
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

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Subject: Community colleges: California Community Colleges Fair Accreditation Act of 2015

SUMMARY

This bill establishes the California Community Colleges (CCC) Fair Accreditation Act of 2015 and requires the accrediting agency for CCCs to meet specified operational standards.

BACKGROUND

Existing law confers upon the CCC Board of Governor's (BOG) the ability to prescribe minimum standards for the formation and operation of community colleges and exercise general supervision over the community colleges.
(Education Code § 66700 and § 70901)

As such, regulations (Title 5 California Code of Regulations (CCR) § 51016) have been adopted to require each community college within a district to be an accredited institution – with the Accrediting Commission for Community and Junior Colleges (ACCJC) determining accreditation.

ANALYSIS

This bill establishes the CCC Fair Accreditation Act of 2015 and requires the accrediting agency for CCCs to meet specified operational standards. Specifically it:

- 1) Establishes the following requirements for the accrediting agency's decision making body and visiting teams:
 - a) Requires each visiting accreditation team to have an appropriate share of academics and defines academics to mean a person who is currently, or has recently directly engaged in a significant manner in postsecondary teaching or research.
 - b) Requires the agency to establish and enforce procedures for the purpose of ensuring that accreditation team members do not have conflicts of interest and prohibits any person from serving on a visiting team who has a conflict of interest defined as any circumstance in which an individuals' capacity to make an impartial or unbiased recommendation may be affected by:
 - i) Paid service in any capacity to the institution under review.

- ii) Servings as, or having a near relative serving as, a current member, staff member, or consultant of the agency's decision-making body or the institution's governing body.
 - iii) Candidacy for employment at the institution being evaluated.
 - iv) A written agreement with an institution that may create a conflict of interest or appearance of a conflict of interest with the institution being evaluated.
 - v) Having a personal or financial interest in the ownership or operation of the institution being evaluated.
 - vi) Receipt of honoraria, honors, or awards from the institution being evaluated.
 - vii) Other personal or professional connections that would create a conflict of interest or the appearance of a conflict of interest.
- c) Requires a prospective member of a visiting team to submit an appropriate disclosure form to the agency declaring that he/she does not violate the conflict of interest criteria. Requires copies of these forms to be provided to the institution under review.
- d) Prohibits revisions from being made by the agency to a proposed visiting accreditation team report unless the revision is share with members of the visiting accreditation team and with the institution under review, and each is afforded an opportunity to comment on the revision.
- 2) Requires all of the following for meetings of the accrediting agency for CCCs:
- a) Members of the public who desire to appear at open sessions agency meetings must have an opportunity to attend those portions of the meetings.
 - b) A sufficient length of time must be allowed for public comment, and public comment must be allowed prior to action related to an institution's accreditation.
 - c) Accreditation decisions must be made by a vote of the accrediting agency's decision-making body in a public meeting. The outcome of the vote and minutes from the meeting must be recorded and posted to the agency's Internet Web site.
 - d) Prohibits any officer, employee, representative, or consultant of the agency with an actual or appearance of a conflict of interest, as specified, from participating in discussion and voting.
- 3) Requires the agency to preserve all documents generated during an accreditation-related review, including but not limited to, email correspondence, for no less than 3 years after the completion of an accreditation review. Requires all reports, evaluations, recommendations, and decisions documents generated during an accreditation related review to be related indefinitely.

- 4) Requires the agency's accreditation-related decision to be based on written, published standards in accordance with state and federal statutes and regulations.
- 5) Establishes the following due process requirements:
 - a) A community college or a community college district must be given advance notice of proposed visiting accreditation team reports so that the college or district may respond to correct factual errors or dissent from conclusions.
 - b) The institution under review must be afforded adequate time to review the reports at least six weeks prior to a meeting of the agency's decision-making body at which a decision relating to the institution's accreditation is to be made.
 - c) Any visiting accrediting team recommendation for action must be shared with the institutions under review at least six weeks prior to a meeting of the agency's decision-making body.
 - d) Any recommendation for action by a person employed or representing the agency, as specified, must be shared with the institution at least six weeks before a meeting relating to the recommendation takes place, as specified.
- 6) Requires the agency to have a written policy, consistent with federal law, that does all of the following:
 - a) Identifies a period for an institution to correct any deficiencies that have prevented the institution from receiving full accreditation.
 - b) Provides criteria for altering that period.
 - c) The policy must be published, and must provide a process through which an institution may submit applications for an extension, even if a decision has expressly denied such an extension. The application for an extension and the decision related to the extension shall be made publically available.
- 7) Requires all of the following in regards to the agency's appeals process:
 - a) Provides that when a sanction of probation or a more serious sanction is issued by the agency's decision making body an institution shall be given written notice of the alleged offenses or deficiencies.
 - b) Provides that the institution must be afforded an opportunity to submit an appeal of the decision to issue the sanction.
 - c) Prohibits a member of an appeal panel with actual conflict of interest, or the appearance of a conflict of interest, as specified, from participating in an appeal that a member of an appeal submitted per the process described above.
 - d) Requires a prospective member of an appeal panel to submit an appropriate disclosure form, signed under penalty of perjury, to the agency declaring that

he/she does not violate the conflict of interest criteria. Requires copies of these forms to be provided to the institution making the appeal.

- 8) Expands the scope of the crime of perjury thereby imposing a state-mandated local program and specifies, that no reimbursement is required by this act pursuant the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, or changes the definition of a crime or infraction, as specified.
- 9) Specifies that the article is only applicable to accrediting procedures regarding institutions located in California.
- 10) Specifies that an agency shall only operate by policies that comply with the federal criteria for recognition of an accrediting agency pursuant to the federal Higher Education Act of 1965 relating to accrediting agency recognition, as specified.
- 11) Defines various terms for the purpose of this bill.
- 12) Makes a variety of legislative findings and declarations regarding the scope and responsibility of the community college accrediting agency.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, California has a flawed community college accreditation process and given the significant role an accretor has in the success of California's community colleges it is incumbent upon the state to ensure that the accreditation process is fair, objective, and transparent. The author further notes that the United States Department, the California State Auditor and a California Superior Court have cited a number of deficiencies in the processes and determinations of the Accrediting Commission for Community and Junior Colleges (ACCJC). This bill seeks to establish processes under which the community college accreditation agency should operate.
- 2) ***Accreditation.*** Accreditation is a voluntary, non-governmental peer review process used to determine academic quality. Accrediting agencies are private organizations that establish operating standards for educational or professional institutions and programs, determine the extent to which the standards are met, and publicly announce their findings.

Under federal law, the United States Department of Education (USDE) establishes the general standards for accreditation agencies and is required to publish a list of recognized accrediting agencies that are deemed reliable authorities on the quality of education provided by their accredited institutions. There are three basic types of accreditation:

- a) ***Regional Accreditation.*** There are six USDE-recognized regional accrediting agencies. Each regional accretor encompasses public, the vast majority of non-profit private (independent), and some for-profit postsecondary educational institutions in the region it serves. California's regional accrediting agency is

separated into two commissions: the Accrediting Commission for Community and Junior Colleges (ACCJC) and the Senior College and University Commission (WASC-Sr.).

- b) *National Accreditation.* National accreditation is not based on geography, but more focused to evaluate specific types of schools and programs. National accreditation is designed to allow nontraditional colleges (trade schools, religious schools, certain online schools) to be compared against similarly designed institutions. Different standards and categories are measured, depending on the type of institution.
 - c) *Specialized/Programmatic Accreditation.* Offered by accrediting agencies that represent specific fields of study, these agencies do not accredit entire colleges but instead accredit the programs within colleges that prepare students for the specific field or industry. In most cases, specialized accreditation alone does not enable participation in state and federal financial aid programs.
- 3) ***Accrediting Commission for Community and Junior Colleges (ACCJC).*** The ACCJC is the regional accrediting agency for community colleges in the western region (California, Hawaii, and U.S. territories). Commission membership consists of the institutions ACCJC has accredited; the 19 commissioners are elected by a vote of the presidents of the member-colleges and serve up to two three-year terms. Commissioners must fall within the following categories:
- a) One representative of the CCC Chancellor's Office;
 - b) One representative from the Hawaii community colleges system office;
 - c) At least five academic faculty;
 - d) At least three public members;
 - e) At least three community college administrators;
 - f) At least one independent institutional representative;
 - g) At least one representative of WASC Sr. accredited institutions;
 - h) At least one representative of the institutions in the American Affiliated Pacific Islands.

The ACCJC bylaws govern, among other areas, commission meetings, responsibilities of commissioners, and the appeal process for institutions appealing a denial or termination of accreditation. The ACCJC bylaws may be amended by a majority vote of the Commissioners. Under ACCJC bylaws, the President (Chief Executive Officer) is appointed, and may be removed, by the Commissioners. The President is responsible for general supervision, direction, and control of ACCJC operations.

- 4) ***Who reviews the accrediting agencies?*** The National Advisory Committee on Institutional Quality and Integrity (NACIQI) advises the United State Department of Education on matters related to postsecondary accreditation and the eligibility and certification process for higher education institutions to participate in Federal student aid programs. Its primary function is to provide recommendations to the U.S. Secretary of Education concerning whether accrediting entities' standards are sufficiently rigorous and effective in their application to ensure the entity is a reliable authority regarding the quality of the education provided by the institutions or programs it accredits. To meet that standard, accrediting entities must demonstrate compliance with all the criteria for recognition. Once a recommendation is made, this process allows for public comment.
- 5) ***Accreditation of California community colleges.*** After an initial accreditation, colleges must have their accreditation reaffirmed every six years. This process includes a self-study, a site visit by a team of peers, a recommendation by the visiting team and an action by the Accrediting Commission for Community and Junior Colleges (ACCJC). In addition to these core components, colleges must submit a midterm report every three years and annual progress reports. The college/district may also have to submit follow-up reports and host visits as required by the Commission. There are three levels of sanction prior to termination of accreditation: Warning, Probation, and Show Cause. Follow up reports and accreditation visits are required to retain full accreditation.

Many California community colleges have faced various levels of accreditation sanctions. Most recently the sanctions imposed on City College of San Francisco have drawn attention to ACCJC and its accreditation process. The heightened attention lead to an audit by the California State Auditor, who on June 26, 2014, issued a report on California Community Colleges Accreditation. This audit report provided both a review of the ACCJC and the accreditation process in general, as well as a more in-depth examination of recent events related to City College of San Francisco. The report raised some concerns of the ACCJC and the accreditation process and made a series of recommendations to address the identified concerns.

After the release of the State Auditor's report, the Chancellor's Office reconvened its Accreditation Task Force consisting of community college stakeholders. The Accreditation Task Force is charged with providing input through a report to the Chancellor's Office regarding the accreditation process, including addressing the State Auditor's recommendations. The Accreditation Task Force held its final meeting at the end of May and is in the process of finalizing and submitting its final report later this year. The recommendations from the taskforce may help shed light on issues and present potential recommendations for future legislative review and action.

Should any statutory changes affecting an accrediting agency be imposed prior to the receipt of the report and recommendations of the Chancellor's Office Accreditation Task Force?

- 6) ***Unintended consequences?*** This bill proposes a number of statutory requirements on the make-up of accreditation visiting teams, public meeting procedures, maintenance of accreditation review documents, due process and appeals, policies

and procedures. Arguably, because of the role accrediting agencies play in oversight of public institutions, there should be additional transparency in the accreditation process. *But does this bill strike the appropriate balance between transparency, independence, and objectivity?*

Additionally, as previously indicated, accrediting agencies are private membership-based non-profit organizations recognized by the USDE. While these agencies provide accreditation of public institutions, they are not themselves public entities. The ability of the state to enforce statutorily imposed requirements is limited as accrediting agencies could simply choose not to provide accreditation of community colleges.

This bill makes its provisions applicable only to accrediting procedures for institutions located in California. Federal regulations (34 CFR Section 602.18) require accreditors to be consistent in applying standards to all of its member institutions and to make decisions regarding accreditation on the basis of the agency's published standards. *Would this bill's provisions be perceived as giving California community colleges greater influence over accreditation decisions than other colleges in the accreditor's membership?*

Federal regulations (34 CFR Section 602.14) also require accrediting agencies to be separate and independent of other organizations, including groups within its membership. *Would these provisions be interpreted to compromise the accreditor's independence? Would they undermine the ability of the accrediting commission to independently and effectively conduct its work?*

The committee may also wish to consider:

- a) How do these provisions align with current federal regulations governing accreditation agencies?
- b) How frequently do federal regulations change? Are these statutory provisions flexible enough to be reconciled with changing federal regulations?
- c) Should this committee endorse a bill that could potentially compromise CCC student eligibility for state and federal financial aid or the transferability of student credits to other accredited institutions?
- d) Task Force recommendations are expected in the fall. Shouldn't any statutory changes await the more thorough review and recommendations of the Task Force?

7) **Prior and related legislation.**

AB 1385 (Ting, 2015) requires notification to the California Community College (CCC) Board of Governors (BOG) before an accrediting agency increases membership fees, special assessments, or other payments charged to a community college. AB 1385 is pending in this Committee

AB 404 (Chiu, 2015) requires the regional accrediting agency for the California Community Colleges (CCC) to report to the CCC Board of Governors (BOG) the date by which the agency's application for continued recognition is due and requires the California Community Colleges (CCC) Board of Governors (BOG) to conduct a survey of community colleges, as specified, to develop a report, transmitted to specified entities, that reflects a systemwide evaluation of the regional accrediting agency. Passed out of this committee and is pending in the Senate Appropriations Committee.

SB 1068 (Beall, 2014) would have required the BOG CCC, by January 1, 2016, to report on the feasibility of creating an independent accrediting agency to accredit the California Community Colleges (CCC) and other 2-year private postsecondary educational institutions, and to make recommendations relative to CCC accreditation. SB 1068 was held on the Senate Appropriations suspense file.

SUPPORT

Bay Area Council
California Federation of Teachers
California Labor Federation
California Teachers Association
Faculty Association of California Community Colleges
State Building and Construction Trades Council of California

OPPOSITION

Accrediting Commission for Community and Junior Colleges (ACCJC)
Community College League of California

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