

Antitrust Compliance Policy

Effective Date: [____], 2020

- I. Purpose
- II. Statement of Policy
- III. Procedures
- IV. Definitions

I. Purpose

The New England Commission on Higher Education (NECHE or the Commission) is committed to ensuring that Commission representatives observe high standards of professional and personal ethics in the conduct of their duties and responsibilities. This includes compliance with all applicable antitrust laws of the United States. The goal of the antitrust laws of the United States is a competitive marketplace, in which efficient and innovative firms thrive. The antitrust laws of the United States and corresponding regulations prohibit collusion among competitors and market practices that impair the ability of others to compete.

Although the goals of the antitrust laws of the United States are clear, the laws themselves are broad, vague, and complex. The purpose of this policy is to articulate the Commission's expectation for its representatives to practice honesty and integrity in fulfilling responsibilities and adhering to all applicable antitrust laws of the United States and corresponding regulations. This policy requires that Commission representatives comply with the antitrust laws of the United States and corresponding regulations, as failing to do so presents significant consequences for the Commission and its representatives. These consequences include substantial fines, possible imprisonment, large awards of damages from civil lawsuits and legal proceedings that can impose massive expenses and disrupt the Commission's operations. Given the severe consequences of violating the antitrust laws of the United States, this *Antitrust Compliance Policy* and the *Antitrust Compliance Procedures* must be strictly observed.

II. Statement of Policy

The Commission shall require that all Commission representatives act in accordance with their responsibilities to recognize and avoid or prevent situations that violate antitrust laws of the United States or that otherwise facilitate unreasonable restraints on competition or harm consumer welfare. The antitrust laws of the United States, broadly stated, prohibit cartels, anticompetitive agreements with competitors, anticompetitive dealings with customers or suppliers, monopolization and anticompetitive corporate transactions. Commission representatives shall avoid agreements or invitations to engage in any of the practices immediately referenced above. A Commission representative who fails to comply with the

antitrust laws of the United States in connection with NECHE or refuses to act consistently with this policy on antitrust compliance is subject to discipline, including prohibition from participating in NECHE activities and/or termination of employment. Commission representatives shall report wrongful conduct under this policy in accordance with established procedures.

This *Antitrust Compliance Policy* and the *Antitrust Compliance Procedures* are primarily intended to help Commission representatives recognize the kinds of conduct that the antitrust laws of the United States address. Whenever Commission representatives have any questions about the possible application of the antitrust laws of the United States to their activities, they should consult with the appropriate Commission personnel pursuant to the *Antitrust Compliance Procedures*.

III. Procedures

The Commission staff will develop procedures as are necessary to ensure the consistent implementation of policies. See the Commission's *Antitrust Compliance Procedures* [as well as the *Employee Handbook*]¹.

IV. Definitions

The following definitions are used in this policy and/or procedures.

- A. **Antitrust laws of the United States.** Four federal antitrust laws are the primary focus, including the Sherman Act, the Clayton Act, the Robinson-Patman Act, and the Federal Trade Commission Act. These laws generally prohibit the following conduct: (1) fixing fees, dues, prices, input costs or any term that affects prices to consumers; (2) coordinating conduct in connection with fees, dues, prices, or purchases; (3) rigging or coordinating bids; (4) fixing employee compensation or entering into "no poach" agreements with competitors; (5) exchanging competitively sensitive information with competitors, especially if such information facilitates coordinated conduct; (6) dividing markets (by geography or services); (7) boycotting or refusing to deal with actual or potential customers or suppliers; (8) agreeing with competitors on refusals to deal with other competitors; (9) limiting output or otherwise constraining capacity; (10) monopolization; (11) price discrimination; (12) inviting competitors to collude in an anticompetitive action; (13) arriving at any understanding with regard to anticompetitive action; (14) attempting or conspiring to engage in any of the above activities; (15) facilitating any of the above activities.

- B. **Commission representative.** Any individual who represents or serves the Commission, including assigned peer evaluators, Commission staff, and Commissioners.

¹ Note to NECHE: Confirm whether the Employee Handbook is relevant.