

Legal Costs and Obligations Policy

PURPOSE

The Northwest Commission of Colleges and Universities (“NWCCU”) does not charge dues or fees for the purpose of generating funds to respond to subpoenas or other inquiries, which may be compelled by law. Further, NWCCU does not believe that it is fair for the organization, its representatives, volunteers, and indirectly its accredited member institutions, to bear the financial burden, whether insured or not, of defending against legal actions related to one or a small number of institutions. Therefore, as a condition of NWCCU’s consideration of an institution’s application for accreditation, or any pre-accredited or accredited status with NWCCU, each such institution agrees to abide and be bound by the policy statements and provisions set forth herein.

THIRD-PARTY CLAIMS, INVESTIGATIONS AND INQUIRIES

Entities or persons that are applicants or candidates for accreditation with NWCCU or accredited by NWCCU (“institutions”) shall indemnify, hold harmless, and otherwise, without limiting the meaning of such terms, reimburse NWCCU and its Commissioners, officers, employees, agents, representatives and volunteers (“the covered parties”) from and against any and all loss, cost, damage, liability and expense, including without limitation attorneys’ fees, litigation costs, costs of document production¹, time and travel expenses of individuals falling within the scope of the covered parties, and other costs and expenses all as associated with or arising out of any arbitration, litigation, discovery, subpoena caused or initiated by any institution or any person acting in the stead of or on behalf of an institution, or any investigation conducted by any federal agency, state agency, or law enforcement body based on alleged acts or omissions of NWCCU related to such institution (collectively, “losses”) and suffered, sustained or incurred by the covered parties as a result of, arising out of, or in connection with (a) any alleged action or failure to act by an institution or its corporate parent, majority shareholder, corporate member, sponsor, or affiliate, including the governing board members, officers, employees, agents or representatives of any of the aforementioned; or (b) any alleged act or omission of NWCCU relating to an institution.

Reimbursement for the “time . . . of individuals falling within the scope of the covered parties” referred to in the above provision shall mean time and a half based on any such individual’s then current hourly wage, hourly fee, or if the individual is in a salaried position, the individual’s hourly equivalent. This same concept of reimbursement shall apply to all individuals falling under the scope of covered parties whether such individual serves in a compensated or uncompensated position with NWCCU.

LITIGATION COSTS

¹ At actual cost of third-party services or equivalent if performed by NWCCU personnel.

In the event NWCCU is the prevailing party in any action or proceeding brought by an institution, or brought by NWCCU to enforce any provision of this policy, as the prevailing party NWCCU shall be entitled to all reasonable costs incurred including staff time, court costs, attorney's fees, and all other related expenses incurred in the preparation for, prosecution of or response to any such litigation ("litigation costs"). In the event that the institution maintains candidate or accredited status at the time NWCCU becomes a prevailing party with respect to any claim(s), NWCCU shall invoice the institution for such litigation costs as set forth below. "Prevailing party" means that NWCCU was successful in (a) defending against any claim or action asserted by an institution or any person acting in the stead or on behalf of any institution or (b) obtaining a judgment in its favor on any claim or action asserted by it against an institution.

LEGAL AND FINANCIAL REVIEWS

An institution shall be responsible for the fees and related expenses incurred by NWCCU arising from the review by third party consultants or advisors of legal and financial agreements, projections and proposals submitted by such institution as a part of or arising from or in the course of such institution's pursuit of approvals, consents or other actions by NWCCU ("legal/financial review costs"), including without limitation any such expenses incurred by NWCCU in the course of its administration of matters arising from substantive change reviews.

PAYMENT AND NON-PAYMENT REMEDIES

NWCCU may charge an institution for losses and legal/financial review costs as and when incurred, and for litigation costs upon qualifying as the prevailing party and payment of such charges shall be due from the institution upon presentation in accordance with the terms set forth therein. NWCCU may take any action it deems appropriate under the circumstances in the event of an institution's default in payment in full of any charges as and when due including without limitation, in NWCCU's sole discretion, sanctions up to and including withdrawal of the defaulting institution's accreditation status as well as other remedies available at law.

CHOICE OF LAW, JURISDICTION AND VENUE

NWCCU and each Institution understands that "Notwithstanding any other provision of law, any civil action brought by an institution of higher education seeking accreditation from, or accredited by, an accrediting agency or association recognized by the Secretary of the Department of Education for the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42 and involving the denial, withdrawal, or termination of accreditation of the institution of higher education, shall be brought in the appropriate United States district court." (See 20 U.S.C. 1099b(f)). Institutions hereby consent to the United States district court located in King County, Washington, exclusively as the "appropriate United States district court" for purposes of the above statute. Each institution hereby further consents and agrees that jurisdiction and venue for any other civil action which might arise out of or as a consequence of an institution's active or

inactive accreditation status or the pursuit of such status with NWCCU shall exclusively be brought in the United States District Court for the Western District of Washington located in King County, Washington, or the state courts of King County, Washington, whichever of these courts shall have proper subject matter jurisdiction and each institution submits to the personal jurisdiction of such courts.