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ThirdPartyComments@ed.gov
U.S. Department of Education

SUBJECT: Written Comment: Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges (ACCJC)

NAME: Jonathan Lightman

TITLE/OCCUPATION/PROFESSION: Executive Director

ORGANIZATION/AFFILIATION: Faculty Association of California Community Colleges

MAILING ADDRESS: 1823 11th Street Sacramento, CA 95811

E-MAIL: jlightman@faccc.org

PHONE: (916) 447-8555

Introduction

The Faculty Association of California Community Colleges (FACCC) is a 63 year-old statewide professional membership association, representing the interests of California Community College faculty. With approximately 11,000 faculty members across California, FACCC is widely considered by elected policy makers and media representatives to be among the most important voices in the California Community College system.

While accreditation has been a matter of longstanding interest, the past decade has seen an erosion of support and confidence in the work of the ACCJC. Over the years, FACCC has publicly commented on changes to proposed accreditation standards and hosted forums for faculty on accreditation requirements. FACCC's award-winning professional journal, *FACCCTS*, has also featured numerous pieces on accreditation.

In 2015, FACCC took leadership in writing and advocating for a proposal in the California Legislature requiring the Chancellor of the California Community College system to solicit feedback from community college stakeholders on the performance of our system's regional

accreditor in advance of an applicable NACIQI hearing. That information would be transmitted to NACIQI for consideration in its deliberations over the recognition of our state's community college system's regional accreditor. This legislative proposal, Assembly Bill 404¹ (Chiu), received unanimous bipartisan support through the California Legislature and has been signed into law by Governor Brown. This past month, the Chancellor's Office of the California Community Colleges developed its first survey of representative institutions in the California Community College System. FACCC's response to that survey is attached to this document, labeled Appendix A.

Over the past eight years, there has been a marked change in the position of FACCC's leadership toward the ACCJC. A once mildly critical, but overall even-handed approach has shifted toward an openly distrustful posture. In this regard, FACCC is not alone. The California Federation of Teachers, California Teachers Association, and the California Community College Independents—each serving as collective bargaining agents in various California Community College districts— have experienced similar transformations.

FACCC's conclusion that the California Community Colleges must find a new accreditor has intensified since the December 2015 meeting of NACIQI. The testimony of the ACCJC at that hearing, shamelessly attacking the staff of the U.S. Department of Education, the San Francisco City Attorney, the former Chancellor of the California Community Colleges, the California State Auditor, and the California Community Colleges faculty unions, revealed an institution that remains completely unrepentant and incapable of compliance with the requirement of 34 C.F.R. § 602.13(a) of maintaining wide acceptance by educators and others.

The lack of credibility on the part of the ACCJC was further illustrated by two of the three witnesses supporting the ACCJC at the December 2015 meeting of NACIQI who failed to disclose their positions as ACCJC commissioners. Such behavior is tantamount to fraud and demonstrates the Commission's contempt for this process.

It is incumbent upon the Secretary of Education to recognize that the culture of the ACCJC itself explains why California Community Colleges have been sanctioned at a disproportionate rate, why employees at California Community Colleges remain in fear of retaliation by the ACCJC for any critical comment, and why the practices of the ACCJC have resulted in litigation, a legislatively-mandated audit, and a loss of confidence on the part of both NACIQI and the Department of Education.

The following points illustrate FACCC's concerns and comments on the ACCJC.

**ACCJC'S LOSS OF CONFIDENCE FROM ALL STRATA OF THE CALIFORNIA
COMMUNITY COLLEGE SYSTEM JEOPARDIZES
ITS COMPLIANCE WITH 34 CFR SECTION 602.13**

In this regard, FACCC affirms the California Community Colleges Task Force Report on Accreditation, declaring:

¹ http://ct3k1.capitoltrack.com/Bills/15Bills/asm/ab_0401-0450/ab_404_bill_20151008_chaptered.pdf

- *The structure of accreditation in this region no longer meets the current and anticipated needs of the California Community Colleges.*
- *The ACCJC has consistently failed to meet the expectations outlined in section three of this report.*
- *On several occasions the ACCJC has promised changes and has offered reports detailing their efforts to address concerns, but these promises and reports have led to few significant improvements.*
- ***The California Community College system and its member institutions have lost confidence in the ACCJC. (emphasis added)***²

Over the past eight years, leaders across the California Community Colleges have made numerous attempts to improve the accreditation processes for the state’s community colleges, including, but not limited to, commenting on changes to ACCJC standards and policies, organizing workshops, participating in task forces and other governmental discussions on compliance. The brazen disinterest on the part of the ACCJC in developing a more cooperative approach to accreditation, where institutions and the ACCJC can work together on institutional improvement—particularly showcased by the disrespect shown to former California Community College Chancellor Jack Scott in his attempt to address the Commission—has led to a loss of confidence by faculty and other leaders in the Commission.

Following the December 2015 meeting of NACIQI, the ACCJC promised to examine its processes and make improvements. Unfortunately, changes have been mostly cosmetic in nature and have reinforced, not diminished, the resolve of faculty leaders to switch accreditors.

The disproportionate sanction rate imposed by the ACCJC on its member institutions compared to other regional accreditors was one of the fundamental initial reasons for questioning the ACCJC’s policies and processes. It was also included as a central focus of the California State Auditor’s report on accreditation:

*Between 2009 and 2013, [ACCJC] took 269 accreditation actions—which included reaffirming accreditation, sanctioning an institution for noncompliance, or acting to terminate accreditation—on its member institutions and issued 143 sanctions, a sanction rate of roughly 53 percent. By comparison the other six regional accreditors together had a sanction rate of just over 12 percent.*³

² 2015 Task Force on Accreditation California Community Colleges Chancellor’s Office, p. 8.
<http://californiacommunitycolleges.cccco.edu/Portals/0/reports/2015-Accreditation-Report-ADA.pdf>

³ California State Auditor: California Community College Accreditation Colleges Are Treated Inconsistently and Opportunities Exist for Improvement in the Accreditation Process Report 2013-123, p. 3.
<https://www.auditor.ca.gov/pdfs/reports/2013-123.pdf>

It must be emphasized that California Community College leaders neither question the value or function of accreditation. This process serves as a critical safeguard to students and taxpayers that the institutions employ sound educational and fiscal standards. Micromanaging public institutions of higher education that are otherwise in compliance with the legal standards set forth by their state's statutory and applicable case law is an entirely different matter.

Over recent years, colleges held in high esteem by their students and their communities have found themselves blindsided by harsh actions on the part of the Commission that were not indicated by visiting team reports or other communications from the ACCJC. In fact, with every new cycle, colleges have found themselves in the position to guess the expectations of the accreditation standards. Some have come to describe a "gotcha" culture of the ACCJC in which institutions are kept in the dark until the final decisions are announced, following closed-door deliberations of the Commission. These besieged colleges remain silent in fear of retaliation.

FACCC, along with other faculty and management organizations, have diverted time, energy and resources to communicate to the federal government the implications of the lack of confidence in the ACCJC. The concern of retaliatory sanctions is prevalent throughout the California Community College system, deterring critical voices from communicating their experiences to the U.S. Department of Education. The ACCJC cannot continue to function without the necessary support of its member colleges and the people who work in them. That support, however, has significantly eroded, triggering the need for serious examination by the Department of Education and federal government.

As noted above, this chilling effect on both free speech and good governance prompted FACCC to construct and develop California Assembly Bill 404 (Chiu), linked *infra*. In a legislature in which Democrats and Republicans rarely agree, AB 404 received unanimous support throughout the process.

The final Assembly floor vote analysis explained:

*According to the [Assemblymember Chiu], "there has been a historical lack of accountability for an accrediting agency overseeing the [California Community Colleges]. This deficiency is due to **fear of retribution**, scarce local resources, and the absence of a pathway for [California Community Colleges] and other local stakeholders to provide meaningful feedback during an accrediting agency's performance review process for continued accreditation recognition." [Assemblymember Chiu] notes that in past NACIQI reviews of ACCJC, there has not been a strong voice for the [California Community College] system as a whole; further, the [California Community College] system does not currently have a method for soliciting feedback from colleges, faculty, and other stakeholders. [Assemblymember Chiu] believes that increasing participation in the review process will increase accrediting agency accountability. (emphasis added)⁴*

⁴ Assembly floor analysis, AB 404 (Chiu), p. 4.

http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_0401-0450/ab_404_cfa_20150902_195312_asm_floor.html

This mounting distrust, in part, prompted the California Community Colleges Board of Governors at its January 2015 meeting to change Title 5 California Code of Regulations Section 51016 to remove the ACCJC as the named accreditor for the California Community Colleges.⁵ The Board's action followed upon the California State Auditor's recommendation, which stated:

To allow colleges flexibility in choosing an accreditor, the chancellor's office should:

- ***Remove language from its regulations naming the commission as the sole accreditor of California community colleges while maintaining the requirement that community colleges be accredited. (emphasis added)***
- *Identify other accreditors who are able to accredit California community colleges or who would be willing to change their scopes to do so.*
- *Assess the potential costs, risks, and feasibility of creating a new independent accreditor.*⁶

In conducting its evaluation, NACIQI must attend to the overwhelming lack of confidence in the ACCJC that has grown among the California Community Colleges, the largest system of American public higher education. If the factual evidence provided by this, along with many other third-party comments and related reports, proves insufficient to immediately remove federal recognition of the ACCJC for lack of compliance with 34 CFR Section 602.13, FACCC recommends a legislative change to the U.S. Code to require a higher degree of confidence in an accreditor as a condition for federal recognition than what currently exists among the California Community Colleges in the ACCJC.

ACCJC EXERCISE OF INSTITUTIONAL EVALUATIONS VIOLATES 34 CFR SECTION 602.15(a)(3)

Pursuant to the Code of Federal Regulations, an accrediting agency “meets the requirement” for “administrative and fiscal capability to carry out its accreditation activities in light of its requested scope of recognition” if it has “Academic and administrative personnel on its evaluation, policy, and decision-making bodies, if the agency accredits institutions.”

As noted in the August 13, 2013 letter from the Department of Education to ACCJC President, Dr. Barbara Beno, the aforementioned regulation “expects a good faith effort by the agency to have both academic and administrative personnel reasonably represented.” The letter continued: “One academician on an evaluation team comprised of eight and 16 individuals [referring to City College of San Francisco], as was the case for the April 2013 and March 2012 evaluation teams, respectively of CCSF, is not reasonable representation.”

⁵ See http://extranet.cccco.edu/Portals/1/ExecutiveOffice/Board/2015_agendas/January/2.4%20Attachment%201.pdf

⁶ California State Auditor Report on Accreditation, op. cit., p. 49.

The California State Auditor found similar instances in other colleges. “We identified similar concerns regarding faculty representation in our review of three other institutions. The commission appeared to assign just one faculty member to a team of nine that conducted the comprehensive evaluation of American River College in October 2009. Further, a team conducting a visit to Solano in 2008 appeared to contain no faculty, based on the occupational titles of team members.”⁷

In examining the practice of the ACCJC in this area, the California State Auditor concluded, “although federal regulations require that evaluation teams have both academic and administrative personnel, according to USDE, the commission [ACCJC] has not ensured reasonable representation of faculty on its evaluation teams.”⁸

This violation of 34 CFR 602.15(a)(3) persists and reflects a pattern of disregard for institutional due process reflected in this letter and others from similarly situated organizations.

**FACCC’S POSITION ON THE COMPLIANCE OF THE ACCJC WITH 34 CFR
602.12(b), 602.16(a)(1)(ii), 602.16(a)(1)(iii), 602.17(a), 602.18(e), 602.20(b), 602.25(a-e)
ARE ALL CONTAINED IN APPENDIX A. FACCC HAD SURVEYED ITS MEMBERS
IN DEVELOPING THIS RESPONSE AND HAS INCLUDED COMMENTS FROM
THE MEMBER SURVEY IN THE APPENDIX**

It should be noted that FACCC has found the ACCJC substantially noncompliant on all but one of these code sections, 602.20(b), but FACCC does not view the ACCJC’s version of compliance with that section positively. The substantial overreaction of the ACCJC to perceived infractions of its policies in ways that do not foster improvement, but damage institutions and endanger students, is inconsistent with Title 34 and the practice of other regional accreditors.

Conclusion

FACCC, like other organizations in the California Community Colleges, remains committed to an accreditation process that is both fair and effective. In examining the ACCJC, however, it is impossible for FACCC to conclude that it has had anything but a deleterious effect on students. Enrollment at City College of San Francisco has declined substantially since the institution was placed on Show Cause, undermining both the regional and state economy. The enormous sums diverted to litigation and legislative advocacy confronting the ACCJC, moreover, could have been better spent on developing new programs and teaching methodologies to benefit students.

The California Community Colleges Board of Governors has taken an enormous step in removing the ACCJC as the named accreditor for its institutions in the California Code of Regulations and in developing its Task Force Report on Accreditation which calls for the selection of a new accreditor. Additionally, the chief executive officers of the California Community Colleges have begun the task of identifying what, if any, improvement can be made with the ACCJC as an interim step while the 113 colleges find a new accreditor. Given

⁷ California State Auditor Report on Accreditation, op. cit., p. 44.

⁸ Ibid.

the Commission's track record, faculty and other system leaders remain skeptical that any improvements are possible with the ACCJC. The widely favored approach is to move as quickly as possible to a new accreditor.

Additionally, FACCC urges the Department of Education to deny any expansion of ACCJC's authority to accredit institutions offering baccalaureate degrees. While FACCC had challenged the introduction of baccalaureate degrees in the California Community Colleges, it recognizes the changed landscape of these institutions and the likely interest of the California Legislature to expand the number of colleges offering these degrees beyond the initial pilot program.⁹

The ACCJC has no demonstrated expertise in these four-year programs. More significantly, it has not demonstrated its ability to comply with federal law on the basis of its current mission of accrediting two-year schools. The likely expansion of these baccalaureate programs in the California Community Colleges, along with the new emphasis in California on streamlined transfer pathways through the Associates Degrees for Transfer, reinforces the need for our institutions to work with an accreditor that already enjoys federal recognition for the complete array of four-year programs.

In conclusion, the overwhelming incontrovertible evidence demonstrates substantial violations of the Code of Federal Regulations by the ACCJC. The U.S. Department of Education has been exceptionally generous in granting extensions to the ACCJC in an effort to bring it into compliance. At this point, the Department must conclude that the Commission has failed to meet the basic requirements of federal law and remove federal recognition of the ACCJC.

Please do not hesitate to contact with any questions.

Sincerely,



Jonathan Lightman
Executive Director

JRL/jl

⁹ Senate Bill 850 [(Block) of 2014] <http://bit.ly/2fJd1xV>

APPENDIX A

Faculty Association of California Community Colleges
Third Party Comments on ACCJC
November 11, 2016

AB 404 SURVEY—FACCC Response

Survey Instructions: Check only one box for each code section. “Strongly Agree” means your organization believes that ACCJC is in full compliance while “Strongly Disagree” suggests the opposite. A field for comments is available at the end of each section.

§ 602.12(b) Accrediting experience.

(b) A recognized agency seeking an expansion of its scope of recognition must demonstrate that it has granted accreditation or preaccreditation covering the range of the specific degrees, certificates, institutions, and programs for which it seeks the expansion of scope.

Strongly Agree Agree Disagree Strongly Disagree Neutral/No Opinion

Comments:

The ACCJC has not demonstrated experience or expertise in the expansion of scope to accredit four-year programs. They do not adequately review the institutions in their current scope.

ACCJC has ignored the input of the Academic Senate for California Community Colleges and the Chancellor’s Office on the four-year degree handbook for those colleges participating in the pilot baccalaureate program. The policies ACCJC adopted for four-year degree programs are at odds with Senior WASC (which has demonstrated expertise in accrediting four-year degree granting institutions).

§ 602.16(a)(1)(ii) Accreditation and preaccreditation standards.

(a) The agency must demonstrate that it has standards for accreditation, and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if -

(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:

(ii) Curricula

Strongly Agree Agree Disagree Strongly Disagree Neutral/No Opinion

Comments:

Curricula appear to be glossed over and given cursory review in favor of other measurements which have little to do with education.

The breadth, depth, and availability of curricula are rarely measured in a meaningful way.

Some of the requirements in the current standards do not address quality in curriculum, but instead require busy work such as the disaggregation of SLO data, rather than achievement data.

Many of the ACCJC standards have absolutely nothing to do with curriculum and do nothing to improve the quality of education offered by its member institutions.

§ 602.16(a)(1)(iii) Accreditation and preaccreditation standards.

(a) The agency must demonstrate that it has standards for accreditation, and preaccreditation, if offered, that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits. The agency meets this requirement if –

(1) The agency's accreditation standards effectively address the quality of the institution or program in the following areas:

(iii) Faculty

Strongly Agree Agree Disagree Strongly Disagree Neutral/No Opinion

Comments:

ACCJC ignores the existence of contingent faculty in accreditation and the significance of so many contingent faculty and so few regular faculty to allow a healthy higher education, let alone perform the business of higher education.

The agency appears not to care about quality of instructors, but the control factor of them by management, and in doing so, denies their value as knowledge workers, content creators, and employees. They appear more concerned about the numbers of students served, than skills learned, and the number of managers with private-sector powers, than managers as operational facilitators.

ACCJC is hostile to the multiple roles faculty perform on a college, including, but not limited to shared governance.

Public comments by high-ranking members of the agency show a strange and unsettling tendency to lump, judge, and demonize faculty outside the federal standards discussed.

§ 602.17(a) Application of standards in reaching an accrediting decision.

The agency must have effective mechanisms for evaluating an institution's or program's compliance with the agency's standards before reaching a decision to accredit or preaccredit the institution or program. The agency meets this requirement if the agency demonstrates that it -

(a) Evaluates whether an institution or program -

(1) Maintains clearly specified educational objectives that are consistent with its mission and appropriate in light of the degrees or certificates awarded;

(2) Is successful in achieving its stated objectives; and

(3) Maintains degree and certificate requirements that at least conform to commonly accepted standards

Strongly Agree Agree Disagree Strongly Disagree Neutral/No Opinion

Comments:

Their mechanisms are entirely ineffective because they have lost the confidence of the educators within the institutions they accredit.

The mission of California Community Colleges includes life-long learning, which often has no end-result; not all students seek degrees or certificates, and to punish a college for this is antithetical to this section of the code.

There is not sufficient time to meet standards when they change. If an institution is evaluated in 2020, self-evaluation would commence in 2018. If standards change in 2018, they go into effect in 2019, holding the institution responsible for standards it just learned.

For the last ten years, the ACCJC has increased pressure on activities the institutions were expected to do that were not in the standards themselves.

The ACCJC continues to exert pressure on institutions to change their missions to align with their idea of student success, regardless of the values of the existing communities.

§ 602.18(c) Ensuring consistency in decision-making.

The agency must consistently apply and enforce standards that respect the stated mission of the institution, including religious mission, and that ensure that the education or training offered by an institution or program, including any offered through distance education or correspondence education, is of sufficient quality to achieve its stated objective for the duration of any accreditation or preaccreditation period granted by the agency. The agency meets this requirement if the agency -

(c) Bases decisions regarding accreditation and preaccreditation on the agency's published standards.

Strongly Agree Agree Disagree Strongly Disagree Neutral/No Opinion

Comments:

Standards appear to be unevenly applied and reveal a glaring interference with labor negotiations.

Evidence of inconsistency exists from one accrediting team to another when applied to colleges having the same institutional features.

The external evaluation visiting teams do this, but the ACCJC itself has a history of overruling the judgments of their visiting teams and making substantial changes in the findings without themselves having or seeking any additional direct evidence of (non-)compliance by the institutions.

§ 602.20(b) Enforcement of standards.

(b) If the institution or program does not bring itself into compliance within the specified period, the agency must take immediate adverse action unless the agency, for good cause, extends the period for achieving compliance.

Strongly Agree Agree Disagree Strongly Disagree Neutral/No Opinion

Comments:

Although we generally agree with ACCJC's compliance with this section, this is not seen in a positive light. The ACCJC substantially overreacts to minor non-compliance by assigning harsh sanctions as their default position without acknowledging any argument from institutions qualifying for a "good cause" exemption. The emphasis should be on helping institutions improve, not on punishing them for noncompliance. This comment is consistent with the Chancellor's Office Task Force Report on Accreditation and Bureau of State Audits findings on the ACCJC.

§ 602.25 Due process.

The agency must demonstrate that the procedures it uses throughout the accrediting process satisfy due process. The agency meets this requirement if the agency does the following:

- (a) Provides adequate written specification of its requirements, including clear standards, for an institution or program to be accredited or preaccredited.
- (b) Uses procedures that afford an institution or program a reasonable period of time to comply with the agency's requests for information and documents.
- (c) Provides written specification of any deficiencies identified at the institution or program examined.
- (d) Provides sufficient opportunity for a written response by an institution or program regarding any deficiencies identified by the agency, to be considered by the agency within a timeframe determined by the agency, and before any adverse action is taken.
- (e) Notifies the institution or program in writing of any adverse accrediting action or an action to place the institution or program on probation or show cause. The notice describes the basis for the action.

Strongly Agree Agree Disagree Strongly Disagree Neutral/No Opinion

Comments:

AACJC has been arbitrary, inconsistent, and even reckless in its application of standards and remedies between various institutions, rewarding and favoring certain types while punishing others.

Of all the sections of federal law contained in the survey, this is the most egregiously flouted. Both the standards and the compliance mechanisms are vague, precluding any reasonable implementation of due process.

There are too many examples of the agency issuing requirements that need to be met on an unrealistically short timeline with inadequate guidance of expectation, particularly in the requirements for Student Learning Outcomes (SLOs).