITH ASSUMED PRACTICE B.2.

Should an institution be found not to be in conformity with Assumed Practice B.2., HLC will seek an interim report within three months that either explains how the situation has been rectified or indicates how the situation will be rectified within two additional years.³ The latter case may require additional follow-up in the form of a second report or an on-site evaluation to confirm the issue has been fully remedied and the

institution is in full compliance. An institution acting in good faith to meet the Assumed Practice will not be at risk of losing its accreditation solely related to its conformity with Assumed Practice B.2.

Limitations on the Application of HLC Requirements Related to Qualified Faculty

It is important that institutions review these limitations carefully in implementing HLC's requirements related to qualified faculty:

- HLC requirements related to qualified faculty, including Assumed Practice B.2., are in no way a mandate from HLC to terminate or no longer renew contracts with current faculty members. HLC expects that institutions will work with faculty who are otherwise performing well to ensure that they meet HLC's requirements (whether through credentials or tested experience or a combination thereof). HLC also expects that institutions will honor existing contracts with individual faculty or collective bargaining units until such time as institutions have had an opportunity under the contract to renegotiate provisions that relate to faculty credentials if such revisions to the contract are necessary for the institution to meet HLC's requirements. HLC recognizes that in many cases such renegotiation or revision may not be able to take place until the contract expires or at the contract's next renewal date.
- As a part of its ongoing evaluation of faculty, institutions may determine that there need to be changes in faculty hiring requirements and to new or existing institutional policies pursuant to best (and emerging) practices in higher education related to faculty (not necessarily related to HLC's requirements). Institutions may also determine that certain faculty members have not performed well according to the institutions' expectations related to faculty performance and should not be retained. Such decisions are within the institutions' purview. They should not be handled differently than they would have been prior to the

³ This will not apply to dual credit programs at those institutions granted an extension to comply with Assumed Practice B.2., solely as applied to dual credit faculty, until September 1, 2023. See page 2 for further details about the extensions granted by HLC.

promulgation of the revised Assumed Practice B.2. in 2017. Under no circumstances should institutions use HLC's requirements as a pretext to eliminate faculty members who have not performed well or who do not meet institutional hiring requirements for faculty members and would otherwise have not been retained for these reasons.

- These requirements, including Assumed Practice B.2., in no way apply to staff members at accredited institutions; they apply to instructional faculty and faculty responsible for developing curriculum only. To understand HLC's requirements related to staff members, institutions should review subcomponent 3.C.7., which requires that “staff members providing student support

services, such as tutoring, financial aid advising, academic advising and cocurricular activities, are appropriately qualified, trained and supported in their professional development.” HLC has no further requirements identifying what the appropriate qualifications are for staff members; rather, it is up to each accredited institution to determine what appropriate qualifications are for such personnel.



Questions?

Please contact the institution's HLC staff liaison.