
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: AB 1385
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Subject: Community colleges: accreditation

SUMMARY

This bill prohibits the accrediting agency for California Community Colleges (CCC) from imposing a special assessment on CCCs for legal fees related to a lawsuit, unless there has been an affirmative vote by the majority of the chief executive officers, or their designees, of all the CCCs.

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:

- 1) Prohibits the accrediting agency from imposing a special assessment on community colleges for the accrediting agency's legal fees for any lawsuit, unless there has been affirmative vote of the majority of the chief executive officer, of all the community colleges.
- 2) Provides that each community college, as represented by its chief executive office or designee, shall be eligible to cast a vote on the assessment.
- 3) Provides that this provision does not apply to the accrediting agency's activities that are related to private educational institutions in the state or educational institutions outside of the state.
- 4) Provides that this section does not affect the authority of the United States Department of Education regarding educational institutions.

- 5) Sets aside the provisions of this bill if it is determined by the CCC Chancellor that federal criteria for recognition of an accrediting agency prohibits a recognized accrediting agency from complying with the requirements of this bill.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, the assessments imposed by the Accrediting Commission for Community and Junior Colleges (ACCJC) to its members to fund legal fees are unreasonable and excessive. The author notes that following the decision to terminate the accreditation of City College of San Francisco, the Accrediting Commission for Community and Junior Colleges (ACCJC) imposed a 5% special assessment to its member institution for the 2014-15 fiscal years due to a significant reduction in its reserves. The author further asserts that due to ACCJC's "mixed history of abiding by laws and regulations governing the accrediting process," there is a need to shield that state from mounting legal costs. This bill seeks to provide California Community College Chief Executive Officers the ability to approve or reject special assessments by their accreditor to cover the accreditor's legal expenses.
- 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 accreditor 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 Accrediting Commission for Community and Junior Colleges (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 California Community Colleges (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 evaluates ACCJC standards?** The National Advisory Committee on Institutional Quality and Integrity advises the United States 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.
- 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 ACCJC. There are three levels of sanctions 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 California Community Colleges (CCC) 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 2015, 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 seeks to change the method by which fees covering legal costs are imposed on member institutions of the agency providing accreditation of CCCs. 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 severely limited as accrediting agencies could simply choose not to provide accreditation of community colleges in California.

This bill would implement a prohibition exclusively applicable to the accrediting agency for California Community Colleges and exclusively applicable to its California community college membership. Federal regulations (34 CFR Section 602.14) require accrediting agencies to be separate and independent of other organizations, including groups within its membership. *Can the accreditor be independent if it relies on a favorable vote of those it accredits to fund activities related to its duties?*

Federal regulations (34 CFR Section 602.18) also 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?*

The bill already appears to contemplate that its provisions may violate federal requirements and grants the Chancellor's Office the authority to make this determination and set aside these provisions. *Should this committee endorse a bill that acknowledges it may be in violation of federal law, could undermine the ability of the accrediting commission to independently and effectively conduct its work, and potentially compromise California Community College (CCC) student eligibility for state and federal financial aid or the transferability of student credits to other accredited institutions?*

7) **Prior and related legislation.**

AB 1397 (Ting, 2015) requires the accrediting agency for the CCC to meet specified operational standards. AB 1397 is scheduled to be heard in this Committee on July 15th.

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 CCC 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 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 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

California Teachers Association

OPPOSITION

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

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