

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1397**

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**Introduced by Assembly Member Ting**

February 27, 2015

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An act to add ~~Section 72216 to Article 8 (commencing with Section 72800) to Chapter 6 of Part 45 of Division 7 of Title 3 of the Education Code, relating to community colleges.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1397, as amended, Ting. Community colleges: ~~accreditation.~~ *California Community Colleges Fair Accreditation Act of 2015.*

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law specifies the duties of the board of governors, including, among other duties, establishing minimum standards for the formation of community colleges and districts. Under existing regulatory authority, the board of governors requires each community college to be accredited. *Existing law requires the accrediting agency for the community colleges to report to the appropriate policy and budget subcommittees of the Legislature upon the issuance of a decision that affects the accreditation status of a community college and to report, on a biannual basis, any accreditation policy changes that affect the accreditation process or status for a community college.*

~~This bill would require the accrediting agency for the community colleges to provide an opportunity for public comment before taking any action related to the accreditation status of a community college.~~

*enact the California Community Colleges Fair Accreditation Act of 2015. The act would require that at least 50% of each visiting accreditation team from the accrediting agency for the California Community Colleges be composed of academics, as defined. The bill would prohibit persons with a conflict of interest, as defined, from serving on a visiting accreditation team.*

*The bill would require the accrediting agency to conduct the meetings of its decisionmaking body to ensure the ability of members of the public to attend those meetings. The bill would require the accrediting agency to preserve all documents generated during an accreditation-related review, as specified. The bill would require the agency's accreditation-related decisions to be based on written, published standards in accordance with state and federal statutes and regulations, as specified.*

*The bill would authorize an institution to file an appeal of a decision by the accrediting agency. The bill would provide that the appeal would be heard by a panel appointed by the Chancellor of the California Community Colleges.*

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

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

1 SECTION 1. Article 8 (commencing with Section 72800) is  
2 added to Chapter 6 of Part 45 of Division 7 of Title 3 of the  
3 Education Code, to read:

4  
5 Article 8. Accreditation

6  
7 72800. (a) (1) This section shall be known, and may be cited,  
8 as the California Community Colleges Fair Accreditation Act of  
9 2015.

10 (2) As used in this article:

11 (A) "Academic" means a person who is currently, or has  
12 recently, directly engaged in a significant manner in postsecondary  
13 teaching or research.

14 (B) "Agency" means the accrediting agency for the California  
15 Community Colleges.

16 (C) "Near relative" means a spouse, including a registered  
17 domestic partner, child, parent, sibling, person in an in-law

1 *relationship, or a step relative in one of the relationships*  
2 *referenced in this subparagraph.*

3 *(b) (1) No less than 50 percent of each visiting accreditation*  
4 *team sent out by the agency shall be composed of academics.*

5 *(2) No person may serve on a visiting accreditation team who*  
6 *has a conflict of interest. For the purposes of this paragraph, a*  
7 *conflict of interest is determined by any circumstance in which an*  
8 *individual's capacity to make an impartial or unbiased*  
9 *accreditation recommendation may be affected by any of the*  
10 *following:*

11 *(A) Prior, current, or anticipated affiliation with the institution*  
12 *under review.*

13 *(B) Paid service in any capacity to the institution under review.*

14 *(C) Serving as, or having a near relative serving as, a current*  
15 *member, staff member or consultant of the agency's*  
16 *decisionmaking body.*

17 *(D) Serving as, or having a near relative serving as, a current*  
18 *member, staff member or consultant of the institution's governing*  
19 *body.*

20 *(3) A prospective member of a visiting accreditation team shall*  
21 *submit an appropriate disclosure form to the agency, declaring*  
22 *under penalty of perjury that he or she does not violate the visiting*  
23 *team conflict-of-interest criteria in paragraph (2). Copies of these*  
24 *forms shall be provided to the institution under review.*

25 *(4) Every member of the agency's decisionmaking body and*  
26 *staff shall annually file a form that identifies all sources of earnings*  
27 *that derive from the field of education, or from entities that perform*  
28 *services for any community college located in California, or from*  
29 *organizations that engage in any lobbying or representational*  
30 *activities for California community colleges.*

31 *(c) (1) The agency shall conduct its meetings so as to ensure*  
32 *that those members of the public who desire to appear at agency*  
33 *meetings have an opportunity to attend those meetings.*

34 *(2) A sufficient length of time shall be allowed for public*  
35 *comment at agency meetings, and no agency action related to an*  
36 *institution's accreditation shall be made prior to the*  
37 *decisionmaking body's taking of public comment.*

38 *(3) The agency shall make an accreditation decision by a vote*  
39 *of its decisionmaking body in a public meeting. The vote of each*  
40 *member of the decisionmaking body shall be recorded and posted*

1 to the agency's Internet Web site. Minutes from the meetings of  
2 the decisionmaking body of the agency shall be recorded and  
3 posted to the agency's Internet Web site.

4 (4) Any officer or employee of the agency with an actual or  
5 appearance of a conflict of interest shall be disqualified from  
6 participating in discussion and voting. For the purposes of this  
7 clause, a conflict of interest shall be defined as any of the  
8 following:

9 (A) Prior, current, or anticipated affiliation with the institution  
10 under review.

11 (B) Paid service in any capacity to the institution under review.

12 (C) Serving as, or having a near relative serving as, a current  
13 member, staff member, or consultant of the institution's governing  
14 body.

15 (d) The agency shall preserve all documents generated during  
16 an accreditation-related review, including, but not necessarily  
17 limited to, email correspondence, for no less than 36 months after  
18 the completion of an accreditation-related review. All reports,  
19 evaluations, recommendations, and decision documents generated  
20 during an accreditation-related review shall be retained  
21 indefinitely.

22 (e) (1) The agency's accreditation-related decisions shall be  
23 based on written, published standards, and shall be in accordance  
24 with, and not be inconsistent with, state and federal statutes and  
25 regulations.

26 (2) The agency shall afford appropriate deference to the  
27 activities or operations of the institution under review that are  
28 consistent with the requirements of the state law.

29 (f) No revision shall be made by the agency to a proposed  
30 visiting accreditation team report unless the revision is shared  
31 with the members of the visiting accreditation team and with the  
32 institution under review, and each is afforded an opportunity to  
33 comment on the revision.

34 (g) (1) A community college or a community college district  
35 shall be given advance notice of proposed visiting accreditation  
36 team reports, so that the college or district may respond to correct  
37 factual errors or dissent from conclusions. The institution under  
38 review shall be afforded adequate time to review the reports before  
39 a meeting of the agency's decisionmaking body at which a decision  
40 relating to the institution's accreditation is to be made, which shall

1 *be no less than six weeks before the meeting. The institution under*  
2 *review may respond to these reports in writing, orally at the*  
3 *meeting, or in both of those ways.*

4 (2) *Any visiting accrediting team recommendation for action*  
5 *shall be shared with the institution under review at least six weeks*  
6 *before a meeting of the agency's decisionmaking body, so that the*  
7 *institution may decide whether and how to respond to the*  
8 *recommendation. Any recommendation for action made to the*  
9 *agency's decisionmaking body by a person employed by or*  
10 *representing the agency, including its staff, agents, and employees,*  
11 *shall be shared with the institution subject to the recommendation*  
12 *at least six weeks before a meeting of the agency's decisionmaking*  
13 *body relating to the recommendation.*

14 (h) (1) *The agency shall have a written policy, consistent with*  
15 *federal law, that does both of the following:*

16 (A) *Identifies a period for an institution to correct any*  
17 *deficiencies that have prevented the institution from receiving full*  
18 *accreditation.*

19 (B) *Provides criteria for altering that period.*

20 (2) *The policy adopted under paragraph (1) shall be published,*  
21 *and shall provide a process through which an institution may*  
22 *submit applications for an extension, even if a decision has*  
23 *expressly denied such an extension. An application for an*  
24 *extension, and the decision of the agency as to the application,*  
25 *shall be made publicly available.*

26 (i) *Whenever the agency's decisionmaking body issues a*  
27 *sanction of probation or a more serious sanction, the institution*  
28 *subject to the sanction shall be given written notice of the alleged*  
29 *sanctionable offenses or deficiencies. The institution shall be*  
30 *afforded an opportunity to submit an appeal of the decision to*  
31 *issue the sanction. The burden of proof for the agency to issue the*  
32 *sanction shall rest with the agency.*

33 (j) *An appeal pursuant to subdivision (i) shall be heard by a*  
34 *panel appointed by the chancellor. An institution filing an appeal*  
35 *has the right to file an application to present new or additional*  
36 *evidence to the panel. The panel shall, in its discretion, determine*  
37 *whether to accept the new or additional evidence.*

38 **SECTION 1.** ~~Section 72216 is added to the Education Code,~~  
39 ~~to read:~~

- 1     ~~72216. (a) The accrediting agency for the California~~
- 2     ~~Community Colleges shall provide an opportunity for public~~
- 3     ~~comment before taking any action related to the accreditation status~~
- 4     ~~of a community college.~~
- 5     ~~(b) This section does not affect the accreditation status of a~~
- 6     ~~community college on January 1, 2016.~~
- 7     ~~(c) This section does not apply to the accrediting agency's~~
- 8     ~~activities that are related to private educational institutions in the~~
- 9     ~~state or educational institutions outside of the state.~~
- 10    ~~(d) This section does not affect the authority of the United States~~
- 11    ~~Department of Education regarding educational institutions.~~
- 12    ~~(e) The provisions of this section are severable. If any provision~~
- 13    ~~of this section or its application is held invalid, that invalidity shall~~
- 14    ~~not affect other provisions or applications that can be given effect~~
- 15    ~~without the invalid provision or application.~~