



## **Middle States Commission on Higher Education**

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### **Discovery Requests and Litigation Expense**

*Effective June 27, 2013*

#### **Discovery Requests Where the Commission is Not a Party**

The Middle States Commission on Higher Education is not obligated to comply with third-party or members' discovery requests or other document/information production requests except as legally required. If a member or third-party serving a subpoena or document/information request does not offer advance reimbursement for all reasonable production costs, including but not limited to, electronic discovery costs, copying, delivery costs, and staff time to fulfill the request, the Commission may, at its discretion, charge such costs at a reasonable rate to the member institution for which the documents have been subpoenaed or requested.

If disclosure is sought by subpoena and/or court order, the Commission will promptly notify the institution whose documents are being requested of the request to enable the institution to file its objections to the appropriate court.

#### **Litigation Where the Commission is a Party**

If an institution commences litigation against the Commission, and the institution either withdraws or loses its case, then the institution will be responsible to pay all Commission costs and damages related to the litigation, including but not limited to reasonable attorneys' fees, staff time and all discovery costs.

The Commission shall not be entitled to recover costs if judgment is entered for the institution and against the Commission and the institution is awarded the relief or damages requested from the Commission.

To the extent permitted by law, if the Commission is named as a party to litigation initiated by a third party but relating to activities or omissions of an institution, the institution shall be responsible for the payment of all litigation expenses of the Commission, including discovery costs, reasonable attorneys' fees and staff time.