

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY MAY 5, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1397

Introduced by Assembly Member Ting
(~~Coauthor: Coauthors: Assembly Member Members Gipson,~~
Santiago, and Wagner)
(Coauthor: Senator Hall)

February 27, 2015

An act to add 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: 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 enact the California Community Colleges Fair Accreditation Act of 2015. The act would require that an appropriate percentage 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 conflicts 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 submit an appeal of a decision by the accrediting agency to subject that institution to a sanction of probation or a more serious sanction.

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. 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:

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Article 8. Accreditation

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

10 (b) The Legislature finds and declares all of the following:

11 (1) The goal of accreditation is to promote and ensure higher
12 education quality through peer evaluation and review.

13 (2) The community college accrediting agency should be a
14 nonprofit, private educational association of regional scope,
15 responsible for developing evaluation criteria, conducting peer

1 evaluations, assessing whether criteria are met, and supporting
2 institutional development and improvement.

3 (3) The community college accrediting agency should have a
4 comprehensive and nondiscriminatory accreditation process that
5 is in compliance with the requirements of applicable federal and
6 state laws and regulations.

7 (c) This article shall apply only to accrediting procedures
8 regarding institutions located in California.

9 72801. (a) As used in this article:

10 (1) “Academic” means a person who is currently, or has recently,
11 directly engaged in a significant manner in postsecondary teaching
12 or research.

13 (2) “Agency” means the accrediting agency for the California
14 Community Colleges.

15 (3) “Near relative” means a spouse, including a registered
16 domestic partner, child, parent, sibling, person in an in-law
17 relationship, or a step relative in one of the relationships referenced
18 in this subparagraph.

19 (b) The agency shall operate only by policies that are in
20 compliance with the federal criteria for recognition of an
21 accrediting agency pursuant to Subpart 2 (commencing with
22 Section 496) of Part H of Title IV of the federal Higher Education
23 Act of 1965, as amended.

24 (c) (1) Each visiting accreditation team sent out by the agency
25 shall be composed of an appropriate percentage of academics.

26 (2) The agency shall establish and enforce procedures to ensure
27 that persons serving on visiting accreditation teams do not have
28 conflicts of interest. No person may serve on a visiting
29 accreditation team who has a conflict of interest. For the purposes
30 of this paragraph, a conflict of interest is determined by any
31 circumstance in which an individual’s capacity to make an
32 impartial or unbiased accreditation recommendation may be
33 affected, including, but not necessarily limited to, any of the
34 following:

35 (A) Paid service in any capacity to the institution under review.

36 (B) Serving as, or having a near relative serving as, a current
37 member, ~~staff-member~~ *member*, or consultant of the agency’s
38 decisionmaking body.

1 (C) Serving as, or having a near relative serving as, a current
2 member, ~~staff member~~ *member*, or consultant of the institution's
3 governing body.

4 (3) A prospective member of a visiting accreditation team shall
5 submit an appropriate disclosure form to the agency, declaring
6 that he or she does not violate the visiting team conflict-of-interest
7 criteria in paragraph (2). Copies of these forms shall be provided
8 to the institution under review.

9 (d) (1) The agency shall conduct its meetings so as to ensure
10 that those members of the public who desire to appear at open
11 sessions of agency meetings have an opportunity to attend those
12 portions of the meetings.

13 (2) A sufficient length of time shall be allowed for public
14 comment at agency meetings, and no agency action related to an
15 institution's accreditation shall be made prior to the decisionmaking
16 body's taking of public comment.

17 (3) The agency shall make an accreditation decision by a vote
18 of its decisionmaking body. The outcome of the vote shall be
19 recorded and posted to the agency's Internet Web site. Minutes
20 from all open session portions of the meetings of the
21 decisionmaking body of the agency shall be recorded and posted
22 to the agency's Internet Web site.

23 (4) Any officer or employee of the agency with an actual or
24 appearance of a conflict of interest shall be disqualified from
25 participating in discussion and voting. For purposes of this clause,
26 a conflict of interest is defined as any circumstance in which an
27 individual's capacity to make an impartial or unbiased
28 recommendation or decision may be affected, including by either
29 of the following:

30 (A) Paid service in any capacity to the institution under review.

31 (B) Serving as, or having a near relative serving as, a current
32 member, staff member, or consultant of the institution's governing
33 body.

34 (e) The agency shall preserve all documents generated during
35 an accreditation-related review, including, but not necessarily
36 limited to, email correspondence, for no less than 36 months after
37 the completion of an accreditation-related review. All reports,
38 evaluations, recommendations, and decision documents generated
39 during an accreditation-related review shall be retained indefinitely.

1 (f) The agency’s accreditation-related decisions shall be based
2 on written, published standards, and shall be in accordance with,
3 and not be inconsistent with, state and federal statutes and
4 regulations.

5 (g) No revision shall be made by the agency to a proposed
6 visiting accreditation team report unless the revision is shared with
7 the members of the visiting accreditation team and with the
8 institution under review, and each is afforded an opportunity to
9 comment on the revision.

10 (h) (1) A community college or a community college district
11 shall be given advance notice of proposed visiting accreditation
12 team reports, so that the college or district may respond to correct
13 factual errors or dissent from conclusions. The institution under
14 review shall be afforded adequate time to review the reports before
15 a meeting of the agency’s decisionmaking body at which a decision
16 relating to the institution’s accreditation is to be made, which shall
17 be no less than six weeks before the meeting. The institution under
18 review may respond to these reports in writing, orally at the
19 meeting, or in both of those ways.

20 (2) Any visiting accrediting team recommendation for action
21 shall be shared with the institution under review at least six weeks
22 before a meeting of the agency’s decisionmaking body, so that the
23 institution may decide whether and how to respond to the
24 recommendation. Any recommendation for action made to the
25 agency’s decisionmaking body by a person employed by or
26 representing the agency, including its staff, agents, and employees,
27 shall be shared with the institution subject to the recommendation
28 at least six weeks before a meeting of the agency’s decisionmaking
29 body relating to the recommendation.

30 (i) (1) The agency shall have a written policy, consistent with
31 federal law, that does both of the following:

32 (A) Identifies a period for an institution to correct any
33 deficiencies that have prevented the institution from receiving full
34 accreditation.

35 (B) Provides criteria for altering that period.

36 (2) The policy adopted under paragraph (1) shall be published,
37 and shall provide a process through which an institution may
38 submit applications for an extension, even if a decision has
39 expressly denied such an extension. An application for an

1 extension, and the decision of the agency as to the application,
2 shall be made publicly available.

3 (j) (1) Whenever the agency’s decisionmaking body issues a
4 sanction of probation or a more serious sanction, the institution
5 subject to the sanction shall be given written notice of the alleged
6 sanctionable offenses or deficiencies. The institution shall be
7 afforded an opportunity to submit an appeal of the decision to issue
8 the sanction.

9 (2) A member of an appeal panel with an actual conflict of
10 interest, or the appearance of a conflict of interest, shall be
11 disqualified from participating in an appeal submitted pursuant to
12 paragraph (1). For purposes of this paragraph, a conflict of interest
13 shall be defined as any circumstance in which an individual’s
14 capacity to make an impartial or unbiased recommendation or
15 decision may be affected, including by ~~either~~ *any* of the following:

16 (A) Paid service in any capacity to the institution under review.

17 (B) 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 (C) *Having voted or had the opportunity to vote, as a member*
21 *of the agency’s decisionmaking body, on the sanction being*
22 *appealed.*

23 (D) *Having served as a member of the visiting accreditation*
24 *team which submitted the recommendation for the sanction being*
25 *appealed.*

26 (3) A prospective member of an appeal panel shall submit an
27 appropriate disclosure form to the agency, declaring that he or she
28 does not violate the conflict-of-interest criteria listed in
29 subparagraphs (A) ~~and (B)~~ *to (D)*, *inclusive*, of paragraph (2).
30 Copies of these forms shall be provided to the institution that is
31 making the appeal.