

The Two-Year Rule and Due Process:
ACCJC's Credibility and an Examination of Evidence
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Which two years?

ACCJC asserts that, in accordance with federal regulation, City College was given two years to come into compliance with accreditation standards. Most readers of the media have readily accepted this declaration. Why is this still accepted without challenge? It has become increasingly obvious that ACCJC leaders make assertions contrary to fact, including spurious claims that if CCSF accepted candidacy status, the college would continue to receive state funding and students would receive federal financial aid and credits good for transfer. It's time to take a closer look at assertions about when ACCJC notified CCSF that it was out of compliance with accreditation standards, whether, as ACCJC claims, CCSF ignored repeated warnings, and whether ACCJC has provided two year's worth of due process.

U.S. Department of Education regulations governing accreditation require accreditation agencies to notify any institution that is out of compliance with accreditation standards by providing a **detailed written report that clearly identifies deficiencies**. (Criteria for Recognition [§602.18\(e\)](#)) This regulation requires that accrediting agencies make unambiguous distinctions between advice for improvement and notification of non-compliance. The two-year rule is to be applied to institutions that have been properly notified of non-compliance.

When and how did ACCJC notify CCSF that it was out of compliance? When and how did ACCJC notify CCSF about the deadline for that time period? For a well-administered accrediting commission operating in compliance with federal requirements, these would be easy questions, answerable with a handful of clearly written documents. Not so with ACCJC.

Not 2012-2014

Some ACCJC pronouncements appear to apply the two-year rule to the period of time beginning in July 2012 when ACCJC published the Show Cause decision and ending in July 2014. It is quite true that CCSF was notified of deficiencies in July 2012. However, ACCJC has been declaring that two years is up for some time, even with July 2014 still in the future. ACCJC has steadfastly refused to revisit their decision made in June 2013 based on evidence from March-April 2013 – only nine months after the Show Cause sanction was announced. This does not add up to two years of due process for CCSF to come into compliance.

Not 2006-2008

A May 27, 2014 letter from President Beno and Chairs Amador and Kinsella to Leader Pelosi¹ (p. 3), says, "[...the maximum regulatory two-year period for CCSF to come into compliance, as described in](#)

¹ In a small footnote at the bottom of the first page of the letter to Leader Pelosi, there is a disclaimer expressing hesitancy in discussing the CCSF case because of the "pendency of CCSF's appeal" of the termination decision. After the ACCJC leadership has most publicly and repeatedly proclaimed that CCSF will be disaccredited on July 31, 2014 as if the denial of CCSF's appeal has already taken place, it is difficult to guess at the purpose for this nearly invisible disclaimer.

[the Mahaffie letter, expired in 2008.](#)” This is consistent with a direct statement by Commissioner Frank Gornick in July 2013 that CCSF had “[...agreed to comply with commission standards. It was notified in 2006 that it was not in compliance with those standards.](#)” However, like the ACCJC claims about candidacy benefits for CCSF students, this is an assertion contrary to fact, as can be readily seen by consulting documents available in the public record. It is simply not true that CCSF was notified in 2006 that the college was deficient or out of compliance with standards.

The [decision letter from President Barbara Beno to CCSF in 2006](#) says: "**The Commission took action to reaffirm accreditation**, with a requirement that the College complete a Progress Report and a Focused Midterm Report.” The words ‘deficiency’, ‘compliance,’ ‘sanction,’ and their synonyms are completely absent from this letter. The letter refers to the Evaluation Team Report and identifies three recommendations: 4. Financial Planning and Stability; 2. Planning and Assessment; 3. Student Learning Outcomes. For example, about Planning and Assessment structures, President Beno writes, “The team recommends that the college build upon its continuing planning and assessment efforts...”

The [2006 Evaluation Team report](#) says under the heading **Major Findings**:

City College of San Francisco is one of the premier community colleges in the region represented by the Western Association of Schools and Colleges. It serves almost 100,000 students in credit and noncredit programs throughout the City and County of San Francisco. **The visiting team validated that that the college meets the eligibility requirements for accreditation and complies with the standards of accreditation**, as required by the Accrediting Commission for Community and Junior Colleges.

The team noted that the college has made considerable progress in addressing the recommendations of the previous accreditation team and has taken significant steps in other areas of quality assurance. In general, the team found that the students and communities served by City College of San Francisco are well served by the talented and committed people who continue to work toward the excellence and ongoing improvement of this institution. The chancellor’s exceptional leadership, the strong commitment of the Board of Trustees, and the concerted efforts of the faculty, administrators and staff all have contributed to the enormous success of this institution.

The visiting team developed the following eight (8) recommendations intended to guide the college in accomplishing certain goals and in assuring the high quality of its programs and services. Recommendations #2, #3, and #4 are presented as overarching concerns that should receive the college’s focused attention and emphasis. The other recommendations are also important for the college to address in conjunction with its ongoing planning and operational activities.

The 2006 Decision letter and Evaluation Team report validate that CCSF was in compliance with requirements and standards in 2006. These documents make recommendations but name no deficiencies and give no sanctions. Yet these are the documents that ACCJC leaders now claim were notification to City College of San Francisco that it was out of compliance with accreditation standards.

ACCJC’s argument seems to be that the 2006 recommendations were equivalent to notification of deficiencies. Such a claim does not meet the requirements set for accrediting agencies by the Department of Education. ACCJC was informed of their error in making this assertion by Ms Kay Gilcher, Director of the Accreditation Group at the U.S. Department of Education. [She wrote to President Beno](#) on August 13, 2013 to say that “**ACCJC is out of compliance**” with Criteria for

Recognition §602.18(e) which requires that institutions be clearly notified of any deficiencies in meeting standards. In the [letter from the Department of Education](#), Ms Gilcher points out that ACCJC “has two types of recommendations – ‘to meet the standard’ or ‘to increase institutional effectiveness,’ as also noted in the policy excerpts above. What is not clear is how the recommendations are differentiated between those two types and how an institution, an evaluation team, the Commission, or the public is to know the difference.”

(In the extended quotation from the U.S. Department of Education letter below, ‘agency’ refers to ACCJC.)

In the Executive Committee report of the agency’s own review of the CFT complaint [written in 2013], the agency [ACCJC] states the following:

It is accurate that the 2006 Report found that the institution met sufficient numbers of standards to have its accreditation reaffirmed. However, the 2006 report also included eight “major recommendations.” When the Commission met and considered the 2006 Report at its Commission Meeting on June 7-9, 2006, it considered two of the “recommendations” to be serious enough to require that the institution take corrective action and provide the Commission with a Progress Report.

And, later in the same section of the report:

The Evaluation Report (the “2012 Report”) of the team that visited the institution in March of 2012 documented that between 2006 and 2012, the situation at CCSF had deteriorated dramatically, and many of the areas which were noted only as “recommendations” in the 2006 Report had deteriorated to the extent that they had become serious deficiencies in 2012.

This summary alone reflects the difficulty to ascertain what a recommendation represents – an area of noncompliance or an area for improvement.

§602.18(e) of the Secretary’s Criteria for Recognition [for accrediting agencies] requires that the agency provide the institution with a detailed written report that clearly identifies any deficiencies in the institution’s compliance with the agency’s standards. By using the term recommendation to mean both noncompliance with standards and areas for improvement, the agency does not meet the regulatory requirement to provide a detailed written report that clearly identifies any deficiencies in the institution’s compliance with the agency’s standards. **This lack of clear identification impacts the agency’s ability to provide institutions with adequate due process.**

The U.S. Department of Education points out in this letter that deficiencies must be clearly distinguished from other types of comments, not first identified as areas for improvement and then, years later, re-characterized as deficiencies. Yet in the words of ACCJC cited within the U.S. Department of Education letter above, “areas which were noted only as “recommendations” in the 2006 Report had deteriorated to the extent that **they had become serious deficiencies in 2012.**”

Contrary to 2013 statement of Commissioner Frank Gornick and 2014 letter recently sent to Leader Pelosi, CCSF was not deficient in 2006. CCSF became deficient in 2012.

Not starting with some year between 2006 and 2012

With a few additions, the [timeline](#) compiled by ACCJC provides helpful sources for tracking communications from ACCJC to CCSF between 2006 and 2012.

2007. The [ACCJC Action letter to CCSF](#) repeats one recommendation from 2006, but contain no mention of sanctions, deficiencies, nor lack of compliance.

2008. Although we have no letter focused on the specifics of CCSF, of great interest from this year is a [letter from President Beno and Commission Chair E. Jan Kehoe](#) that was sent to all member colleges in January 2008. President Beno reports that ACCJC was found wanting by the U.S. Department of Education in regards to the two-year rule, and announces that ACCJC will change its procedures:

1. The Commission will strengthen the language regarding the two-year rule that is included in action letters sent to institutions with deficiencies. The Commission action letter will now set a specific date within the two-year time limit, by which deficiencies must be addressed by the institution. The Commission will track institutional responses to identify those institutions that have passed their time limit and act accordingly.
2. The Commission will not extend beyond a maximum of two years the accreditation of an institution that is deficient in accreditation standards that significantly affect educational quality or institutional integrity.
3. The Commission will create a small list of reasons that it will consider as a reasonable basis for extending the time permitted for “good cause” and will communicate those to the [U.S.] Department [of Education] for consideration. A decision to extend the time permitted for “good cause” will be at the sole discretion of the Commission.

(Note: As of this writing, there is no “small list of reasons” for “good cause” among ACCJC’s publicly available policies or papers online.)

2009. The [ACCJC Action letter to CCSF](#) of June 2009 accepts the Midterm report and requires a Follow up report for the following year concerning two recommendations 3) Student Learning Outcomes and 4) Financial Planning and Stability. Perhaps because of the 2008 directive from the U.S. Department of Education, the letter goes on to say:

I wish to inform you that under U.S. Department of Education regulations, institutions out of compliance with standards or on sanction are expected to correct deficiencies within a two-year period or the Commission must take action to terminate accreditation. City College of San Francisco must correct the deficiencies noted by June 2010.

This could be interpreted to mean that two recommendations had become deficiencies in 2008, one year before this statement, although there had been no correspondence between ACCJC and CCSF about either recommendations or deficiencies that year.

2010. CCSF submitted the required [Follow Up report](#) with particular emphasis on actions taken to correct the two recommendations singled out in 2009. If the 2009 mention of deficiencies requiring correction by 2010 was meant to identify these areas as deficiencies, the 2010 ACCJC Action letter on the Follow up report should address whether the deficiencies were satisfactorily corrected or not. The [2010 ACCJC Action letter](#) does not address such questions. It simply states that the Commission took action to accept the Follow up report. Recommendations 3) Student Learning Outcomes and 4) Financial Planning and Stability are not named as such. The letter includes paragraphs (identical to paragraphs sent to other California colleges around this time) reminding the college that assessment of Student Learning Outcomes will be expected of all institutions by Fall 2012, and expressing concerns about the funding of Other Post Employment Benefits (OPEB). In reference to OPEB, President Beno says, “Eventually, unless this liability is funded the colleges’ [sic] financial condition will deteriorate to a level that will make it difficult for colleges [sic] to meet the requirements of Standard III. D.” This language identifies failing to meet this requirement a future risk, not a current condition. The inappropriate pluralizing of colleges seems to have been copied from a report sent by ACCJC to a multi-college district that included the same warning with exactly the same language.

If the ACCJC followed through on its intentions from 2008 to strengthen language about the two-year rule and deficiencies, to track institutional responses, to take actions on those beyond the two year

maximum, and to identify reasons for extensions for “good cause,” then the 2010 Action letter to CCSF was written to an institution without deficiencies.

2011. During this year CCSF prepared a [comprehensive Self-Evaluation](#) and submitted it in December 2011.

The claim that ACCJC reached a decision that CCSF had fallen out of compliance with eligibility requirements and accreditation standards before 2012 is not supported by evidence. If the statement in the 2009 Decision letter about correcting deficiencies by the following year was supposed to provide notice of such a decision having already been reached, then the lack of a Decision letter from the preceding year and the lack of follow through in 2010 mean that ACCJC was not following consistent procedures or providing the rudiments of due process.

CCSF deficient in 2012

CCSF submitted a comprehensive self-evaluation in December 2011 and received an ACCJC Visiting Evaluation Team in March 2012. In July 2012 ACCJC released the [June 2012 decision](#) sanctioning CCSF with Show Cause. At the same time it provided the [2012 Report of the Evaluation Team](#) identifying deficiencies. These are the first documents to give notice that CCSF was failing to meet eligibility requirements and standards. CCSF constituencies and communities are in concurrence that in 2012 CCSF was out of compliance with accreditation standards because of deficiencies in SLO assessment work, integrated planning, and other areas.

In July 2012, ACCJC provided CCSF with a detailed written report that clearly identified deficiencies in the college’s compliance with the agency’s standards, meeting one of the minimum conditions set by the U.S. Department of Education criteria for ensuring consistency in decision making (Section 602.18(e)), and marking a point at which the clock might start to tick for the two-year rule.

Like every college on sanction, CCSF has worked very, very hard to correct each and every deficiency. There were divergent views about what level of sanction the college deserved and about the causes and best solutions to difficulties, but the college united in determination to meet accreditation standards. In the winter of 2012-13 CCSF prepared a [Show Cause Self-Evaluation](#) and in April 2013 received a visit from an ACCJC Show Cause Evaluation Team. The major theme of the 2013 [ACCJC Show Cause Evaluation Team Report](#) was that CCSF had made extraordinary progress and was on track to complete its efforts in the near future. In the area of SLO assessment, for instance, the 2013 ACCJC Evaluation Team [applauded the tremendous progress that had been made](#).

Yet in July 2013, only one year after the CCSF had been jumped from no sanctions to Show Cause, ACCJC issued the [decision](#) to terminate accreditation at CCSF. The CCSF SLO assessment efforts that had been applauded by the Show Cause Visiting Team and all the other major advances that had been made were condemned by the Commission as falling short of compliance with standards. Although the termination decision would seem to have ended CCSF opportunity to stay accredited, the Decision letter says, “[The Commission action to terminate accreditation is not yet final.](#)” With the [encouragement of CCC Chancellor Brice Harris and others](#), CCSF faculty, administrators, classified staff and even students continued to work countless additional unpaid hours in support of standards and eligibility criteria – in spite of the fact that ACCJC made no provision to receive updated information through visits or reports. In order to receive focused guidance about improvements for SLO assessment, CCSF submitted its March 2013 SLO assessment data to ACCJC to be numerically scored by ACCJC staff in comparison to other colleges. [ACCJC’s report](#) assessed CCSF’s overall SLO score at one half of one percent below the average overall score for colleges in ACCJC, meaning that half of the colleges accepted by ACCJC as meeting standards were less proficient in SLO assessment

than CCSF. This [ACCJC produced SLO report](#) used the same data that the [Commission had used](#) to decide that CCSF was deficient in meeting the standards for SLO assessment. The CCSF SLO coordinator of that time period [won the prestigious Hayward award](#), in part for her work in organizing, inspiring, and systematizing SLO assessments at CCSF. CCSF continues robust engagement with SLO assessment work, publishing results in great detail online. ACCJC has not evaluated any CCSF SLO assessment activity since March 2013 and has no plan to do so.

ACCJC does not follow Due Process

While CCSF has continued to move forward in every area in which it was deficient in 2012, ACCJC has continued to assert that CCSF remains out of compliance with accreditation standards. ACCJC has sought no evidence for how CCSF has changed since April 2013. On May 20, 2014 President Beno told the San Francisco Chronicle “that [the Commission was not obliged to re-evaluate the college after determining that it should lose accreditation](#).” ACCJC’s invocation of the two-year rule to claim that CCSF already used up its chances years ago and thus deserves no further visits shows a reckless disregard for due process. None of the communications prior to July 2012 qualifies as appropriate notice of deficiencies under U.S. Department of Education Criteria.

As has already been mentioned, in August 2013, the U.S. Department of Education [notified](#) ACCJC that it is out of compliance with §602.18(e) which requires that the agency “provides the institution or program with a detailed written report that clearly identifies any deficiencies in the institution’s or program’s compliance with the agency’s standards.” That finding was repeated by the U.S. Department of Education in its [January 2014 decision letter](#) to ACCJC. The January letter also notified ACCJC that it is out of compliance with all parts of §602.25 concerning due process.

Why does it matter whether ACCJC has applied the two-year rule fairly or provided due process?

Faculty and administrators from California community colleges who have survived ACCJC sanctions often proffer the advice that the only successful strategy is to do **anything** that is asked without pointing out ways in which ACCJC treats colleges unfairly. Questioning ACCJC’s declarations about when CCSF was officially notified of non-compliance may seem like foolish impertinence. After all, conditions at CCSF that failed to meet accreditation standards in 2012 hadn’t happened overnight. Most of the difficulties had developed over preceding years. Because CCSF has serious problems, some say, it has no right to question the words or actions of the accrediting agency.

City College faculty have found it necessary to work for accreditation in two ways at the same time: 1) Take steps (such as extensive SLO work) to meet accreditation standards; AND 2) take steps (such as supporting the lawsuits) to ensure that ACCJC evaluates CCSF fairly, in full accordance with U.S. Department of Education regulations: with due process; without bias, etc. A single example of the need for both approaches is the discrepancy between [ACCJC’s rubric-guided comparative analysis of CCSF’s SLO](#) (CCSF excelled in many areas and was in the middle of the pack overall) and [ACCJC’s decision on the same SLO work](#) (CCSF ruled out of compliance with the standards). Although ACCJC’s written directives to CCSF have mostly focused on requiring CCSF to conform to ACCJC standards as they are written, informal directives from ACCJC leadership, mostly conveyed through written subtexts and through oral channels, have sent coded messages that the only CCSF that will please the leaders of ACCJC is a college with a narrow mission and a very top-down power structure. City College faculty are dedicated to preserving a CCSF that provides a starting toe hold for low-level ESL students and for [students who want to sign up for just one course](#) and that continues to support

struggling students with [diversity departments nurtured by department chairs](#) and with programs such as [Second Chance](#) for previously incarcerated students.

Irregular application of the rules is detrimental to the purpose of accreditation. The goal of accreditation is to ensure educational quality. Disregarding federal regulations about notification of deficiencies in order to rush the closure of a college that has above average levels of student success instead of finding ways to help that college continue to improve, misses ACCJC's raison d'être. ACCJC irregularities would be much less of an issue if their actions were consonant with the purposes of accreditation.

Double standards are contrary to core values. ACCJC seeks to apply rules very strictly to colleges that are subject to their authority, while applying rules very loosely to themselves. For instance, ACCJC insists that because of the two-year rule, CCSF may not be given even six more months. At the same time they are claiming their own **reaffirmation** of CCSF in 2006 was actually a form of notification of noncompliance. This encourages an environment in which [the necessity to follow regulation has an inverse relationship to power. Those with more power may choose to pay less attention to regulations than those with less power.](#) Successful colleges are built on core values that all constituent groups should respect regulations and policies and that those with more power have more responsibility to act consistently and in accordance with regulation and policy. The community colleges of California, Hawaii and the Pacific Islands would never condone instructors inflicting irregular and inconsistent practices on students. Why is it condoned when ACCJC deviates significantly from federal regulation?

Tolerance for bad behavior leads to more of the same and worse. ACCJC making assertions contrary to fact is not a new problem. ACCJC had already acquired a reputation for bias when, in 2012, false assertions were made about the reaffirmation of accreditation handed to CCSF in 2006. Although some pointed out this inaccuracy at that time, most leaders in education did not. Many accepted it as fact that CCSF had been significantly noncompliant since 2006 or even before. Public acceptance of inaccurate assertions appears to have emboldened ACCJC to respond to its critics with more and more statements that misinterpret evidence, stretch the truth, misrepresent facts and completely distort reality. At this point, every item that ACCJC provides to the media is riddled with inaccuracies and distortions. ACCJC even builds bias into a seemingly straightforward record such as the [Timeline of Events](#) regarding CCSF accreditation. (They fail to mention that both the [1988 decision](#) and the [2006 decision reaffirmed accreditation](#) and they omit references to the 1994 and 2000 decisions in order to juxtapose the 2006 decision with the word "warning" used in 1988 and produce an impression that there is a close connection over the intervening 18 years.)

Over the past several years, some administrators, faculty, and community leaders have openly pointed out ACCJC's bias, false statements and failures to comply with federal regulation. Many more have complained privately to each other. But until very recently, most were publicly silent like [the "state college official who declined to publicly criticize the commissioners"](#) on April 22, 2014. [The long public silence is now ending. It is time to demand that any agency wielding the power to accredit or disaccredit colleges adhere to federal regulation, present evidence with accuracy and act with integrity.](#)

Linked references

(If links are not clickable, try copying the URL into your browser address bar)

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