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*C a l i f o r n i a
C o m m u n i t y
C o l l e g e
I n d e p e n d e n t s*

Just last month, ACCJC correspondence claimed the U.S. Department of Education (DOE) has consistently found ACCJC to be a “reliable authority” for community college accreditations.

But in 2010, the federal DOE Director of Accreditation charged ACCJC with multiple infractions, including: ACCJC’s lack of transparency for not having “clear and effective controls against conflicts of interest;” a “biased and faulty” process for selecting ACCJC Commissioners; non-compliance with U.S. DOE regulations; and the manipulative use of outdated regulations by ACCJC attorneys to prevent the public disclosure of ACCJC documents.

Attached is the 2010 letter containing the U.S. Dept. of Education charges.

David

David Balla-Hawkins, Advocate
California Community College Independents

Selection Committee. However, the Commission's practice does not promote a diversity of membership, and the continuity of a majority of the membership could influence decision-making. Therefore, the Accreditation Division determined that this practice does not demonstrate that the Commission has clear and effective controls against conflict of interest, or the appearance of conflicts of interest, in the selection process, as required by §602.15 (a)(6) of the Secretary's Criteria for Recognition. The Commission must demonstrate that it has clear and effective controls against conflict of interest, or the appearance of conflicts of interest, in the selection process.

6. The Commission indicated that there is no public notice of the members of the Commissioner Selection Committee. The Commission bylaws do not address the public notice of the members of the Commissioner Selection Committee. However, this lack of public notice does not provide transparency to the selection process and, therefore, does not demonstrate that the Commission has clear and effective controls against conflict of interest, or the appearance of conflicts of interest, in the selection process, as required by §602.15 (a)(6) of the Secretary's Criteria for Recognition.

The Accreditation Division requests that you take immediate steps to correct the areas of non-compliance identified in this letter. Please provide a report to the Accreditation Division by November 1, 2010, to include your plan of corrective action to ensure that the Commission's processes and procedures by which Commissioners are selected comply with the Secretary's Criteria for Recognition, and to include timelines for completion of such actions. A follow-on report of your agency's corrective actions will be requested.

Along with your response, we received a memorandum from your attorney requesting that we withhold from public disclosure certain information you provided about particular individuals and accrediting activities contained in Appendices L, N and P of your response. The basis cited for this request is an outdated regulation 34 C.F.R. §602.30(c) that does not accurately reflect the Secretary's disclosure obligations under FOIA and other statutes. The regulation was revised during negotiated rulemaking in 2009 to reflect applicable law. In revising the regulations, the Department spelled out the options available to agencies when submitting material that the agencies view as confidential to the Department for review in recognition proceedings.

602.31(f) Public availability of agency records obtained by the Department. (1) The Secretary's processing and decision making on requests for public disclosure of agency materials reviewed under this part are governed by the Freedom of Information Act, 5 U.S.C. §552; the Trade Secrets Act, 18 U.S.C. §1905; the Privacy Act of 1974, as amended, 5 U.S.C. §552a; the Federal Advisory Committee Act, 5 U.S.C. Appdx. 1; and all other applicable laws. In recognition proceedings, agencies may--

(i) Redact information that would identify individuals or institutions that is not essential to the Department's review of the agency;

(ii) Make a good faith effort to designate all business information within agency submissions that the agency believes would be exempt from disclosure under exemption 4 of the Freedom of Information Act (FOIA), 5 U.S.C. §552(b)(4). A

blanket designation of all information contained with a submission, or of a category of documents, as meeting this exemption will not be considered a good faith effort and will be disregarded;

(iii) Identify any other material the agency believes would be exempt from public disclosure under FOIA, the factual basis for the request, and any legal basis the agency has identified for withholding the document from disclosure; and


(iv) Ensure documents submitted are only those required for Department review or as requests by Department officials.

(2) The Secretary processes FOIA requests in accordance with 34 C.F.R. part 5 and makes all documents provided to the Advisory Committee available to the public.

We will consider whether any of the documents or portions of the documents you provided can be withheld from public disclosure consistent with applicable laws should we receive a FOIA request.

If you have any questions regarding this letter's content, please contact Carol Griffiths, Branch Chief, Accrediting Agency Evaluation Unit at 202-219-7035 or by email at Carol.Griffiths@ed.gov or Elizabeth Daggett, Education Program Specialist, Accrediting Agency Evaluation Unit, by phone at 202-502-7571 or email at Elizabeth.Daggett@ed.gov. Thank you for your cooperation in this matter.

Sincerely,


Kay W. Gilcher, Director
Accreditation Division

Enclosure

Cc: Jack Scott, Ph.D.
Chancellor
California Community Colleges

Jane Patton
President
Academic Senate for California Community Colleges

ⁱ Please see enclosure for the complaint received from the Academic Senate.