

ASSEMBLY BILL

No. 1942

Introduced by Assembly Member Bonta

February 19, 2014

An act to amend Section 70901 of, and to add Section 72208 to, the Education Code, relating to community colleges.

legislative counsel's digest

AB 1942, as introduced, Bonta. Community colleges: accreditation.

Existing law requires the Board of Governors of the California Community Colleges, to among other things, to establish minimum conditions entitling a community college district to receive state aid for the support of the community colleges.

This bill would require the board of governors to adopt minimum conditions that meet specified requirements and would require the board of governors, when establishing these minimum conditions, to seek and consider input from community college districts and related institutions, students, and academic and nonacademic employees. The bill would provide that the accreditation status of a community college is not dispositive of the determination regarding the compliance of a community college district with the minimum conditions.

Existing law establishes the California Community Colleges under the Board of Governors of the California Community Colleges. Under its existing regulatory authority, the Board of Governors of the California Community Colleges requires each community college to be accredited and has designated the Accrediting Commission for Community and Junior Colleges as the accrediting agency.

This bill would authorize the governing board of a community college district to designate a federally recognized accrediting agency for

community colleges within its jurisdiction. The bill would require the accrediting agency of a community college to base its accreditation decision on compliance with the minimum conditions specified above. The bill would require the selected accrediting agency to comply various requirements, including, among other things, the Bagley-Keene Open Meeting Act and California Public Records Act.

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. Section 70901 of the Education Code is amended
2 to read:

3 70901. (a) The Board of Governors of the California
4 Community Colleges shall provide leadership and direction in the
5 continuing development of the California Community Colleges as
6 an integral and effective element in the structure of public higher
7 education in the state. The work of the board of governors shall at
8 all times be directed to maintaining and continuing, to the
9 maximum degree permissible, local authority and control in the
10 administration of the California Community Colleges.

11 (b) Subject to, and in furtherance of, subdivision (a), and in
12 consultation with community college districts and other interested
13 parties as specified in subdivision (e), the board of governors shall
14 provide general supervision over community college districts, and
15 shall, in furtherance of those purposes, perform the following
16 functions:

17 (1) Establish minimum standards as required by law, including,
18 but not limited to, the following:

19 (A) Minimum standards to govern student academic standards
20 relating to graduation requirements and probation, dismissal, and
21 readmission policies.

22 (B) Minimum standards for the employment of academic and
23 administrative staff in community colleges.

24 (C) Minimum standards for the formation of community colleges
25 and districts.

26 (D) Minimum standards for credit and noncredit classes.

27 (E) Minimum standards governing procedures established by
28 governing boards of community college districts to ensure faculty,
29 staff, and students the right to participate effectively in district and

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1 college governance, and the opportunity to express their opinions
2 at the campus level and to ensure that these opinions are given
3 every reasonable consideration, and the right of academic senates
4 to assume primary responsibility for making recommendations in
5 the areas of curriculum and academic standards.

6 (2) Evaluate and issue annual reports on the fiscal and
7 educational effectiveness of community college districts according
8 to outcome measures cooperatively developed with those districts,
9 and provide assistance when districts encounter severe management
10 difficulties.

11 (3) Conduct necessary systemwide research on community
12 colleges and provide appropriate information services, including,
13 but not limited to, definitions for the purpose of uniform reporting,
14 collection, compilation, and analysis of data for effective planning
15 and coordination, and dissemination of information.

16 (4) Provide representation, advocacy, and accountability for the
17 California Community Colleges before state and national legislative
18 and executive agencies.

19 (5) Administer state support programs, both operational and

20 capital outlay, and those federally supported programs for which
21 the board of governors has responsibility pursuant to state or federal
22 law. In so doing, the board of governors shall do the following:
23 (A) (i) Annually prepare and adopt a proposed budget for the
24 California Community Colleges. The proposed budget shall, at a
25 minimum, identify the total revenue needs for serving educational
26 needs within the mission, the amount to be expended for the state
27 general apportionment, the amounts requested for various
28 categorical programs established by law, the amounts requested
29 for new programs and budget improvements, and the amount
30 requested for systemwide administration.
31 (ii) The proposed budget for the California Community Colleges
32 shall be submitted to the Department of Finance in accordance
33 with established timelines for development of the annual Budget
34 Bill.
35 (B) To the extent authorized by law, establish the method for
36 determining and allocating the state general apportionment.
37 (C) Establish space and utilization standards for facility planning
38 in order to determine eligibility for state funds for construction
39 purposes.

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1 (6) (A) Establish minimum conditions entitling districts to
2 receive state aid for support of community colleges. In so doing,
3 the board of governors shall establish and carry out a periodic
4 review of each community college district to determine whether
5 it has met the minimum conditions prescribed by the board of
6 governors.
7 (B) *The minimum conditions established pursuant to this*
8 *paragraph shall meet all of the following requirements:*
9 (i) *Be relevant and material to standards required pursuant to*
10 *federal law.*
11 (ii) *Be relevant and material to establishing the quality of*
12 *education of a community college.*
13 (iii) *Be widely accepted as determined by their acceptance by*
14 *educators and comparable agencies.*
15 (iv) *Be consistent with state law and policies.*
16 (v) *Be validated by a neutral analysis as measuring the quality*
17 *of education of a community college.*
18 (C) *In establishing the minimum conditions described in this*
19 *paragraph, the Board of Governors shall comply with the*
20 *requirements of the Administrative Procedures Act (Chapter 3.5*
21 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
22 *2 of the Government Code) and shall seek and consider input from*
23 *the community college districts and other related institutions,*
24 *students, and academic and nonacademic employees.*
25 (D) *In determining whether a community college district meets*
26 *the minimum conditions established pursuant to this paragraph,*
27 *the accreditation status of a community college within that district*
28 *is not dispositive of the determination. The board of governors*
29 *may give due consideration to the accreditation status of*

30 *community colleges within that district by a federally recognized*
31 *accrediting agency as evidence that the district is in compliance*
32 *with the minimum conditions, unless the board of governors finds*
33 *good cause to not rely on the accreditation status. Good cause*
34 *includes, but is not limited to, any of the following:*
35 *(i) An accrediting agency's failure to comply with its written*
36 *policies or procedures in the course of its evaluation of the*
37 *community college.*
38 *(ii) A determination by the United States Department of*
39 *Education that the accrediting agency has failed to comply with*

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1 *the Criteria for Recognition of Accrediting Agencies of the United*
2 *States Secretary of Education.*
3 *(iii) An accrediting agency's failure to comply with federal or*
4 *state laws or regulations in the course of its evaluation of the*
5 *community college.*
6 *(iv) A conflict of interest, or the appearance of conflict of*
7 *interest, on the part of the accrediting agency in the course of its*
8 *evaluation of the community college.*
9 *(E) Before determining that a community college district has*
10 *failed to meet the minimum conditions established pursuant to this*
11 *paragraph, the board of governors shall evaluate evidence and*
12 *undertake independent investigation to determine whether a*
13 *community college district is in compliance with the minimum*
14 *conditions.*
15 *(F) Before finalizing its determination of a community college*
16 *district's compliance with the minimum conditions established*
17 *pursuant to this paragraph, the Board of Governors shall do both*
18 *of the following:*
19 *(i) Provide, in writing, to the chancellor of the community*
20 *college district and the public its conclusion and the basis of its*
21 *conclusion.*
22 *(ii) Provide a reasonable opportunity for the community college*
23 *district to respond and for the public to provide comments.*
24 (7) Coordinate and encourage interdistrict, regional, and
25 statewide development of community college programs, facilities,
26 and services.
27 (8) Facilitate articulation with other segments of higher
28 education with secondary education.
29 (9) Review and approve comprehensive plans for each
30 community college district. The plans shall be submitted to the
31 board of governors by the governing board of each community
32 college district.
33 (10) Review and approve all educational programs offered by
34 community college districts, and all courses that are not offered
35 as part of an educational program approved by the board of
36 governors.
37 (11) Exercise general supervision over the formation of new
38 community college districts and the reorganization of existing
39 community college districts, including the approval or disapproval
40 of plans therefor.

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1 (12) Notwithstanding any other provision of law, be solely
2 responsible for establishing, maintaining, revising, and updating,
3 as necessary, the uniform budgeting and accounting structures and
4 procedures for the California Community Colleges.

5 (13) Establish policies regarding interdistrict attendance of
6 students.

7 (14) Advise and assist governing boards of community college
8 districts on the implementation and interpretation of state and
9 federal laws affecting community colleges.

10 (15) Contract for the procurement of goods and services, as
11 necessary.

12 (16) Carry out other functions as expressly provided by law.

13 (c) Subject to, and in furtherance of, subdivision (a), the board
14 of governors shall have full authority to adopt rules and regulations
15 necessary and proper to execute the functions specified in this
16 section as well as other functions that the board of governors is
17 expressly authorized by statute to regulate.

18 (d) Wherever in this section or any other statute a power is
19 vested in the board of governors, the board of governors, by a
20 majority vote, may adopt a rule delegating that power to the
21 chancellor, or any officer, employee, or committee of the California
22 Community Colleges, or community college district, as the board
23 of governors may designate. However, the board of governors
24 shall not delegate any power that is expressly made nondelegable
25 by statute. Any rule delegating authority shall prescribe the limits
26 of delegation.

27 (e) In performing the functions specified in this section, the
28 board of governors shall establish and carry out a process for
29 consultation with institutional representatives of community college
30 districts so as to ensure their participation in the development and
31 review of policy proposals. The consultation process shall also
32 afford community college organizations, as well as interested
33 individuals and parties, an opportunity to review and comment on
34 proposed policy before it is adopted by the board of governors.

35 (f) This section shall become operative on January 1, 2014.

36 SEC. 2. Section 72208 is added to the Education Code, to read:

37 72208. (a) Notwithstanding any other law or regulations and
38 to the extent authorized by federal law, the governing board of a
39 community college district may designate a federally recognized

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1 accrediting agency to accredit community colleges under its
2 jurisdiction.

3 (b) The accrediting agency for the community colleges
4 designated by Section 51016 of Title 5 of the California Code of

5 Regulations shall remain the accrediting agency for a community
6 college district until the governing board of the community college
7 district exercises its discretion pursuant to subdivision (a).
8 (c) The accrediting agency for the community colleges
9 designated pursuant to subdivision (a) or (b) shall base its
10 accrediting decision solely on compliance with the minimum
11 conditions established pursuant to paragraph (6) of subdivision
12 (b) of Section 70901.
13 (d) The accrediting agency designated pursuant to subdivision
14 (a) shall comply with all of the following requirements:
15 (1) Meetings containing subject matters related to the
16 accreditation of a community college shall be held in compliance
17 with the Bagley-Keene Open Meeting Act (Article 9 (commencing
18 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title
19 2 of the Government Code).
20 (2) Documents related to the accreditation of a community
21 college are subject to public disclosure pursuant to the California
22 Public Records Act (Chapter 3.5 (commencing with Section 6250)
23 of Division 7 of Title 1 of the Government Code).
24 (3) The accrediting agency shall provide to a community college
25 copies of evaluations and recommendations for the accreditation
26 decision sufficiently in advance of a meeting regarding the
27 accreditation of that institution to permit adequate preparation for
28 the meeting.
29 (4) The accrediting agency shall provide a community college
30 and the public with a reasonable opportunity to present evidence
31 and argument in regard to the accreditation decision.
32 (5) To impose a sanction that includes the revocation,
33 suspension, limitation, or conditioning of an accreditation of a
34 community college, the accrediting agency shall comply with all
35 of the following requirements:
36 (A) Initiate the proceeding for the imposition of the sanction
37 on a community college by filing a written accusation with the
38 Office of Administrative Law setting forth, in ordinary and concise
39 language, the standards or rules alleged to have been violated and
40 the acts or omissions that constitute the violation.

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1 (B) Provide to the community college and the governing board
2 of the accrediting agency reasonable notice of documents
3 considered by the staff of the accrediting agency.
4 (C) (i) Conduct a public hearing before a neutral hearing officer
5 from the Office of Administrative Law.
6 (ii) The hearing officer shall issue to the governing body of the
7 accrediting agency its findings of fact and recommendations
8 regarding the imposition of sanction.
9 (iii) The Office of Administrative Law may charge the
10 accrediting agency a reasonable fee to reimburse its costs in
11 conducting the hearing.
12 (D) Provide written notification to that community college
13 within a reasonable time in advance of the hearing before the
14 governing board of the accrediting agency prior to imposing the

15 sanction against that community college. The notification may be
16 given with the notice of hearing required pursuant to the
17 Bagley-Keene Open Meeting Act.

18 (E) Afford the members of the public a reasonable opportunity
19 to present to the governing board their views, orally and in writing,
20 before the imposition of the sanction.

21 (6) The governing board of the accrediting agency shall support
22 its decision to impose a sanction by adequate findings of fact and
23 conclusions.

24 (7) The accrediting agency, in its instructional documentation,
25 shall clearly describe the minimum conditions established pursuant
26 to paragraph (6) of subdivision (b) of Section 70901, including a
27 clear description of both the substance of the conditions and the
28 standards that are required to be demonstrated in a community
29 college's performance to show that the conditions have been met,
30 and shall adopt an effective procedure to ensure that the conditions
31 established pursuant to paragraph (6) of subdivision (b) of Section
32 70901 are applied consistently and are applied consistent with due
33 process requirements.

34 (8) (A) To the extent authorized by federal law, the accrediting
35 agency shall impose sanctions for a violation of the minimum
36 conditions adopted pursuant to paragraph (6) of subdivision (b) of
37 Section 70901 in a progressive manner from less severe to more
38 severe.

39 (B) In assessing the sanctions, the accrediting agency shall
40 consider all of the following:

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1 (i) The length of time the community college has not been in
2 substantial compliance with the minimum conditions after
3 notification by the accrediting agency.

4 (ii) The seriousness of the deficiencies with respect to their
5 impact on the quality of education.

6 (iii) Any other relevant consideration.

7 (9) Before imposing a sanction pursuant to paragraph (8), the
8 accrediting agency shall provide a community college with an
9 adequate time period for the institution to come into compliance
10 with the standards of the accrediting agency.

11 (10) In evaluating a community college, the accrediting agency
12 shall employ an evaluation team that meets both of the following
13 requirements:

14 (A) Members shall consist of the following:

15 (i) Teachers at a community college or related institutions, who
16 shall compose 50 percent of the team.

17 (ii) Counselor and other nonsupervisory, nonmanagerial
18 academic employees of a community college or related institutions.

19 (iii) Classified employees of a community college or related
20 institutions.

21 (iv) Administrative employees of a community college or related
22 institutions.

23 (B) The team shall be independent of the accrediting agency
24 and the community college being evaluated, and no member of
25 the team shall be either of the following:

26 (i) A member of the governing body of, or an employee of, the
27 accrediting agency during the prior six years.

28 (ii) A near relative of a person described in clause (i). For the
29 purposes of this clause, "near relative" means a spouse, including
30 a registered domestic partner, child, parent, sibling, person in an
31 in-law relationship, and step relatives in those relationships.

32 (11) The accrediting agency shall have defined conflict of
33 interest rules and procedures that are implemented by a neutral
34 and objective body that is independent of the accrediting agency.

35 (12) The accrediting agency shall disclose annually the salaries
36 and benefits of employees who are involved in the accreditation
37 of a community college, any membership charges imposed on a
38 community college, incomes derived from a community college,
39 and expenditures for activities related to a community college.

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1 (13) (A) Members of the governing body of the accrediting
2 agency shall be nominated by a fair procedure and shall not be
3 nominated by the officers or employees of the accrediting agency.

4 (B) Members of the governing body of the accrediting agency
5 shall serve no more than two consecutive terms of three years each.

6 (14) (A) Except as provided in subparagraph (B), the accrediting
7 agency shall preserve all documents generated during the
8 accreditation-related review of a community college for a period
9 of not less than 10 years.

10 (B) All reports, evaluations, recommendations, and decisions
11 regarding a community college shall be preserved indefinitely.

12 (d) Provisions of this section requiring due process procedures
13 and compliance with the Bagley-Keene Opening Meeting Act by
14 an accrediting agency is declarative of existing law and apply to
15 all accreditation meetings and proceedings that are currently
16 pending before the accrediting agency and all those that are subject
17 to pending judicial review.

18 (e) This section does not affect the accreditation status of a
19 community college on January 1, 2015.

20 (f) This section does not apply to the accrediting agency's
21 activities that are related to private educational institutions in the
22 state or educational institutions outside of the state.

23 (g) This section does not affect the authority of the United States
24 Department of Education regarding educational institutions.

25 (h) The provisions of this section are severable. If any provision
26 of this section or its application is held invalid, that invalidity shall
27 not affect other provisions or applications that can be given effect
28 without the invalid provision or application.

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