

AMENDED IN ASSEMBLY MAY 6, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1942

**Introduced by Assembly Member Bonta
(Principal coauthor: Assembly Member Ammiano)**

February 19, 2014

An act to amend ~~Sections~~ *Section* 70901 ~~and 71000~~ of, and to add Section 72208 to, the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 1942, as amended, Bonta. Community colleges: accreditation.

Existing law establishes the California Community Colleges under the Board of Governors of the California Community Colleges, which consists of 16 voting members and one nonvoting member, as specified. Existing law requires the Board of Governors of the California Community Colleges to establish minimum conditions entitling a community college district to receive state aid for the support of the community colleges.

~~This bill would expand the board of governors to 22 voting members with the addition of 3 members appointed by the Senate Committee on Rules and 3 members appointed by the Speaker of the Assembly. The bill would require the board of governors to adopt minimum conditions that meet specified requirements and would require the board of governors, when establishing these minimum conditions, to seek and consider input from community college districts and related institutions, students, and academic and nonacademic employees. The bill would provide that the accreditation status of a community college is not~~

~~dispositive of the determination regarding the compliance of a community college district with the minimum conditions. require the board of Governors, in determining whether a community college district satisfies those minimum conditions, to review the accreditation status of the community colleges within that district. This bill would require the board to establish a task force to review the appropriateness of allowing a community college district to receive state aid, on a limited basis, for a community college within the district that is unaccredited and seeking accreditation. If the task force determines that state aid to be appropriate, this bill would require the task force to recommend conditions for receipt of the state aid, and would require the Chancellor of the California Community Colleges to report on the task force's findings to the Legislature on or before March 31, 2015.~~

Under its existing regulatory authority, the Board of Governors of the California Community Colleges requires each community college to be accredited and has designated the Accrediting Commission for Community and Junior Colleges as the accrediting agency.

~~This bill would authorize the governing board of a community college district to designate a federally recognized accrediting agency for community colleges within its jurisdiction. The bill would require a contract with the accrediting agency of a the community college colleges to base its accreditation decision on compliance with the minimum conditions specified above. The bill would require the selected accrediting agency to comply with various requirements, including, among other things, the Bagley-Keene Open Meeting Act and California Public Records Act. and to require the accrediting agency to report to the appropriate subcommittees of the Legislature upon the agency's issuance of a decision that affects the accreditation status of a community college and, on a biannual basis, any accreditation policy changes that affect the accreditation process or status for a community college.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 70901 of the Education Code is amended
- 2 to read:
- 3 70901. (a) The Board of Governors of the California
- 4 Community Colleges shall provide leadership and direction in the

1 continuing development of the California Community Colleges as
2 an integral and effective element in the structure of public higher
3 education in the state. The work of the board of governors shall at
4 all times be directed to maintaining and continuing, to the
5 maximum degree permissible, local authority and control in the
6 administration of the California Community Colleges.

7 (b) Subject to, and in furtherance of, subdivision (a), and in
8 consultation with community college districts and other interested
9 parties as specified in subdivision (e), the board of governors shall
10 provide general supervision over community college districts, and
11 shall, in furtherance of those purposes, perform the following
12 functions:

13 (1) Establish minimum standards as required by law, including,
14 but not limited to, the following:

15 (A) Minimum standards to govern student academic standards
16 relating to graduation requirements and probation, dismissal, and
17 readmission policies.

18 (B) Minimum standards for the employment of academic and
19 administrative staff in community colleges.

20 (C) Minimum standards for the formation of community colleges
21 and districts.

22 (D) Minimum standards for credit and noncredit classes.

23 (E) Minimum standards governing procedures established by
24 governing boards of community college districts to ensure faculty,
25 staff, and students the right to participate effectively in district and
26 college governance, and the opportunity to express their opinions
27 at the campus level and to ensure that these opinions are given
28 every reasonable consideration, and the right of academic senates
29 to assume primary responsibility for making recommendations in
30 the areas of curriculum and academic standards.

31 (2) Evaluate and issue annual reports on the fiscal and
32 educational effectiveness of community college districts according
33 to outcome measures cooperatively developed with those districts,
34 and provide assistance when districts encounter severe management
35 difficulties.

36 (3) Conduct necessary systemwide research on community
37 colleges and provide appropriate information services, including,
38 but not limited to, definitions for the purpose of uniform reporting,
39 collection, compilation, and analysis of data for effective planning
40 and coordination, and dissemination of information.

1 (4) Provide representation, advocacy, and accountability for the
2 California Community Colleges before state and national legislative
3 and executive agencies.

4 (5) Administer state support programs, both operational and
5 capital outlay, and those federally supported programs for which
6 the board of governors has responsibility pursuant to state or federal
7 law. In so doing, the board of governors shall do the following:

8 (A) (i) Annually prepare and adopt a proposed budget for the
9 California Community Colleges. The proposed budget shall, at a
10 minimum, identify the total revenue needs for serving educational
11 needs within the mission, the amount to be expended for the state
12 general apportionment, the amounts requested for various
13 categorical programs established by law, the amounts requested
14 for new programs and budget improvements, and the amount
15 requested for systemwide administration.

16 (ii) The proposed budget for the California Community Colleges
17 shall be submitted to the Department of Finance in accordance
18 with established timelines for development of the annual Budget
19 Bill.

20 (B) To the extent authorized by law, establish the method for
21 determining and allocating the state general apportionment.

22 (C) Establish space and utilization standards for facility planning
23 in order to determine eligibility for state funds for construction
24 purposes.

25 (6) (A) Establish minimum conditions entitling districts to
26 receive state aid for support of community colleges. In so doing,
27 the board of governors shall establish and carry out a periodic
28 review of each community college district to determine whether
29 it has met the minimum conditions prescribed by the board of
30 governors.

31 (B) *In determining whether a community college district satisfies*
32 *the minimum conditions established pursuant to this section, the*
33 *board of governors shall review the accreditation status of the*
34 *community colleges within that district.*

35 (C) (i) *The board of governors shall establish a task force to*
36 *review the appropriateness of allowing a community college district*
37 *to continue to receive state aid, on a limited term basis, for the*
38 *support of a community college that is unaccredited and seeking*
39 *accreditation within the district. If the task force determines state*
40 *aid to be appropriate, the task force shall recommend minimum*

1 *conditions for receipt of that aid. The Chancellor of the California*
2 *Community Colleges shall report on the task force's findings to*
3 *the Legislature on or before March 31, 2015.*

4 *(ii) The requirement for submitting a report under clause (i) is*
5 *inoperative on January 1, 2019, pursuant to Section 10231.5 of*
6 *the Government Code.*

7 *(iii) A report submitted pursuant to clause (i) shall be submitted*
8 *in compliance with Section 9795 of the Government Code.*

9 (7) Coordinate and encourage interdistrict, regional, and
10 statewide development of community college programs, facilities,
11 and services.

12 (8) Facilitate articulation with other segments of higher
13 education with secondary education.

14 (9) Review and approve comprehensive plans for each
15 community college district. The plans shall be submitted to the
16 board of governors by the governing board of each community
17 college district.

18 (10) Review and approve all educational programs offered by
19 community college districts, and all courses that are not offered
20 as part of an educational program approved by the board of
21 governors.

22 (11) Exercise general supervision over the formation of new
23 community college districts and the reorganization of existing
24 community college districts, including the approval or disapproval
25 of plans therefor.

26 (12) Notwithstanding any other provision of law, be solely
27 responsible for establishing, maintaining, revising, and updating,
28 as necessary, the uniform budgeting and accounting structures and
29 procedures for the California Community Colleges.

30 (13) Establish policies regarding interdistrict attendance of
31 students.

32 (14) Advise and assist governing boards of community college
33 districts on the implementation and interpretation of state and
34 federal laws affecting community colleges.

35 (15) Contract for the procurement of goods and services, as
36 necessary.

37 (16) Carry out other functions as expressly provided by law.

38 (c) Subject to, and in furtherance of, subdivision (a), the board
39 of governors shall have full authority to adopt rules and regulations
40 necessary and proper to execute the functions specified in this

1 section as well as other functions that the board of governors is
 2 expressly authorized by statute to regulate.

3 (d) Wherever in this section or any other statute a power is
 4 vested in the board of governors, the board of governors, by a
 5 majority vote, may adopt a rule delegating that power to the
 6 chancellor, or any officer, employee, or committee of the California
 7 Community Colleges, or community college district, as the board
 8 of governors may designate. However, the board of governors
 9 shall not delegate any power that is expressly made nondelegable
 10 by statute. Any rule delegating authority shall prescribe the limits
 11 of delegation.

12 (e) In performing the functions specified in this section, the
 13 board of governors shall establish and carry out a process for
 14 consultation with institutional representatives of community college
 15 districts so as to ensure their participation in the development and
 16 review of policy proposals. The consultation process shall also
 17 afford community college organizations, as well as interested
 18 individuals and parties, an opportunity to review and comment on
 19 proposed policy before it is adopted by the board of governors.

20 ~~(f) This section shall become operative on January 1, 2014.~~

21 *SEC. 2. Section 72208 is added to the Education Code, to read:*

22 *72208. (a) After January 1, 2015, any agreement with the*
 23 *accrediting agency for the community colleges, as designated by*
 24 *law, shall require the accrediting agency to do all of the following:*

25 *(1) Establish standards that are relevant and material to the*
 26 *standards required pursuant to federal law, relevant and material*
 27 *to the quality of education of a community college, widely accepted*
 28 *by educators, educational institutions, licensing bodies,*
 29 *practitioners, and employers in the profession or vocational fields*
 30 *for which the community college prepares students, and in*
 31 *compliance with applicable state laws and policies.*

32 *(2) In evaluating a community college, the accrediting agency*
 33 *shall employ an evaluation team that satisfies both of the following*
 34 *requirements:*

35 *(A) The evaluation team's membership should proportionately*
 36 *reflect the shared governance structure of community colleges by*
 37 *including faculty, classified employees, and administrative*
 38 *employees of the community colleges.*

39 *(B) The team shall be independent of the accrediting agency*
 40 *and the community college being evaluated, and the accrediting*

1 agency shall establish and ensure compliance with a defined
2 conflict of interest policy.

3 (3) In assessing whether to impose a sanction of show cause or
4 revocation, the accrediting agency shall consider all of the
5 following:

6 (A) The length of time the community college has not been in
7 substantial compliance with the minimum conditions after
8 notification by the accrediting agency.

9 (B) The seriousness of the deficiencies with respect to their
10 impact on the quality of education at the community college.

11 (C) If the accrediting agency intends to impose a sanction more
12 severe than the recommendation of the evaluation team, or finds
13 a deficiency not noted in the evaluation team's report, the hearing
14 on the imposition of that proposed sanction shall be adjourned to
15 afford the community college and the public sufficient time to
16 respond orally and in writing to the accrediting agency before it
17 reaches a final decision.

18 (4) Allow an institution proposed for a sanction of show cause
19 or revocation by the accrediting agency to file an appeal to be
20 heard by an arbitrator or hearing officer mutually agreed upon
21 by the community college and the accrediting agency. The parties
22 shall have the right to present and rebut relevant evidence, to call
23 and examine witnesses, and to present a written argument at the
24 close of the hearing. The accrediting agency shall bear the burden
25 of persuading the trier of facts by clear and convincing evidence
26 that the sanction is reasonable and warranted.

27 (5) The accrediting agency shall provide for public hearings in
28 matters regarding a California community college, including
29 providing adequate public notice of the hearing and opportunity
30 for public participation or comment prior to accreditation
31 decisions. Accrediting agency deliberations regarding
32 accreditation decisions may occur in a closed session meeting
33 following public participation or comment. The accrediting agency
34 shall announce the accreditation decision to the public.

35 (b) (1) An agreement pursuant to subdivision (a) shall require
36 the accrediting agency to report to the appropriate policy and
37 budget subcommittees of the Legislature upon the issuance of a
38 decision that affects the accreditation status of a community college
39 and, on a biannual basis, any accreditation policy changes that
40 affect the accreditation process or status for a community college.

1 (2) *The Office of the Chancellor of the California Community*
 2 *Colleges shall ensure that the appropriate policy and budget*
 3 *subcommittees of the Legislature are provided the information*
 4 *required in paragraph (1).*

5 (c) *For purposes of this section, a sanction of “show cause”*
 6 *occurs if the accrediting agency finds a community college to be*
 7 *in substantial noncompliance with its eligibility requirements,*
 8 *accreditation standards, or policies, or if the community college*
 9 *has not responded to the conditions imposed by the accrediting*
 10 *agency.*

11 SECTION 1. Section 70901 of the Education Code is amended
 12 to read:

13 ~~70901. (a) The Board of Governors of the California~~
 14 ~~Community Colleges shall provide leadership and direction in the~~
 15 ~~continuing development of the California Community Colleges as~~
 16 ~~an integral and effective element in the structure of public higher~~
 17 ~~education in the state. The work of the board of governors shall at~~
 18 ~~all times be directed to maintaining and continuing, to the~~
 19 ~~maximum degree permissible, local authority and control in the~~
 20 ~~administration of the California Community Colleges.~~

21 ~~(b) Subject to, and in furtherance of, subdivision (a), and in~~
 22 ~~consultation with community college districts and other interested~~
 23 ~~parties as specified in subdivision (c), the board of governors shall~~
 24 ~~provide general supervision over community college districts, and~~
 25 ~~shall, in furtherance of those purposes, perform the following~~
 26 ~~functions:~~

27 ~~(1) Establish minimum standards as required by law, including,~~
 28 ~~but not limited to, the following:~~

29 ~~(A) Minimum standards to govern student academic standards~~
 30 ~~relating to graduation requirements and probation, dismissal, and~~
 31 ~~readmission policies.~~

32 ~~(B) Minimum standards for the employment of academic and~~
 33 ~~administrative staff in community colleges.~~

34 ~~(C) Minimum standards for the formation of community colleges~~
 35 ~~and districts.~~

36 ~~(D) Minimum standards for credit and noncredit classes.~~

37 ~~(E) Minimum standards governing procedures established by~~
 38 ~~governing boards of community college districts to ensure faculty,~~
 39 ~~staff, and students the right to participate effectively in district and~~
 40 ~~college governance, and the opportunity to express their opinions~~

1 at the campus level and to ensure that these opinions are given
2 every reasonable consideration, and the right of academic senates
3 to assume primary responsibility for making recommendations in
4 the areas of curriculum and academic standards.

5 (2) Evaluate and issue annual reports on the fiscal and
6 educational effectiveness of community college districts according
7 to outcome measures cooperatively developed with those districts,
8 and provide assistance when districts encounter severe management
9 difficulties.

10 (3) Conduct necessary systemwide research on community
11 colleges and provide appropriate information services, including,
12 but not limited to, definitions for the purpose of uniform reporting,
13 collection, compilation, and analysis of data for effective planning
14 and coordination, and dissemination of information.

15 (4) Provide representation, advocacy, and accountability for the
16 California Community Colleges before state and national legislative
17 and executive agencies.

18 (5) Administer state support programs, both operational and
19 capital outlay, and those federally supported programs for which
20 the board of governors has responsibility pursuant to state or federal
21 law. In so doing, the board of governors shall do the following:

22 (A) (i) Annually prepare and adopt a proposed budget for the
23 California Community Colleges. The proposed budget shall, at a
24 minimum, identify the total revenue needs for serving educational
25 needs within the mission, the amount to be expended for the state
26 general apportionment, the amounts requested for various
27 categorical programs established by law, the amounts requested
28 for new programs and budget improvements, and the amount
29 requested for systemwide administration.

30 (ii) The proposed budget for the California Community Colleges
31 shall be submitted to the Department of Finance in accordance
32 with established timelines for development of the annual Budget
33 Bill.

34 (B) To the extent authorized by law, establish the method for
35 determining and allocating the state general apportionment.

36 (C) Establish space and utilization standards for facility planning
37 in order to determine eligibility for state funds for construction
38 purposes.

39 (6) (A) Establish minimum conditions entitling districts to
40 receive state aid for support of community colleges as well as

1 standards that are required to be met to show that these conditions
2 have been met. In so doing, the board of governors shall establish
3 and carry out a periodic review of each community college district
4 to determine whether it has met the minimum conditions prescribed
5 by the board of governors.

6 ~~(B) The minimum conditions established pursuant to this~~
7 ~~paragraph shall meet all of the following requirements:~~

8 ~~(i) Be relevant and material to standards required pursuant to~~
9 ~~federal law.~~

10 ~~(ii) Be relevant and material to the quality of education of a~~
11 ~~community college.~~

12 ~~(iii) Be widely accepted by educators, educational institutions,~~
13 ~~licensing bodies, practitioners, and employers in the professional~~
14 ~~or vocational fields for which the community college prepare their~~
15 ~~students.~~

16 ~~(iv) Be consistent with state law and policies.~~

17 ~~(C) In establishing the minimum conditions described in this~~
18 ~~paragraph, the Board of Governors shall comply with the~~
19 ~~requirements of the Administrative Procedures Act (Chapter 3.5~~
20 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
21 ~~2 of the Government Code) and shall seek and consider input from~~
22 ~~the community college districts, students, and academic and~~
23 ~~nonacademic employees.~~

24 ~~(D) In determining whether a community college district meets~~
25 ~~the minimum conditions established pursuant to this section, the~~
26 ~~accreditation status of a community college within that district is~~
27 ~~not dispositive of the determination. The board of governors may~~
28 ~~give due consideration to the accreditation status of community~~
29 ~~colleges within that district by a federally recognized accrediting~~
30 ~~agency as evidence that the district is in compliance with the~~
31 ~~minimum conditions, unless the board of governors finds good~~
32 ~~cause to not rely on the accreditation status. Good cause includes,~~
33 ~~but is not limited to, any of the following:~~

34 ~~(i) An accrediting agency's failure to comply with its written~~
35 ~~policies or procedures in the course of its evaluation of the~~
36 ~~community college.~~

37 ~~(ii) Any finding or determination by the United States~~
38 ~~Department of Education that the accrediting agency has failed to~~
39 ~~comply with the Criteria for Recognition of Accrediting Agencies~~
40 ~~of the United States Secretary of Education.~~

1 ~~(iii) An accrediting agency's failure to comply with federal or~~
2 ~~state laws or regulations in the course of its evaluation of the~~
3 ~~community college.~~

4 ~~(iv) A conflict of interest, or the appearance of conflict of~~
5 ~~interest, on the part of the accrediting agency in the course of its~~
6 ~~evaluation of the community college.~~

7 ~~(E) Before determining that a community college district has~~
8 ~~failed to meet the minimum conditions established pursuant to this~~
9 ~~paragraph, the board of governors shall evaluate evidence and~~
10 ~~undertake independent investigation to determine whether a~~
11 ~~community college district is in compliance with the minimum~~
12 ~~conditions.~~

13 ~~(F) Before finalizing its determination of a community college~~
14 ~~district's compliance with the minimum conditions established~~
15 ~~pursuant to this paragraph, the Board of Governors shall do both~~
16 ~~of the following:~~

17 ~~(i) Provide, in writing, to the chancellor of the community~~
18 ~~college district and the public its conclusion and the basis of its~~
19 ~~conclusion.~~

20 ~~(ii) Provide a reasonable opportunity for the community college~~
21 ~~district to respond and for the public to provide comments.~~

22 ~~(7) Coordinate and encourage interdistrict, regional, and~~
23 ~~statewide development of community college programs, facilities,~~
24 ~~and services.~~

25 ~~(8) Facilitate articulation with other segments of higher~~
26 ~~education with secondary education.~~

27 ~~(9) Review and approve comprehensive plans for each~~
28 ~~community college district. The plans shall be submitted to the~~
29 ~~board of governors by the governing board of each community~~
30 ~~college district.~~

31 ~~(10) Review and approve all educational programs offered by~~
32 ~~community college districts, and all courses that are not offered~~
33 ~~as part of an educational program approved by the board of~~
34 ~~governors.~~

35 ~~(11) Exercise general supervision over the formation of new~~
36 ~~community college districts and the reorganization of existing~~
37 ~~community college districts, including the approval or disapproval~~
38 ~~of plans therefor.~~

39 ~~(12) Notwithstanding any other provision of law, be solely~~
40 ~~responsible for establishing, maintaining, revising, and updating,~~

1 as necessary, the uniform budgeting and accounting structures and
2 procedures for the California Community Colleges.

3 ~~(13) Establish policies regarding interdistrict attendance of~~
4 ~~students.~~

5 ~~(14) Advise and assist governing boards of community college~~
6 ~~districts on the implementation and interpretation of state and~~
7 ~~federal laws affecting community colleges.~~

8 ~~(15) Contract for the procurement of goods and services, as~~
9 ~~necessary.~~

10 ~~(16) Carry out other functions as expressly provided by law.~~

11 ~~(e) Subject to, and in furtherance of, subdivision (a), the board~~
12 ~~of governors shall have full authority to adopt rules and regulations~~
13 ~~necessary and proper to execute the functions specified in this~~
14 ~~section as well as other functions that the board of governors is~~
15 ~~expressly authorized by statute to regulate.~~

16 ~~(d) Wherever in this section or any other statute a power is~~
17 ~~vested in the board of governors, the board of governors, by a~~
18 ~~majority vote, may adopt a rule delegating that power to the~~
19 ~~chancellor, or any officer, employee, or committee of the California~~
20 ~~Community Colleges, or community college district, as the board~~
21 ~~of governors may designate. However, the board of governors~~
22 ~~shall not delegate any power that is expressly made nondelegable~~
23 ~~by statute. Any rule delegating authority shall prescribe the limits~~
24 ~~of delegation.~~

25 ~~(e) In performing the functions specified in this section, the~~
26 ~~board of governors shall establish and carry out a process for~~
27 ~~consultation with institutional representatives of community college~~
28 ~~districts so as to ensure their participation in the development and~~
29 ~~review of policy proposals. The consultation process shall also~~
30 ~~afford community college organizations, as well as interested~~
31 ~~individuals and parties, an opportunity to review and comment on~~
32 ~~proposed policy before it is adopted by the board of governors.~~

33 ~~SEC. 2. Section 71000 of the Education Code is amended to~~
34 ~~read:~~

35 ~~71000. There is in the state government a Board of Governors~~
36 ~~of the California Community Colleges, consisting of 22 voting~~
37 ~~members and one nonvoting member, as follows:~~

38 ~~(a) Twelve members, each appointed by the Governor with the~~
39 ~~advice and consent of two-thirds of the membership of the Senate~~
40 ~~to six-year staggered terms. Two of these members shall be current~~

1 or former elected members of local community college district
2 governing boards.

3 (b) (1) (A) One voting student member, and one nonvoting
4 student member, who exercise their duties in accordance with the
5 procedure set forth in paragraph (3).

6 (B) A student member shall be enrolled in a community college
7 with a minimum of five semester units, or its equivalent, at the
8 time of the appointment and throughout the period of his or her
9 term, or until a replacement has been named. A student member
10 shall be enrolled in a community college at least one semester
11 before his or her appointment, and shall meet and maintain the
12 minimum standards of scholarship prescribed for community
13 college students.

14 (C) Each student member shall be appointed by the Governor
15 from a list of names of at least three eligible persons submitted to
16 the Governor by the student organization recognized by the board
17 of governors.

18 (2) The term of office of one student member of the board shall
19 commence on July 1 of an even-numbered year, and expire on
20 June 30 two years thereafter. The term of office of the other student
21 member of the board shall commence on July 1 of an
22 odd-numbered year, and expire on June 30 two years thereafter.
23 Notwithstanding paragraph (1), a student member who graduates
24 from his or her college on or after January 1 of the second year of
25 his or her term of office may serve the remainder of the term.

26 (3) During the first year of a student member's term, a student
27 member shall be a member of the board and may attend all
28 meetings of the board and its committees. At these meetings, a
29 student member may fully participate in discussion and debate,
30 but shall not vote. During the second year of a student member's
31 term, a student member may exercise the same right to attend
32 meetings of the board, and its committees, and shall have the same
33 right to vote as the members appointed pursuant to subdivisions
34 (a) and (e).

35 (4) Notwithstanding paragraph (3), if a student member resigns
36 from office or a vacancy is otherwise created in that office during
37 the second year of a student member's term, the remaining student
38 member shall immediately assume the office created by the vacancy
39 and all of the participation privileges of the second-year student

1 member, including the right to vote, for the remainder of that term
2 of office.

3 ~~(e) Two voting tenured faculty members from a community
4 college, who shall be appointed by the Governor for two-year
5 terms. The Governor shall appoint each faculty member from a
6 list of names of at least three eligible persons furnished by the
7 Academic Senate of the California Community Colleges. Each
8 seat designated as a tenured faculty member seat shall be filled by
9 a tenured faculty member from a community college pursuant to
10 this section and Section 71003.~~

11 ~~(d) One voting classified employee, who shall be appointed by
12 the Governor for a two-year term. The Governor shall appoint the
13 classified employee member from a list of at least three eligible
14 persons furnished by the exclusive representatives of classified
15 employees of the California Community Colleges.~~

16 ~~(e) Three members appointed by the Senate Committee on Rules
17 to six-year staggered terms, except that the members first appointed
18 to the board of governors pursuant to this subdivision shall classify
19 themselves by lot so that one member's term of office expires two
20 years after the initial appointment and one member's term of office
21 expires four years after the initial appointment.~~

22 ~~(f) Three members appointed by the Speaker of the Assembly
23 to six-year staggered terms, except that the members first appointed
24 to the board of governors pursuant to this subdivision shall classify
25 themselves by lot so that the one member's term of office expires
26 two years of the initial appointment and one member's term of
27 office expires four years of the initial appointment.~~

28 SEC. 3. Section 72208 is added to the Education Code, to read:

29 72208. ~~(a) Notwithstanding any other law or regulations and
30 to the extent authorized by federal law, the governing board of a
31 community college district may designate a federally recognized
32 accrediting agency to accredit community colleges under its
33 jurisdiction.~~

34 ~~(b) The accrediting agency for the community colleges as
35 designated by Section 51016 of Title 5 of the California Code of
36 Regulations as of December 31, 2014, shall remain the accrediting
37 agency for a community college district until the governing board
38 of the community college district exercises its discretion pursuant
39 to subdivision (a) to select a different accrediting agency.~~

1 ~~(e) The accrediting agency for the community colleges~~
2 ~~designated pursuant to subdivision (a) or (b) shall base its~~
3 ~~accrediting decision solely on compliance with the minimum~~
4 ~~conditions and the standards established pursuant to paragraph (6)~~
5 ~~of subdivision (b) of Section 70901.~~

6 ~~(d) The accrediting agency designated pursuant to subdivision~~
7 ~~(a) shall comply with all of the following requirements:~~

8 ~~(1) The accrediting agency shall make available to a community~~
9 ~~college the minimum conditions established pursuant to paragraph~~
10 ~~(6) of subdivision (b) of Section 70901, as well as a clear~~
11 ~~description of both the substance of the conditions and the~~
12 ~~standards that are required to be demonstrated to show that the~~
13 ~~conditions have been met, and shall adopt an effective procedure~~
14 ~~to ensure that the conditions established pursuant to paragraph (6)~~
15 ~~of subdivision (b) of Section 70901 are applied consistently and~~
16 ~~are applied consistent with due process requirements.~~

17 ~~(2) Meetings at which subject matters related to the accreditation~~
18 ~~of a community college are addressed shall be held in compliance~~
19 ~~with the Bagley-Keene Open Meeting Act (Article 9 (commencing~~
20 ~~with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title~~
21 ~~2 of the Government Code).~~

22 ~~(3) Documents related to the accreditation of a community~~
23 ~~college are subject to public disclosure pursuant to the California~~
24 ~~Public Records Act (Chapter 3.5 (commencing with Section 6250)~~
25 ~~of Division 7 of Title 1 of the Government Code).~~

26 ~~(4) (A) Except as provided in subparagraph (B), the accrediting~~
27 ~~agency shall preserve all documents generated during the~~
28 ~~accreditation-related review of a community college for a period~~
29 ~~of not less than 10 years.~~

30 ~~(B) All reports, evaluations, recommendations, and decisions~~
31 ~~regarding a community college accreditation shall be preserved~~
32 ~~indefinitely.~~

33 ~~(5) The accrediting agency shall disclose annually the salaries~~
34 ~~and benefits of employees who are involved in the accreditation~~
35 ~~of a community college, any membership charges imposed on a~~
36 ~~community college, incomes derived from a community college,~~
37 ~~and expenditures for activities related to a community college.~~

38 ~~(6) (A) Members of the governing body of the accrediting~~
39 ~~agency shall not be nominated by the officers or employees of the~~
40 ~~accrediting agency.~~

1 ~~(B) Members of the governing body of the accrediting agency~~
2 ~~shall serve no more than two consecutive terms of three years each.~~
3 ~~(7) The accrediting agency shall have defined conflict of interest~~
4 ~~rules and procedures.~~
5 ~~(8) In evaluating a community college, the accrediting agency~~
6 ~~shall employ an evaluation team that meets both of the following~~
7 ~~requirements:~~
8 ~~(A) The evaluation team shall be comprised as follows:~~
9 ~~(i) Fifty percent of the evaluation team shall be academic~~
10 ~~teaching personnel at a community college.~~
11 ~~(ii) The remaining 50 percent shall include counselors and other~~
12 ~~nonsupervisory, nonmanagerial academic employees, classified~~
13 ~~employees, and administrative employees of a community college.~~
14 ~~(B) The team shall be independent of the accrediting agency~~
15 ~~and the community college being evaluated, and no member of~~
16 ~~the team shall be either of the following:~~
17 ~~(i) A member or an employee of the accrediting agency during~~
18 ~~the prior six years.~~
19 ~~(ii) A near relative of a person described in clause (i). For the~~
20 ~~purposes of this clause, “near relative” means a spouse, including~~
21 ~~a registered domestic partner, child, parent, sibling, person in an~~
22 ~~in-law relationship, and step relatives in those relationships.~~
23 ~~(9) In assessing whether to impose any sanctions, the accrediting~~
24 ~~agency shall consider both of the following:~~
25 ~~(A) The length of time the community college has not been in~~
26 ~~substantial compliance with the minimum conditions after~~
27 ~~notification by the accrediting agency.~~
28 ~~(B) The seriousness of the deficiencies with respect to their~~
29 ~~impact on the quality of education.~~
30 ~~(10) The accrediting agency shall provide to a community~~
31 ~~college copies of all documents, including, but not limited to,~~
32 ~~evaluations and recommendations considered by the accrediting~~
33 ~~agency with respect to the accreditation of the community college,~~
34 ~~at least 14 days in advance of any meeting regarding the~~
35 ~~accreditation of that institution.~~
36 ~~(11) The accrediting agency shall provide a community college~~
37 ~~and the public with a reasonable opportunity to present written~~
38 ~~and oral evidence and argument in regard to any accreditation~~
39 ~~decision regarding the community college.~~

1 ~~(12) The accrediting agency shall support its decision to impose~~
2 ~~any sanction with findings and conclusions.~~

3 ~~(13) (A) If the accrediting agency intends to impose a sanction~~
4 ~~more severe than that recommended by the evaluation team, or~~
5 ~~finds a deficiency not noted in the evaluation team report, the~~
6 ~~hearing on the imposition of sanction shall be adjourned to afford~~
7 ~~the community college and the public sufficient time to respond~~
8 ~~orally and in writing to the accrediting agency before it reaches a~~
9 ~~final decision. The accrediting agency shall provide to the~~
10 ~~community college and the public a notice that succinctly~~
11 ~~summarizes the facts in support of, and rationale for, the decision~~
12 ~~to impose the more severe sanction.~~

13 ~~(B) The accrediting agency shall resume consideration of a~~
14 ~~sanction at a subsequent hearing, at which time the community~~
15 ~~college and the public may submit oral and written evidence and~~
16 ~~argument relevant to the matter. This subsequent hearing shall~~
17 ~~occur no later than the next regularly scheduled meeting of the~~
18 ~~accrediting agency. If the accrediting agency determines to hold~~
19 ~~a special hearing on the matter, it shall be held in the county of~~
20 ~~the community college, upon notice of no less than 14 days.~~

21 ~~(C) At the conclusion of the subsequent hearing, the accrediting~~
22 ~~agency shall make a determination on the imposition of sanction~~
23 ~~as it deems proper.~~

24 ~~(14) Before imposing any sanction that would revoke or suspend~~
25 ~~a community college's accreditation, the accrediting agency shall~~
26 ~~provide a community college with an adequate time period for the~~
27 ~~institution to come into compliance with the minimum conditions~~
28 ~~and the standards established pursuant to paragraph (6) of~~
29 ~~subdivision (b) of Section 70901.~~

30 ~~(15) The accrediting agency shall participate in an appellate~~
31 ~~proceeding regarding its decision to impose a sanction as set forth~~
32 ~~in this paragraph.~~

33 ~~(A) Within 30 days of receipt of a notice of decision from the~~
34 ~~accrediting agency, a community college subject to a sanction may~~
35 ~~file with the accrediting agency and the Office of the Chancellor~~
36 ~~of the California Community Colleges a notice of appeal~~
37 ~~challenging the decision.~~

38 ~~(B) (i) Within 30 days of the filing of the notice of appeal, the~~
39 ~~community college shall file with the accrediting agency and the~~
40 ~~Chancellor of the California Community Colleges a statement of~~

1 grounds for the appeal succinctly setting forth the substance of
2 each ground for appeal. Except as provided by law, the grounds
3 for appeal shall be any of the following:

4 (I) Errors or omissions were committed by the accrediting
5 agency or the evaluation team that prejudicially affected the
6 accrediting agency's action or the community college's right to a
7 fair evaluation.

8 (II) There was a conflict of interest or bias on the part of one or
9 more members of the evaluation team or the accrediting agency.

10 (III) Evidence considered by the accrediting agency was
11 materially in error.

12 (IV) The decision of the accrediting agency is not supported by
13 substantial evidence.

14 (V) The decision of the accrediting agency is arbitrary,
15 capricious, and unreasonable.

16 (VI) The decision of the accrediting agency is inconsistent with
17 the policies, standards, established practices or requirements to
18 which the accrediting agency is subject, or is inconsistent with
19 other decisions of the accrediting agency.

20 (ii) The community college may amend its statement of grounds
21 for appeal at anytime that is not less than 15 days prior to the
22 commencement of a hearing held pursuant to this paragraph.

23 (iii) The community college may amend its statement of grounds
24 for appeal during the hearing for good cause shown.

25 (C) (i) The appeal shall be heard by an arbitrator or hearing
26 officer if the community college and the accrediting agency, within
27 30 days of the filing of the notice of appeal, mutually agreed to
28 the arbitrator or hearing officer.

29 (ii) (I) If the community college and the accrediting agency fail
30 to agree upon an arbitrator or hearing officer, an appeals committee
31 consisting of three community college administrators, three
32 community college teachers, and one member of the public shall
33 hear the appeal. The expenses incurred by the committee shall be
34 paid by the community college district in which the appellant
35 community college is located.

36 (II) Members of the appeals committee shall be chosen by lot
37 by the Chancellor of the California Community Colleges from an
38 appeal panel established pursuant to subdivision (c). The committee
39 shall select one of its members as the presiding officer.

1 ~~(D) Upon the request of the community college or the~~
2 ~~accrediting agency, the parties shall exchange lists of witnesses~~
3 ~~expected to testify and copies of all documents expected to be~~
4 ~~introduced at the hearing.~~

5 ~~(E) Except as provided in subparagraph (F), the hearing shall~~
6 ~~commence within 60 days of the appointment of the appeal~~
7 ~~committee, arbitrator, or hearing officer.~~

8 ~~(F) The hearing may be continued upon agreement of the~~
9 ~~community college and the accrediting agency, or by the presiding~~
10 ~~officer of the appeal committee, arbitrator, or hearing officer upon~~
11 ~~a showing of good cause.~~

12 ~~(G) For the appellate process, the community college and the~~
13 ~~accrediting agency shall have all of the following rights:~~

14 ~~(i) To be provided with all information made available to the~~
15 ~~appeal committee, arbitrator, or hearing officer.~~

16 ~~(ii) To have a record made of the proceedings.~~

17 ~~(iii) To call, examine, and cross-examine witnesses.~~

18 ~~(iv) To present and rebut evidence determined to be relevant~~
19 ~~by the presiding officer of the appeals committee, arbitrator, or~~
20 ~~hearing officer.~~

21 ~~(v) To submit a written statement at the close of the hearing.~~

22 ~~(H) The burden of presenting evidence and proof in the appeal~~
23 ~~shall be as follows:~~

24 ~~(i) The accrediting agency shall have the initial duty to present~~
25 ~~evidence that supports the recommended action.~~

26 ~~(ii) The accrediting agency shall bear the burden of persuading~~
27 ~~the trier of fact by clear and convincing evidence that the~~
28 ~~recommendation is reasonable and warranted.~~

29 ~~(I) The appeals committee, arbitrator, or hearing officer may~~
30 ~~adopt reasonable rules and procedures for conducting the hearing.~~

31 ~~(J) The community college may submit new or additional~~
32 ~~evidence that was unavailable at the time of evaluation by the~~
33 ~~accrediting agency and that is material to the matters under~~
34 ~~consideration on appeal.~~

35 ~~(K) At the conclusion of the presentation of evidence by the~~
36 ~~community college and the accrediting agency, members of the~~
37 ~~public shall be afforded a reasonable opportunity to present relevant~~
38 ~~evidence and to submit written statements.~~

39 ~~(L) Within 45 calendar days of the completion of the hearing,~~
40 ~~the appeals committee, arbitrator, or hearing officer shall issue a~~

1 written decision, including the findings and conclusions articulating
2 the connection between the evidence presented at the hearing and
3 the decision reached. An aggrieved party may seek judicial review
4 of the decision as provided by law.

5 ~~(M) The community college shall be deemed accredited during~~
6 ~~the pendency of the appeal pursuant to this paragraph and for not~~
7 ~~less than two semesters or three quarters following the issuance~~
8 ~~of the decision by the appeals committee, arbitrator, or hearing~~
9 ~~officer.~~

10 ~~(N) Except for the deliberations of the appeals committee, all~~
11 ~~hearings before the appeals committee, arbitrator, or hearing officer~~
12 ~~shall be open to the public.~~

13 ~~(16) The accrediting agency shall comply with the due process~~
14 ~~requirements of the United States Constitution and the California~~
15 ~~Constitution.~~

16 ~~(e) Upon a failure of the community college and the accrediting~~
17 ~~agency to agree upon an arbitrator or a hearing officer for the~~
18 ~~purposes of paragraph (15) of subdivision (d), the Chancellor of~~
19 ~~the California Community Colleges shall appoint an appeal panel~~
20 ~~consisting of at least five community college administrators, five~~
21 ~~community college teachers, and five members of the public. Each~~
22 ~~administrator and teacher appointed to the panel shall have at least~~
23 ~~five years of experience working as an administrator or teacher in~~
24 ~~California community colleges within 10 years of the appointment~~
25 ~~and shall be employed full-time by a community college at the~~
26 ~~time of the hearing.~~

27 ~~(f) Provisions of this section requiring due process procedures~~
28 ~~and compliance with the Bagley-Keene Opening Meeting Act by~~
29 ~~an accrediting agency are declarative of existing law and apply to~~
30 ~~all accreditation meetings and proceedings that are currently~~
31 ~~pending before the accrediting agency and all those that are subject~~
32 ~~to pending judicial review.~~

33 ~~(g) This section does not apply to the accrediting agency's~~
34 ~~activities that are related to private educational institutions in the~~
35 ~~state or educational institutions outside of the state.~~

36 ~~(h) This section does not affect the authority of the United States~~
37 ~~Department of Education regarding educational institutions.~~

38 ~~(i) The provisions of this section are severable. If any provision~~
39 ~~of this section or its application is held invalid, that invalidity shall~~

- 1 not affect other provisions or applications that can be given effect
- 2 without the invalid provision or application.

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