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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1397**

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**Introduced by Assembly Members Ting and Bonta  
(Coauthors: Assembly Members Gipson, Mullin, Santiago, and  
Wagner)**

(Coauthors: Senators Beall, Hall, and Nielsen)

February 27, 2015

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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 post the agenda of the meetings of its decisionmaking body on its Internet Web site, and to mail that agenda to specified officers of affected institutions, no less than 30 days before a public meeting of that body.* 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 the shortening of the time periods required by the bill with respect to certain actions of the agency only pursuant to a written declaration made, under penalty of perjury, by the chief executive officer of the agency, 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. The bill would require a member of a panel that would hear one of these appeals to file a specified disclosure form under penalty of perjury. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

*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

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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  
16 evaluations, assessing whether criteria are met, and supporting  
17 institutional development and improvement.

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

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

24 72801. (a) As used in this article:

25 (1) "Academic" means a person who is currently, or has recently,  
26 directly engaged in a significant manner in postsecondary teaching  
27 or research.

28 (2) "Agency" means the accrediting agency for the California  
29 Community Colleges.

30 (3) "Near relative" means a spouse, including a registered  
31 domestic partner, child, parent, sibling, person in an in-law  
32 relationship, or a step relative in one of the relationships referenced  
33 in this subparagraph.

34 ~~(b) The agency shall operate only by policies that are in~~  
35 ~~compliance with the federal criteria for recognition of an~~

1 ~~accrediting agency pursuant to Subpart 2 (commencing with~~  
2 ~~Section 496) of Part II of Title IV of the federal Higher Education~~  
3 ~~Act of 1965, as amended.~~

4 *(b) It is the intent of the Legislature that the provisions of this*  
5 *article shall be implemented in a manner that complies with*  
6 *pertinent federal statutes and regulations.*

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

9 (2) The agency shall establish and enforce procedures to ensure  
10 that persons serving on visiting accreditation teams do not have  
11 conflicts of interest. No person may serve on a visiting  
12 accreditation team who has a conflict of interest. For the purposes  
13 of this paragraph, a conflict of interest is determined by any  
14 circumstance in which an individual's capacity to make an  
15 impartial or unbiased accreditation recommendation may be  
16 affected, including, but not necessarily limited to, any of the  
17 following:

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

19 (B) Serving as, or having a near relative serving as, a current  
20 member, staff member, or consultant of the agency's  
21 decisionmaking body.

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

25 (D) Candidacy for employment at the institution being evaluated.

26 (E) A written agreement with an institution that may create a  
27 conflict of interest or appearance of a conflict of interest with the  
28 institution being evaluated.

29 (F) Having a personal or financial interest in the ownership or  
30 operation of the institution being evaluated.

31 (G) Receipt of honoraria, honors, or awards from the institution  
32 being evaluated.

33 (H) Other personal or professional connections that would create  
34 a conflict of interest or the appearance of a conflict of interest.

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

1 (d) (1) The agency shall conduct ~~its meetings~~ *the meetings of*  
2 *its decisionmaking body* so as to ensure that those members of the  
3 public who desire to appear at open sessions of ~~agency~~ *those*  
4 meetings have an opportunity to attend those portions of the  
5 meetings. *No less than 30 days before each meeting of the*  
6 *decisionmaking body of the agency, the agency shall make an*  
7 *agenda for that meeting available to the public by posting the*  
8 *agenda on its Internet Web site and by other appropriate means.*  
9 *This agenda shall include the street address of the meeting site.*  
10 *The agenda shall be mailed, no less than 30 days before each*  
11 *meeting, to the chief executive officer and the accreditation liaison*  
12 *officer of any applicant, candidate, or accredited institution that*  
13 *is listed on the agenda in connection with any matter to be*  
14 *considered at the meeting.*

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

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

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

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

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

38 (C) Having served on the most recent evaluation team of an  
39 institution being considered.

40 (D) Candidacy for employment at the institution being evaluated.

1 (E) A written agreement with an institution that may create a  
2 conflict of interest or appearance of a conflict of interest with the  
3 institution being evaluated.

4 (F) Having a personal or financial interest in the ownership or  
5 operation of the institution being evaluated.

6 (G) Receipt of honoraria, honors, or awards from the institution  
7 being evaluated.

8 (H) Other personal or professional connections that would create  
9 a conflict of interest or the appearance of a conflict of interest.

10 (I) Any other relationship that would impede an individual's  
11 objectivity.

12 (e) The agency shall preserve all documents generated during  
13 an accreditation-related review, including, but not necessarily  
14 limited to, email correspondence, for no less than 36 months after  
15 the completion of an accreditation-related review. All reports,  
16 evaluations, recommendations, and decision documents generated  
17 during an accreditation-related review shall be retained ~~indefinitely.~~  
18 *for two full accreditation cycles, for 14 years, or for the retention*  
19 *period required for that document by the federal government,*  
20 *whichever period is longest.*

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

25 ~~(g)~~

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

31 ~~(h)~~

32 (g) (1) A community college or a community college district  
33 shall be given advance notice of proposed visiting accreditation  
34 team reports, so that the college or district may respond to correct  
35 factual errors or dissent from conclusions. The institution under  
36 review shall be afforded adequate time to review the reports before  
37 a meeting of the agency's decisionmaking body at which a decision  
38 relating to the institution's accreditation is to be made, which shall  
39 be no less than six weeks before the meeting. The institution under

1 review may respond to these reports in writing, orally at the  
2 meeting, or in both of those ways.

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

13 (3) *The time periods for advance notice established pursuant*  
14 *to paragraph (1) and for the review period established pursuant*  
15 *to paragraph (2) may be shortened only pursuant to a declaration*  
16 *made by the chief executive officer of the agency. This declaration*  
17 *shall include, but not be limited to, a statement that exigent*  
18 *circumstances exist and the time periods established by law impair*  
19 *the agency's ability to act swiftly in taking action for the*  
20 *preservation of the public good. This declaration shall be in*  
21 *writing, signed under penalty of perjury, and shall specify the*  
22 *exigent circumstances necessitating expedited action by the agency.*  
23 *The declaration shall be posted on the agency's Internet Web site,*  
24 *and, as soon as is practicable, a copy of the declaration shall be*  
25 *delivered to the affected institution.*

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

28 (A) Identifies a period for an institution to correct any  
29 deficiencies that have prevented the institution from receiving full  
30 accreditation.

31 (B) Provides criteria for altering that period.

32 (2) The policy adopted under paragraph (1) shall be published,  
33 and shall provide a process through which an institution may  
34 submit applications for an extension, even if a decision has  
35 expressly denied such an extension. An application for an  
36 extension, and the decision of the agency as to the application,  
37 shall be made publicly available.

38 (j) (1) Whenever the agency's decisionmaking body issues a  
39 sanction of probation or a more serious sanction, the institution  
40 subject to the sanction shall be given written notice of the alleged

1 sanctionable offenses or deficiencies. The institution shall be  
2 afforded an opportunity to submit an appeal of the decision to issue  
3 the sanction.

4 (2) A member of an appeal panel with an actual conflict of  
5 interest, or the appearance of a conflict of interest, shall be  
6 disqualified from participating in an appeal submitted pursuant to  
7 paragraph (1). For purposes of this paragraph, a conflict of interest  
8 shall be defined as any circumstance in which an individual's  
9 capacity to make an impartial or unbiased recommendation or  
10 decision may be affected, including by any of the following:

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

12 (B) 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 (C) Having voted or had the opportunity to vote, as a member  
16 of the agency's decisionmaking body, on the sanction being  
17 appealed.

18 (D) Having served on any team, review committee, or body on  
19 behalf of the commission that was involved with the action of the  
20 commission being appealed.

21 (E) Current service on the commission.

22 (3) A prospective member of an appeal panel shall submit an  
23 appropriate disclosure form, signed under penalty of perjury, to  
24 the agency, declaring that he or she does not violate the  
25 conflict-of-interest criteria listed in subparagraphs (A) to (D),  
26 inclusive, of paragraph (2). Copies of these forms shall be provided  
27 to the institution that is making the appeal.

28 *(k) The provisions of this section are severable. If any provision*  
29 *of this section or its application is held invalid, that invalidity shall*  
30 *not affect other provisions or applications that can be given effect*  
31 *without the invalid provision or application.*

32 SEC. 2. No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution because  
34 the only costs that may be incurred by a local agency or school  
35 district will be incurred because this act creates a new crime or  
36 infraction, eliminates a crime or infraction, or changes the penalty  
37 for a crime or infraction, within the meaning of Section 17556 of  
38 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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