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ELECTRONICALLY

FILED

*Superior Court of California,
County of San Francisco*

AUG 11 2014

Clerk of the Court
BY: VANESSA WU
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

PEOPLE OF THE STATE OF
CALIFORNIA EX REL. DENNIS
HERRERA, SAN FRANCISCO CITY
ATTORNEY, inclusive

Plaintiff

vs.

ACCREDITING COMMISSION FOR
COMMUNITY AND JUNIOR COLLEGES;
and DOES 1-50, inclusive,

Defendants.

CASE NO. CGC-13-533693

**DEFENDANT'S RESPONSE TO
PLAINTIFF'S SEPARATE STATEMENT
OF UNDISPUTED MATERIAL FACTS IN
SUPPORT OF PLAINTIFF'S MOTION
FOR SUMMARY ADJUDICATION**

Date: September 10, 2014

Time: 9:00 a.m.

Dept.: 304

Judge: Hon. Curtis E.A. Karnow

Action Filed: Aug. 22, 2013

Trial Date: October 27, 2014

Defendant ACCREDITING COMMISSION FOR COMMUNITY AND JUNIOR COLLEGES ("ACCJC") respectfully submits the following response to Plaintiff's Separate Statement of Undisputed Material Facts in Support of Motion for Summary Adjudication.

	PEOPLE'S UNDISPUTED FACTS AND SUPPORTING EVIDENCE	DEFENDANT'S RESPONSE AND SUPPORTING EVIDENCE
	Factual Background Common To All Issues	
1	<p>For decades, California community colleges have focused on ensuring open access to higher education for everyone capable of benefitting from attendance, regardless of income, ability, or educational/vocational goals.</p> <p>Evidence: A.B. 1725, Stats. 1998 ch. 973, §5(c); Declaration of Richard Hansen in Support of People's Motion for Summary Adjudication ("Hansen Decl.") ¶¶7, 10-11.</p>	<p>Disputed. AB 1725 was not submitted as evidence in support of the People's Motion. Moreover, the citation to Mr. Hansen's Declaration in support of this fact states: "I am familiar with the state of California 1960 master plan for higher education. This plan sets out a mission of providing open access education for all adults in the state." Paragraphs 10 and 11 of the Hansen Declaration further provide an description of the Community College System in California. The evidence submitted does not support the fact as stated and on those grounds, this fact is disputed.</p> <p>See also, Defendant's Objection to Evidence, Declaration of Richard Hansen.</p>
2	<p>In January 2011, the State Board of Governors of the California Community Colleges ("BOG") appointed a Task Force to recommend strategies for promoting "student success."</p> <p>Evidence: Declaration of Shinobu Ichino in Support of People's Motion for Summary Adjudication ("Ichino Decl.") ¶2 & Ex. 1.</p>	<p>Undisputed that the Student Success Task Force was appointed by the California Community Colleges Board of Governors in or about January 2011.</p> <p>Disputed that the Student Success Task Force was appointed to recommend strategies for "student success". The Student Success Task Force was convened for the purpose of developing a plan to bring about significant improvements in success rates of students.</p> <p>See also, Defendant's Objections to Plaintiff's Evidence, Declaration of Ichino.</p>

		Evidence: Exhibit 2 to Ichino, p. 1.
3	<p>In October 2011, the “Student Success Task Force” released draft recommendations that hewed closely to the “Student Success” model.</p> <p>Evidence: Ichino Decl. ¶3 & Ex. 2; Hansen Decl. ¶20.</p>	<p>Undisputed that the Student Success Task Force released draft recommendations in October 2011. Disputed that the recommendations “hewed closely to the Student Success model.” The draft recommendations envisioned a restructuring of the core of the community college system – teaching and learning – by forwarding more structure and guidance to students so as to foster better choices and limit the student wandering through the curriculum.</p> <p>Evidence: Ichino Decl., Exhibit 2 at p. 9.</p> <p>See also Defendant’s Objections to Plaintiff’s Evidence, Ichino Declaration and Hansen Declaration.</p>
4	<p>City College stakeholders, who felt the recommendations were inconsistent with the “open access” mission that had enabled City College to serve generations of San Franciscans, were vocal opponents of the Student Success Task Force.</p> <p>Evidence: Ichino Decl. ¶¶4-7 & Exs. 3-6; Hansen Decl. ¶21-24, 26.</p>	<p>Undisputed that City College opposed the Student Success Task Force recommendations. The remainder of this fact is disputed. City College opposed the recommendations on the belief that the recommendations would take away funding from community colleges and transfer some of the cost burden to students, as well as the belief that the recommendations would move control from community college districts from local voters to a state bureaucracy.</p> <p>Evidence: Ichino, Decl., Exhibit 3, 5. See also Defendant’s Objections to Plaintiff’s Evidence, Ichino Declaration and Hansen Declaration.</p>
5	<p>By December 8, 2011, ACCJC President Barbara Beno was aware that “individual colleges” were “sensitive” to the Task</p>	<p>Disputed. This fact misstates the evidence submitted in support and is, therefore, disputed on that basis.</p>

	<p>Force recommendations, but nonetheless expressed a desire to “get[] the Commission to endorse the report.”</p> <p>Evidence: Declaration of Sara J. Eisenberg in Support of People’s Motion for Summary Adjudication (“Eisenberg Decl.”) ¶13 & Ex. 13.</p>	<p>Exhibit 13 to Eisenberg’s Decl. is an e-mail from Barbara Beno to Barry Russell that states: “I’m interested in getting the Commission to endorse the report in some manner that is broadly supportive of the 4CO’s efforts. I know individual colleges are more or less sensitive to the various recommendations of the task force, so the Commission may want to discuss the report...”</p> <p>Evidence: Eisenberg Decl., Ex. 13.</p>
6	<p>On December 9, 2011, Barbara Beno sent a letter to the Chair of the Student Success Task Force (on ACCJC letterhead and in her official capacity as ACCJC president) endorsing the Task Force recommendations and “commend[ing] the Task Force members for proposing these significant reforms.”</p> <p>Evidence: Eisenberg Decl. ¶13 & Ex. 14.</p>	Undisputed.
7	<p>On January 9, 2012, the BOG met to consider the Task Force recommendations.</p> <p>Evidence: Ichino Decl. ¶8 & Ex. 7.</p>	<p>Undisputed that the Board of Governors met on January 9, 2012. Disputed that the Board of Governors met to consider the Task Force Recommendations. The Task Force recommendations were one of many items on the agenda for the Board of Governors meeting held on January 9, 2012.</p> <p>Evidence: Ichino Decl, Exhibit 7.</p> <p>See also Defendant’s Objections to Plaintiff’s Evidence, Ichino Declaration.</p>
8	<p>The January 9, 2012 BOG meeting was attended by two ACCJC Commissioners:</p>	Undisputed.

	Barry Russell and Joseph Bielanski. Evidence: Ichino Decl. ¶¶8, 14-16 & Exs. 7, 12.	
9	Fourteen City College students and at least nine City College faculty members spoke in strong opposition to the Task Force recommendations at the January 9, 2012 BOG meeting. Evidence: Ichino Decl. ¶9; Hansen Decl. ¶18.	Undisputed that City College faculty and students testified at the January 9, BOG meeting in opposition to the Student Success Task Force recommendations. The evidence submitted by Plaintiff in support of this fact, however, does not establish that this was “strong” opposition and on that basis, the remainder of this fact is disputed. Evidence: Ichino Decl., Hansen Decl. See also Defendant’s Objections to Plaintiff’s Evidence, Ichino Decl. and Hansen Decl.
10	At the January 9, 2012 BOG meeting, members of the BOG became visibly upset and frustrated with the long stream of those who came to protest against the recommendations, and cut short the testimony causing the assembled students to become upset and aggravated. Evidence: Hansen Decl. ¶18.	Disputed as to the state of mind of the members of the BOG. See Defendant’s Objections to Plaintiff’s Evidence, Hansen Decl. The remainder of this fact is undisputed.
11	At the January 9, 2012 BOG meeting, the BOG voted to adopted the Task Force recommendations. Evidence: Ichino Decl. ¶8 & Ex. 7; Hansen Decl. ¶¶18-19.	Undisputed.
12	On January 10, 2012, at the semi-annual ACCJC Commission meeting, President Barbara Beno asked the Commissioners to consider sending a letter to the California Community Colleges Chancellor endorsing or supporting the Task Force Report. Evidence: Eisenberg Decl. ¶13 & Ex. 15.	Disputed. This fact misstates the evidence submitted in support and is disputed on that basis. Exhibit 15 to Eisenberg Decl. states that “Staff asks that the Commission consider writing a letter to Chancellor Scott endorsing or supporting the broad directions in the Report.” Evidence: Eisenberg Decl., Exhibit

		15.
13	<p>At the January 10, 2012, Commission meeting, the Commissioners agreed to send a letter to the California Community Colleges Chancellor endorsing or supporting the Task Force Report.</p> <p>Evidence: Eisenberg Decl. ¶13 & Ex. 16.</p>	<p>Disputed. This fact misstates the evidence submitted in support and is disputed on that basis. A motion was made to consider a letter of support for the Student Success Task Force. The Commission asked ACCJC staff to send a congratulatory note to the State Chancellor and the Task Force.</p> <p>Evidence: Eisenberg Decl., Exhibit 16 at p. 8.</p>
14	<p>On February 8, Ms. Beno sent a letter to then-California Community Colleges Chancellor Jack Scott conveying the ACCJC Commission's support for the Task Force Report and commending the Task Force's efforts to "provide stimulus and opportunity for the California Community Colleges to develop new policies and practices that support student success."</p> <p>Evidence: Eisenberg Decl. ¶13 & Ex. 17.</p>	<p>Disputed to the extent it misstates the evidence. On February 8, 2012 Barbara Beno, as ACCJC President, sent a letter to then-Chancellor Jack Scott on behalf of the ACCJC conveying the ACCJC's support for the Report's Broad directions and its goals for increased focus on student achievement. The letter further states that the "Commission commends the efforts to provide stimulus and opportunity for the California Community Colleges to develop new policies and practices that support student success.</p> <p>Evidence: Exhibit 17 to Eisenberg Decl.</p>
15	<p>On February 24, 2012, supporters of the Task Force introduced S.B. 1456—the "Student Success Act"—to implement six of the Task Force recommendations.</p> <p>Evidence: Request for Judicial Notice in Support of People's Motion for Summary Adjudication ("RJN") Ex. 1; Hansen Decl.</p>	<p>Disputed. This fact misstates the evidence submitted in support and is disputed on that basis. Senate Bill 1456 was introduced by Senator Lowenthal for the purpose of revising and recasting existing law known as the Seymour-Campbell Matriculation Act of 1986 and rename it the Seymour-Campbell Student Success Act of 2012. The act was to state its purpose as increasing California community college access and success</p>

	¶25.	<p>by providing effective core matriculation services of orientation, assessment and placement, counseling and education planning and academic interventions. The bill would specify the responsibilities of students and institutions in entering into the matriculation process.</p> <p>Evidence: People’s RJN, Exhibit 1.</p> <p>See also Defendant’s Objection to Plaintiff’s Request for Judicial Notice.</p>
16	<p>On April 9, 2012, ACCJC President Barbara Beno wrote a letter urging State Senators to support the Student Success Act.</p> <p>Evidence: Eisenberg Decl. ¶13 & Ex. 18.</p>	<p>Disputed to the extent it mischaracterizes the evidence cited. The letter was authored by Barbara Beno on behalf of the ACCJC and was directed to Senator Lowenthal. Undisputed that the letter urged Senator Lowenthal to support SB 1456, the Student Success Act.</p>
17	<p>On March 14, 2012, the City College Student Council unanimously passed a resolution opposing the Student Success Act.</p> <p>Evidence: Ichino Decl. ¶10 & Ex. 8.</p>	<p>Disputed. On March 14, 2012, City College’s Associated Student Council unanimously agreed to table item 7.2, Student Success Act Resolution to oppose the Student Success Act to give the Council one week to think about it.</p> <p>Evidence: Exhibit 8 at p.2, IV, Item 7.2 to Ichino Decl.</p> <p>See also Defendant’s Objections to Plaintiff’s Evidence, Ichino Decl.</p>
18	<p>On June 13, 2012, ACCJC President Barbara Beno sent a letter to members of the State Assembly expressing the ACCJC’s “strong support” for the Student Success Act.</p> <p>Evidence: Eisenberg Decl. ¶13 & Ex. 19.</p>	<p>Disputed to the extent it mischaracterizes the evidence cited. The letter was authored by Barbara Beno on behalf of the ACCJC and was directed to Assembly Member Block. Undisputed as to the remainder of this fact.</p> <p>Evidence: Exhibit 19 to Eisenberg Decl.</p>

19	<p>In May 2012, City College students organized a conference entitled “Keep Community in Community College.”</p> <p>Evidence: Ichino Decl. ¶11 & Ex. 9.</p>	<p>Undisputed.</p> <p>See also Defendant’s Objections to Plaintiff’s Evidence, Ichino Decl.</p>
20	<p>In an open letter inviting California community college stakeholders to the “Keep Community in Community College” conference, the City College Associated Student Council referred to S.B. 1456 as “the most brazen assault on access to our system in history,” decried the “rationing of education” inherent in the bill and called on everyone in the community to attend the conference to discuss the “privatization of higher education,” and to plan next steps to fight against S.B. 1456 and the Task Force recommendations.</p> <p>Evidence: Ichino Decl. ¶11 & Ex. 9.</p>	<p>Disputed on the grounds it misstates the evidence cited. Exhibit 9 is a letter to members of the California Community College Community. The letter indicates that “some of the topics that will be covered at the conference will include...privatization of public higher education” and “steps to fight against Senate Bill 1456 and Senate Bill 1062 and the Student Success Task Force recommendations.” The letter also provides that “SB 1456 was not mentioned at all as part of the action in Sacramento and this act would be the most brazen assault on access to our system in history.” Finally, the letter states that “[w]e don’t believe in the rationing of education, the privatization of career development course, and much more that this Act intends to do.”</p> <p>Evidence: Exhibit 9 to Ichino Decl.</p> <p>See also Defendant’s Objections to Plaintiff’s Evidence, Ichino Decl.</p>
21	<p>On May 24, 2012, the SFCCD Board of Trustees passed a resolution opposing S.B. 1456.</p> <p>Evidence: Ichino Decl. ¶12 & Ex. 10.</p>	<p>Undisputed.</p>
22	<p>In March 2012, a seventeen-member evaluation team (the “2012 Evaluation Team”) visited City College to evaluate City College’s request for reaffirmation of accreditation.</p>	<p>Undisputed.</p>

	Evidence: RJN Ex. 4.	
23	<p>The members of the 2012 Evaluation Team were selected by Beno (who selected the team chair) and Pond (who selected the other members).</p> <p>Evidence: Eisenberg Decl. ¶¶7-8 & Ex. 7, 8 (People’s Interrogatory No. 7 and ACCJC’s Further Amended Response to Interrogatory No. 7); Eisenberg Decl. ¶3 & Ex. 3 at 91:4-92:6; 93:8-16; Declaration of Lawrence C. Klein in support of People’s Motion for Summary Adjudication (“Klein Decl.”) ¶5.</p>	<p>Disputed. Fifteen members of the 2012 evaluation team were selected by Jack Pond. Barbara Beno selected Sandra Serrano, the Team Chair, and Sandra Serrano selected the Team Assistant, Michelle Bresso.</p> <p>Evidence: Deposition of Garmon Jack Pond, 93:8-22; 22:7-20 (Confidential), attached as Exhibit K to Declaration of Jennifer A. Riso in Support of Opposition to Plaintiff’s MSA (“Riso Decl.”); Declaration of Jack Pond ISO of Defendant’s MSA, ¶4; Exhibit 8 to Eisenberg Decl. (ACCJC’s Further Amended Response to Interrogatory No.7)</p> <p>See also Defendant’s Objections to Plaintiff’s Evidence, Klein Decl.</p>
24	<p>The 2012 Evaluation Team considered recommending to the Commission that the Commission place City College on Warning.</p> <p>Evidence: Eisenberg Decl. ¶5 & Ex. 6 at 121:8-123:2.</p>	<p>Disputed. The 2012 Evaluation Team began its’ discussions with the imposition of a warning and decided that the very least the team was going to do was issue a warning.</p> <p>Evidence: Exhibit 6 at 121: 8-18 to Eisenberg Decl.</p>
25	<p>The 2012 Evaluation Team unanimously recommended to the Commission that the Commission place City College on Probation.</p> <p>Evidence: Eisenberg Decl. ¶5 & Ex. 6 at 123:3-125:1; Eisenberg Decl. ¶13 & Ex. 20.</p>	<p>Disputed. Fifteen members of the Evaluation Team recommended to the Commission that it impose probation through March 14 with a Follow-Up Report and visit in one year.</p> <p>Evidence: Exhibit 20 to Eisenberg Decl.</p>
26	<p>The 2012 Evaluation Team’s decision to recommend that City College be placed on Probation was based mainly on concerns about City College’s financial situation.</p>	<p>Disputed. The evidence cited does not support this fact. The people in charge of Standards III and IV expressed a need to do more because of the</p>

	<p>Evidence: Eisenberg Decl. ¶5 & Ex. 6 at 123:3-125:1; Eisenberg Decl. ¶13 & Ex. 20; Declaration of Alicia Munoz in Support of People’s Motion for Summary Adjudication (“Munoz Decl.”) ¶7.</p>	<p>seriousness of the financial concerns. Sean James who was in charge of Standard III led the discussion proposing the movement to upward on a scale to imposing probation. Nothing in the testimony in Exhibit 5 or Exhibit 20 to Eisenberg Declaration supports that the team’s decision was “mainly based on concerns about City College’s financial situation.” Munoz’ Declaration at ¶7 states only that the team’s biggest concern involved the fiscal decondition of the institution; not that the decision to recommend probation with a follow-up report and visit was based mainly on concerns about City College’s financial condition.</p> <p>Evidence: Eisenberg Decl. Ex. 6 at 123:3-125:1; Eisenberg Decl. Ex. 20; Munoz Decl., ¶7.</p> <p>See also Defendant’s Objections to Plaintiff’s Evidence, Munoz Decl.</p>
27	<p>Nobody on the 2012 Evaluation Team suggested that the recommendation to the Commission should be to place City College on Show Cause status.</p> <p>Evidence: Eisenberg Decl. ¶5 & Ex. 6 at 143:17-24; Munoz Decl. ¶8.</p>	<p>Undisputed.</p>
28	<p>On or around June 6, 2012, the ACCJC Commissioners voted in a closed session to place City College on Show Cause.</p> <p>Evidence: RJN Ex. 5.</p>	<p>Undisputed.</p>
29	<p>In a letter dated July 2, 2012, Barbara Beno notified City College that the Commission had voted to place the institution on Show Cause and was instructed to submit a report showing why its accreditation should not be withdrawn by March 15, 2013.</p>	<p>Disputed. In the letter dated July 2, 2012, the Commission, by and through its President Barbara Beno, notified City College that it was compelled to order Show Cause and to require the college to complete a Show Cause Report by March 15,</p>

	Evidence: RJN Ex. 5.	2013. The July 2, 2012 letter further notifies City College that it must show cause why its accreditation should not be withdrawn by the Commission at its June 2013 Commission meeting, which was scheduled to occur on June 10, by demonstrating that it has corrected the deficiencies. Evidence: People's RJN, Ex. 5 at p.1.
30	On March 15, 2013, City College submitted the required Show Cause Report to the ACCJC. Evidence: RJN Ex. 6 at 8.	Undisputed.
31	In March 2013, the ACCJC assembled a nine-member Show Cause Visiting Team that visited City College on April 4 and 5, 2013. Evidence: RJN Ex. 6 at 8.	Undisputed.
32	On or around June 7, 2013, the ACCJC Commission voted in closed session to terminate City College's accreditation effective July 31, 2014. Evidence: RJN Ex. 7.	Disputed on the grounds the fact misstates the evidence cited. At its meeting June 5-7, 2013, the ACCJC took action on the accreditation status of City College of San Francisco. After careful consideration, the Commission acted to terminate accreditation effective July 31, 2014. Evidence: People's RJN, Ex.7, p. 1.
33	In spring of 2013, the California Federation of Teachers ("CFT") filed a complaint with the United States Department of Education ("DOE") raising concerns about the policies and practices of the ACCJC. Evidence: Declaration of Robert J. Bezemek in Support of People's Motion for Summary Adjudication ("Bezemek Decl.") ¶3.	Undisputed.

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34	<p>On August 13, 2013, after receiving a response from the ACCJC to the CFT complaint and conducting further research, the DOE sent a letter to the ACCJC stating that several aspects of their accreditation-review process violated federal regulations.</p> <p>Evidence: RJN Ex. 11.</p>	<p>Disputed. Misstates the evidence. People’s RJN, Exh 11 states that the Accreditation Group in the Office of Post-Secondary Education (“Department”) reviewed the allegations raised in the complaints of the CFT for applicability to the Secretary’s Criteria for Recognition and requested the ACCJC respond to allegations regarding its accreditation review process. ACCJC provided a written response and directed the Department to review materials already submitted in the ACCJC’s petition for recognition. The Department then reviewed all the documentation for demonstrated compliance with the Secretary’s Criteria for recognition. Exhibit 11 says nothing about conducting further research. Moreover, the August 13, 2013 letter was preliminary as ACCJC had not yet responded to the allegations in the letter, which the Department asked the ACCJC to do in connection with its petition for renewal of recognition.</p> <p>Evidence: People’s RJN, Exh. 11, p.1.; Johns Decl., ¶17-24.</p> <p>See also, Defendant’s Objection to Plaintiff’s RJN.</p>
35	<p>In its August 13, 2013 letter, the DOE stated, <i>inter alia</i>, that the ACCJC has violated 34 CFR sections 602.15(a)(3) and (a)(6).</p> <p>Evidence: RJN Ex. 11 at 1-3.</p>	<p>Disputed. The August 13, 2013 letter from the Accreditation Group from the Office of Postsecondary Education states that the Accreditation Group determined that the ACCJC is out of compliance with 34 C.F.R. 602.15(a)(3) and 602.15(a)(6).</p> <p>Evidence: People’s RJN, Exh. 11, p.1.</p>

		See also, Defendant's Objection to Plaintiff's RJN.
36	<p>In its petition for renewal of recognition by the DOE, the ACCJC addressed its compliance with each of the federal regulations governing accrediting agencies.</p> <p>Evidence: Eisenberg Decl. ¶14 & Ex. 26 at ¶7.</p>	Undisputed.
37	<p>On November 27, 2013, the DOE issued its Final Staff Report to the Senior Department Official concerning the ACCJC's petition for renewal of recognition.</p> <p>Evidence: Eisenberg Decl. ¶14 & Ex. 26 at ¶10; <i>id.</i> ¶15 & Ex. 27.</p>	Undisputed.
38	<p>The DOE Final Staff Report concluded that the ACCJC was out of compliance with fifteen federal regulations, including three of the sections previously identified as deficiencies in the DOE's August Decision Letter.</p> <p>Evidence: Eisenberg Decl. ¶15 & Ex. 27.</p>	<p>Disputed. The Final Staff Report did not "conclude" that ACCJC was out of compliance with fifteen regulations. The Final Staff Report indicates that it "does not appear that the agency meets the following sections of the Secretary's Criteria for Recognition"; thereafter it lists 15 criteria, only two of which are relevant to the People's claims.</p> <p>Evidence: Exhibit 26 at ¶11 to Eisenberg Decl; Exhibit 27 at pp.2-3 to Eisenberg Decl.</p>
39	<p>In December 2013, the DOE National Advisory Committee on Institutional Quality and Integrity heard testimony from, <i>inter alia</i>, President Beno and the ACCJC Commission Chair on the ACCJC's petition for renewal.</p> <p>Evidence: Ichino Decl. ¶13 & Ex. 11.</p>	Undisputed.
40	<p>On January 28, 2014—after reviewing the record and a follow-up letter from the ACCJC—the DOE issued its decision on</p>	Undisputed.

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	the ACCJC's petition. Evidence: RJN Ex. 12.	
41	<p>In its January 28, 2104 decision letter concerning the ACCJC's petition for renewal of recognition, the DOE continued the ACCJC's recognition but stated that the ACCJC was out of compliance with fifteen sections of the Secretary's Criteria for Recognition, and gave the ACCJC one year to come into full compliance or risk having its recognition limited, suspended or terminated.</p> <p>Evidence: RJN Ex. 12.</p>	<p>Disputed. The January 28, 2014 letter from the Acting Assistant Secretary provides that she will "continue the Department's recognition of ACCJC as a nationally recognized accrediting agency within the scope of recognition as detailed below, for the time necessary to permit ACCJC 12 months from the date of this letter to achieve compliance, and to submit a compliance report within 30 days thereafter documenting compliance and to permit the Department to review and make a final recognition decision in light of compliance report." The ACCJC was reminded that if ACCJC does not come into full compliance, "the Department may be compelled to limit, suspend, or terminate ACCJC's recognition."</p> <p>Evidence: People's RJN, Exh. 12.</p> <p>See also Defendant's Objections to Plaintiff's RNJ.</p>
	The ACCJC Violated Section 17200 By Its Unlawful And Unfair Failure To Have Effective Controls Against Conflicts Of Interest With Respect To The Selection Of Members Of The Commission.	
42	<p>In 2010, the Accreditation Task Force of the Consultation Council of the California Community Colleges Chancellor's Office filed a complaint with the DOE regarding flaws in the ACCJC's Commissioner selection process.</p> <p>Evidence: Eisenberg Dec. ¶13 & Exs. 21-23; Declaration of Brice Harris in Support of People's Motion for Summary Adjudication ("Harris Decl.") ¶3 & Ex.1.</p>	<p>Disputed. Misstates the evidence. The Accreditation Task Force of the Consultation Council of the California Community Colleges Chancellor's Office submitted a complaint with the Accreditation Division of the Office of Postsecondary Education alleging the ACCJC did not follow its processes and procedures in the selection of Commissioners.</p> <p>Evidence: Exhibits 21-23 to</p>

		Eisenberg Declaration. See also Defendant's Objection to Plaintiff's Evidence, Harris Decl.
43	In a letter dated May 6, 2010, from former Chancellor Jack Scott to Acting Deputy Assistant Secretary in the Office of Post-Secondary Education at the DOE David Bergerson, Chancellor Scott stated that the ACCJC's failure to follow proper procedures for appointing Commissioners "ha[d] led to hand-picked commissioners who tend to support the views of the Executive Director (i.e., Barbara Beno) rather than these commissioners being truly representative if the institutions within ACCJC." Evidence: Eisenberg Dec. ¶13 & Ex. 21; Harris Decl. ¶3 & Ex. 1.	Disputed. Misstates evidence. A letter dated May 6, 2010 from Jack Scott, Chancellor, on behalf of Accreditation Task Force addressed "Dear David" states the Commission has "failed to follow its own bylaws in the selection of Commissioners." Evidence: Exhibit 21 to Eisenberg Decl. See also Defendant's Objections to Plaintiff's Evidence, Harris Decl., Exh. 1.
44	On May 12, 2010, the DOE sent a letter to ACCJC President Barbara Beno requesting that the ACCJC provide a "full and documented" response to the complaint submitted by the Accreditation Task Force of the Consultation Council of the California Community Colleges Chancellor's Office by June 11, 2010. Evidence: Eisenberg Dec. ¶13 & Ex. 22	Undisputed that a letter dated May 12, 2010 was sent to ACCJC President Barbara Beno requesting the ACCJC provide a "full and documented response." Disputed as to the characterization of the submission by the Accreditation Task Force as a "complaint." The May 12, 2010 letter from the Accreditation Division in the Office of Postsecondary Education characterizes it as a "letter of concern." Evidence: Exhibit 22 to Eisenberg Decl.
45	On August 24, 2010, the DOE sent a letter to ACCJC President Barbara Beno stating, <i>inter alia</i> , the DOE's conclusion that the ACCJC lacked "clear and effective controls against conflicts of interest, or the appearance of conflicts of interest, in the [Commissioner] selection process, as	Disputed. Misstates evidence. The August 24, 2010 letter to ACCJC President Barbara Beno states that its "lack of formal documented process does not provide transparency to the selection process and, therefore, does not provide clear and effective

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	<p>required by §602.15(a)(6).”</p> <p>Evidence: Eisenberg Dec. ¶13 & Ex. 23 at p. 4.</p>	<p>controls against conflicts of interest, as required by 602.15(a)(6) of the Secretary’s Criteria for Recognition.” This was specifically in reference to the appointment of individuals to the Commissioner Selection Committee, not with respect to selection of the Commissioners themselves.</p> <p>Evidence: Exhibit 23, p.2, paragraph 3 to Eisenberg Decl.</p>
46	<p>In its August 24, 2010 Letter to ACCJC President Barbara Beno, the DOE stated that the ACCJC: (1) had no formal documented process for the appointment of members to the Commissioner Selection Committee (with most appointments being made on a telephone call with the Commission President); (2) failed to promote a diversity of membership by permitting members of the Commissioner Selection Committee to serve multiple times; and (3) failed to give any public notice of the members of the Commissioner Selection Committee.</p> <p>Evidence: Eisenberg Dec. ¶13 & Ex. 23 at pp. 2, 3, 4.</p>	<p>Disputed. In its August 24, 2010 letter to the ACCJC, the Accreditation Division in the Office of Postsecondary Education stated the following: 1) the appointment of the members of the Commissioner Selection Committee was accomplished through an informal process and that the lack of a formal documented process does not provide transparency to the selection process and therefore, does not provide clear and effective controls against conflict of interest; 2) the Commission bylaws did not address the number of times an individual can serve on the Commissioner Selection Committee and that having individuals serve more than once does not promote diversity of membership; and 3) the Commission bylaws do not address public notice of the members of the Commissioner Selection Committee and the lack of notice does not provide transparency to the selection process.</p> <p>Evidence: Exhibit 23 at pp. 3, 4 to Eisenberg Decl.</p> <p>See also Defendant’s Objections to Plaintiff’s Evidence.</p>

47	<p>In response to the DOE's August 24 letter, the ACCJC agreed to amend its bylaws with respect to commissioner selection to address the DOE's findings in January 2011 and to implement the new bylaws by spring of 2011.</p> <p>Evidence: Eisenberg Dec. ¶13 & Ex. 24 at p.3.</p>	<p>Disputed. The ACCJC agreed to change its Bylaws to respond to all of the Department's concerns and findings. The ACCJC intended to change its Bylaws by voting on the proposed amendments at its meeting of January 2011. The ACCJC informed the Department it would be able to implement its new process for the Election of Commissioners during Spring 2011.</p> <p>Evidence: Exhibit 24 at p. 3 to Eisenberg Decl.</p>
48	<p>Fourteen of the nineteen Commissioners who served in June 2012 (when the Commission voted to place City College on Show Cause) were appointed prior to spring 2011.</p> <p>Evidence: Ichino Decl. ¶¶14-15 & Ex. 12.</p>	<p>Disputed. Twelve of the Nineteen Commissioners who served in June 2012 were appointed pursuant to the prior selection process.</p> <p>Evidence: Declaration of Krista Johns at ¶10 in Support of Defendant's Opposition to Plaintiff's Motion for Summary Adjudication ("Johns Decl.").</p> <p>See also Defendant's Objections to Plaintiff's Evidence, Ichino Decl.</p>
49	<p>Thirteen of the nineteen Commissioners who served in June 2013 (when the Commission voted to termination City College's accreditation) were appointed prior to spring 2011.</p> <p>Evidence: Ichino Decl. ¶¶14, 16 & Ex. 12.</p>	<p>Disputed. Nine of the Nineteen Commissioners who served in June 2013 were appointed pursuant to the prior selection process.</p> <p>Evidence: Declaration of Krista Johns at ¶11 in Support of Defendant's Opposition to Plaintiff's Motion for Summary Adjudication ("Johns Decl.").</p> <p>See also Defendant's Objections to Plaintiff's Evidence, Ichino Decl.</p>

	The ACCJC Violated Section 17200 By Its Unlawful And Unfair Failure To Have Effective Controls Against Conflicts Of Interest With Respect To The Selection Of Evaluation Team Members.	
50	<p>Peter Crabtree served on 2012 Evaluation Team that visited and evaluated City College in March 2012.</p> <p>Evidence: Eisenberg Decl. ¶¶9-10 & Ex. 9, 10 (People's RFA No. 1 and ACCJC's Amended Response to RFA No. 1).</p>	Undisputed.
51	<p>Peter Crabtree is married to ACCJC President Barbara Beno.</p> <p>Evidence: Eisenberg Decl. ¶4 & Ex. 4 at 53:14-18.</p>	Undisputed.
52	<p>Peter Crabtree has been married to Ms. Beno since at least 2006.</p> <p>Evidence: Eisenberg Decl. ¶4 & Ex. 4 at 53:19-54:5.</p>	Undisputed.
53	<p>At the time the 2012 Evaluation Team visited and evaluated City College, other members of the team did not know that Mr. Crabtree was married to ACCJC President Beno.</p> <p>Evidence: Munoz Decl. ¶¶3-5; Eisenberg Decl. ¶5 & Ex. 5 at 91:3-10; Eisenberg Decl. ¶¶9-10 & Ex. 9, 10 (People's RFA No. 1 and ACCJC's Amended Response to RFA No. 1).</p>	<p>Undisputed that Jeannette Redding and Alicia Munoz were not aware that Mr. Crabtree was married to ACCJC President Barbara Beno. No evidence was submitted as to any "other members of the team." As such this fact is disputed as to the knowledge of any "other members of the team" on the grounds there is no evidence to support the knowledge of any member other than Redding and Munoz.</p> <p>See also, Defendant's Objections to Plaintiff's Evidence, Munoz Decl.</p>
54	<p>At the time the 2012 Evaluation Team visited and evaluated City College, City College officials did not know that Mr. Crabtree was married to ACCJC President Beno.</p> <p>Evidence: Declaration of Lawrence C. Klein in Support of People's Motion for</p>	Undisputed that Lawrence Klein, former Accreditation Liason Officer for City College did not know that Mr. Crabtree was the husband of Barbara Beno, the ACCJC President. No evidence was submitted as to the knowledge of any other "City College

	Summary Adjudication (“Klein Decl.”) ¶7.	officials.” As such this fact is disputed as to the knowledge of “City College officials” other than Lawrence Klein on the grounds there is no evidence to support the knowledge of any other official. See also Defendant’s Objections to Plaintiff’s Evidence, Klein Decl.
55	Other members of the 2012 Evaluation Team were “shocked” when they learned, after the site visit had concluded, that Mr. Crabtree was married to ACCJC president Barbara Beno. Evidence: Munoz Decl. ¶5; Eisenberg Decl. ¶5 & Ex. 5 at 91:11-16.	Undisputed that Jeannette Redding and Alicia Munoz were shocked when they learned that Mr. Crabtree was married to ACCJC President Barbara Beno. No evidence was submitted as to any “other members of the 2012 Evaluation Team.” As such this fact is disputed as to the knowledge of any “other members of the 2012 Evaluation Team” on the grounds there is no evidence to support the knowledge of any member other than Redding and Munoz. See also, Defendant’s Objections to Plaintiff’s Evidence, Munoz Decl.
56	Barbara Beno has been president of the ACCJC since August 1, 2001. Evidence: <i>People v. ACCJC</i> , Case No. CGC-13-533693, Declaration of Barbara Beno, Ph.D. in Support of Defendant’s Motion to Abstain (filed Dec. 5, 2013) ¶ 1.	Undisputed.
57	The president of the ACCJC is the Chief Executive Officer of the ACCJC and is responsible for “general supervision, direction, and control of the operations of the ACCJC, including its business and accreditation operations.” Evidence: RJN Ex. 10 at Article VII, Section 6.	Disputed. Misstates the evidence. Article VII, Section 6 of the ACCJC’s current Bylaws states: “The President shall be the Chief Executive Officer of ACCJC, and the general supervision, direction, and control of the operations of ACCJC, including its business and accreditation operations, shall reside with the President.” Evidence: People’s RJN, Exhibit 10

		at Article VII, Section 6. See also Defendant's Objections to Plaintiff's RJN.
58	<p>Tom Lane, who has worked as Admin Support at the ACCJC since 1996, testified as follows during his deposition:</p> <p>“Q. But your loyalty to Dr. Beno is stronger than your loyalty to the ACCJC?</p> <p>A. No, they're inseparable.</p> <p>Q. And why are they inseparable?</p> <p>A. Because they are both the same. Dr. Beno is the president of the ACCJC; it's one and the same.”</p> <p>Evidence: Eisenberg Decl. ¶2 and Ex. 1 at 73:2-8 & 85:10-16.</p>	<p>Undisputed that this fact cites accurately to a portion of Tom Lane's testimony.</p> <p>See also Defendant's Objections to Plaintiff's Evidence.</p>
59	<p>The August 13, 2013 decision letter from DOE Accreditation Group Director Kay Gilcher to ACCJC President Barbara Beno states that “the participation of the spouse of the president of the ACCJC on an evaluation team has the appearance to the public of creating a conflict of interest (i.e., an appearance of bias of the Commission in favor of the team's position over that of the institution's).”</p> <p>Evidence: RJN Ex. 11 at 3.</p>	<p>Disputed as the characterization of the DOE's August 13, 2013 letter as a “decision letter.” Undisputed as the content of the letter. The August 13, 2013 letter was a preliminary decision.</p> <p>Evidence: People's RJN Exhibit 9; Johns Decl. ¶¶17-24.</p>
60	<p>At time he served on 2012 Team, Peter Crabtree was a Dean at Laney College.</p> <p>Evidence: Eisenberg Decl. ¶¶9-10 & Ex. 9, 10 (People's RFA No. 1 and ACCJC's Amended Response to RFA No. 1); Eisenberg Decl. ¶4 & Ex. 4 at 47:3-10.</p>	<p>Disputed on the grounds this fact misstates the evidence. At the time Peter Crabtree Served on the 2012 Evaluation Team, he was employed as the Division Dean of Instruction, Career and Technical Education at Laney College.</p> <p>Evidence: Exhibit A to Exhibit 9 to Eisenberg Decl.</p>
61	Laney College is part of the Peralta Community College District.	Undisputed.

	Evidence: RJN Fact 1.	
62	Laney College is located in Oakland, California. Evidence: RJN Fact 2.	Undisputed.
63	Garmond “Jack” Pond is responsible for compiling evaluation teams—selecting all members other than the team chair and team assistant. Evidence: Bezemek Decl. ¶5 & Ex. 1 at ¶29; Eisenberg Decl. ¶3 & Ex. 3 at 67:11-14; Eisenberg Decl. ¶¶7-8 & Ex. 7, (People’s Interrogatory No. 7 and ACCJC’s Further Amended Response to Interrogatory No. 7).	Undisputed.
64	Mr. Pond considers it to be an “obvious conflict” if an individual being considered for an evaluation team works in a district abutting the institution being evaluated. Evidence: Eisenberg Decl. ¶3 & Ex. 3 at 99:6-11; 102:6-12.	Disputed. Misstates the evidence. The term “obvious conflict of interests” in the context of placing an individual from a district abutting the institution was a phrase used the by the individual asking the question, not by Mr. Pond. Evidence: Eisenberg Decl. ¶3 & Ex. 3 at 99:6-11; 102:6-12.
65	Mr. Pond believes it is a conflict for someone who works in an abutting district to serve on institution’s evaluation team because the institutions and/or districts “could share students.” Evidence: Eisenberg Decl. ¶3 & Ex. 3 at 99:6-11; 102:6-12.	Disputed, Misstates the evidence. Mr. Pond testified that he tries not to put individuals on a team if the team if their districts actually butt up against one another because they could share students. Evidence: Eisenberg Decl. ¶3 & Ex. 3 at 99:6-11; 102:6-12.
66	The Peralta Community College District is one of sixteen institutions or districts that have agreed to enter into a Memorandum	Undisputed that Exhibit 25 to Eisenberg Decl. indicates Peralta College agreed to enter into a

	<p>of Understanding with City College to extend special opportunities (such as priority admission) to City College transfer students should City College close.</p> <p>Evidence: Eisenberg Decl. ¶13 & Ex. 25.</p>	<p>Memorandum of Understanding with City College should City College to transition to closing the college to comply with ACCJC's termination plan. Although page 2 of Exhibit 25 identifies 16 letters of intent from various colleges, there is no evidence that those letters contain agreements to enter into a Memorandum of Understanding with City College.</p>
67	<p>Based on Mr. Crabtree's inclusion on the 2012 Evaluation Team, the DOE concluded in August 2013 that the ACCJC lacks "clear and effective controls against conflicts of interest, or the appearance of conflicts of interest, as required."</p> <p>Evidence: RJN Ex 11 at 3.</p>	<p>Disputed to the characterization that the DOE "concluded." The August 2013 letter from the DOE was preliminary and, therefore, no "conclusion" was made.</p> <p>Evidence: Declaration of Krista Johns submitted in Opposition to Plaintiff's MSA ("Johns Decl."), ¶17-19, 22.</p>
68	<p>In December 2005, then-Chancellor of the Peralta Community College District Elihu Harris filed a complaint with the DOE alleging that the ACCJC's evaluation of the District had been "an unfair and biased process tainted by conflicts of interest."</p> <p>Evidence: Bezemek Decl. ¶¶6-9 & Ex. 4.</p>	<p>Undisputed that in December 2005, Elihu Harris submitted a letter to the DOE. However, disputed that this fact is supported by competent evidence. See Defendant's Objections to Plaintiff's Evidence, Bezemek Decl., Exhibits 2-9.</p>
69	<p>The complaint that Chancellor Elihu Harris filed with the DOE in 2005 stated, <i>inter alia</i>, that Ms. Beno "exhibited a strong bias" against colleges in the District, that Ms. Beno and her staff engaged in "unfair and unprofessional behavior," and that <i>prior to the Commission meeting</i> Mr. Crabtree already knew—and told other employees—that the colleges would be sanctioned.</p> <p>Evidence: Bezemek Decl. ¶¶6-9 & Ex. 4.</p>	<p>Undisputed that in December 2005, Elihu Harris submitted a letter to the DOE stating the facts alleged. However, this fact is disputed on the grounds it is not supported by competent evidence.</p> <p>See Defendant's Objections to Plaintiff's Evidence, Bezemek Decl., Exhibits 2-9.</p>

70	<p>The DOE sent a copy of the complaint filed by Chancellor Harris to ACCJC President Beno and asked the ACCJC to provide a thorough and detailed response to the issues raised therein.</p> <p>Evidence: Bezemek Decl. ¶¶6-9 & Ex. 9.</p>	<p>Disputed. The evidence submitted in support of this fact does not support that the DOE sent a copy of the complaint filed by Chancellor Harris to the ACCJC. This fact is further disputed on the grounds it is not supported by competent evidence.</p> <p>Evidence: Bezemek Decl., Exhibit 9. See also Defendant's Objections to Plaintiff's Evidence, Bezemek Decl., Exhibits 2-9.</p>
<p align="center">The ACCJC Violated Section 17200 By Its Unlawful And Unfair Failure To Include Sufficient Academics On Evaluation Teams.</p>		
71	<p>The 2012 Evaluation Team, which was comprised of 16 people (plus a team assistant), included only 1 professor.</p> <p>Evidence: Eisenberg Decl. ¶¶9-10 & Ex. 9, 10 (People's RFA No. 1 and ACCJC's Amended Response to RFA No. 1).</p>	<p>Disputed.</p> <p>Evidence: Declaration of Jack Pond submitted ISO of Defendant's MSA ("Pond Decl."), ¶14; Johns Decl., ¶21; Exhibit D to Riso Decl., Deposition of Jeannette Redding at 22:1-9; Exhibits E-G to Riso Decl.</p>
72	<p>The 2013 Show Cause Visiting Team, which was comprised of eight people (plus a team assistant), included only 1 professor.</p> <p>Evidence: Eisenberg Decl. ¶¶9-10 & Ex. 9, 10 (People's RFA No. 2 and ACCJC's Amended Response to RFA No. 2).</p>	<p>Undisputed.</p>
73	<p>The August 13, 2013 decision letter from DOE Accreditation Group Director Kay Gilcher to ACCJC President Barbara Beno states that the ACCJC was not in compliance with section 602.15(a)(3).</p> <p>Evidence: RJN Ex. 11 at 1-2.</p>	<p>Disputed as to the characterization of the August 13, 2013 letter as a "decision letter." The August 2013 letter was preliminary and, therefore, there was no "decision" at that time.</p> <p>Evidence: Johns Decl., ¶17-19, 22.</p>

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74	<p>In the August 13, 2013 decision letter from DOE Accreditation Group Director Kay Gilcher to ACCJC President Barbara Beno the DOE stated that section 602.15(a)(3) requires “a good faith effort by the agency to have both academic and administrative personnel reasonably represented. One academician on an evaluation team comprised of eight and 16 individuals, as was the case for the April 2013 and March 2012 evaluation teams . . . is not reasonable representation.”</p> <p>Evidence: RJN Ex. 11 at 2.</p>	<p>Disputed as to the characterization of the August 13, 2013 letter as a “decision letter.” The August 2013 letter was preliminary and, therefore, there was no “decision” at that time.</p> <p>The quote from the letter is further incomplete and taken out of context. The entirety of that quote states: “<u>The criterion expects</u> a good faith effort by the agency to have both academic and administrative personnel reasonably represented. One academician on an evaluation team comprised of eight and 16 individuals, as was the case for April 2013 and March 2012 evaluation teams...is not reasonable representation.” [Underline added to show the distinction.]</p> <p>Evidence: Johns Decl., ¶17-19, 22.</p> <p>See also Defendant’s Objections to Plaintiff’s Request for Judicial Notice.</p>
75	<p>In the November 2013 Final Staff Report concerning the ACCJC’s petition for renewal of recognition, the DOE reaffirmed that the ACCJC—which had revised its policies in response to the August Decision Letter—was still not in compliance with section 602.15(a)(3) because the ACCJC continued to include deans, department chairs and other administrative personnel within its definition of “academic.”</p> <p>Evidence: Eisenberg Decl. ¶15 & Ex. 27 at pp.14-15.</p>	<p>Disputed. Misstates the evidence. The Final Staff Report says nothing about CCSF failing to comply with §602.15(a)(3) “because ACCJC continued to include deans, department chairs and other administrative personnel within its definition of academic.”</p> <p>The Final Staff Report at page 15 discussed only the inclusion of individuals who are administrative and not directly engaged in a significant manner of postsecondary teaching and/or research. Moreover, the DOE approved the use of ACCJC’s definition of academic, which includes deans and division/department chairs.</p>

		Evidence: Exhibit 27 to Eisenberg Decl.; Johns Decl., ¶¶24-31.
76	<p>The November 2103 Final Staff report stated: “[T]he inclusion of individuals whose principal activities are administrative . . . may affect the evaluation team’s ability to adequately review an institution in the related areas of the agency’s standards.”</p> <p>Evidence: Eisenberg Decl. ¶15 & Ex. 27 at p.15.</p>	Undisputed that this fact recites a partial citation included in the November 2013 Staff Report.
77	<p>The November 2103 Final Staff report noted that the ACCJC improperly counted “an interim academic dean with no teaching responsibilities for the past few years . . . an academic dean that had not taught in over 10 years, and . . . a vice chancellor for student affairs who had never taught” as “academics” in an October 2013 evaluation team.</p> <p>Evidence: Eisenberg Decl. ¶15 & Ex. 27 at p.15.</p>	<p>Disputed. This fact misstates the evidence cited. The November 2013 Staff Report does not state that the ACCJC “improperly counted” an “interim academic dean with no teaching responsibilities for the past few years . . . an academic dean that had not taught in over 10 years, and . . . a vice chancellor for student affairs who had never taught” as academics. The November 2013 staff report merely cites to observations made at an on-site evaluation and draws no conclusions as to whether any individuals were “improperly counted” as academics.</p> <p>Evidence: Exhibit 27 at p. 15 to Eisenberg Decl.</p>
78	In its January 28, 2104 decision letter concerning the ACCJC’s petition for renewal of recognition, the DOE the concluded that the ACCJC was not in compliance with, <i>inter alia</i> , 34 C.F.R. section 602.15(a)(3), and gave the ACCJC one year to come into full	Disputed to the extent it mischaracterizes the evidence. The DOE makes no such “conclusion” in its January 28, 2014 letter. Moreover, the DOE makes no statement that the ACCJC will “risk” having its recognition, limited, suspended or

	<p>compliance or risk having its recognition limited, suspended or terminated.</p> <p>Evidence: RJN Ex. 12.</p>	<p>terminated. The People take liberties with its characterization of the content of this letter and it is disputed on that basis.</p> <p>Evidence: People's RJN, Exhibit 12. See also Defendant's Objection to Plaintiff's Request for Judicial Notice.</p>
	<p>The ACCJC Violated Section 17200 By Its Unlawful Violation Of Common Law Fair Procedure.</p>	
79	<p>On May 20, 2013, the ACCJC provided City College with a copy of the final Show Cause Evaluation Report, which set forth the findings and conclusions of the team that visited City College in April 2013.</p> <p>Evidence: Eisenberg Decl. ¶2 & Ex. 2 at pp.2-3; <i>see also id.</i> ¶2 & Ex. 1 at 211:1-214:7.</p>	<p>Undisputed.</p>
80	<p>The Show Cause Evaluation Report provided to City College indicated that City College had fully addressed four of the recommendations made by the 2012 Evaluation Team and had "partially addressed" the other ten.</p> <p>Evidence: RJN Ex. 6 at 66-77.</p>	<p>Undisputed.</p>
81	<p>The Show Cause Evaluation Report provided to City College concluded that City College was still out of compliance with several accreditation standards, but also indicated that City College had made enormous progress and was on track to resolve many of the outstanding issues in the near future.</p> <p>Evidence: RJN Ex. 6; Ichino Decl. ¶¶17-26.</p>	<p>Disputed. Misstates the evidence. The evidence cited in support does not support the fact "City College had made enormous progress and was on track to resolve many of the outstanding issues in the near future." The content of RJN 6 speaks for itself. Moreover, the Ichino Decl., at 17-26 lacks foundation.</p> <p>Evidence: People's RJN, Exhibit 6; Ichino Decl., ¶¶17-26. See also Defendant's Objections to Plaintiff's Evidence, Ichino Decl.</p>
82	<p>City College was given an opportunity to correct inaccuracies in the Show Cause</p>	<p>Disputed. After City College received the final Show Cause Evaluation</p>

	<p>Visiting Report by submitting a letter to ACCJC President Beno, and was offered an opportunity to request an appearance before the Commission at its June meeting “to discuss the Report.”</p> <p>Evidence: Eisenberg Decl. ¶2 & Ex. 2 at pp.2-3; <i>see also id.</i> ¶2 & Ex. 1 at 211:1-214:7.</p>	<p>Report, City College was invited to submit in writing any assertion of factual errors in advance of the Commission meeting. City College also was provided an opportunity to submit errors to the draft report directly to the team chair.</p> <p>ACCJC policy provided City College an opportunity to respond in writing to the final Show Cause evaluation report on any issues of substance and to any deficiencies.</p> <p>CCSF was also invited to appear before the Commission, pursuant to policy, when the report was considered.</p> <p>Evidence: Eisenberg Decl., Exhibit 2; Declaration of Sandra Serrano submitted ISO Defendant’s MSA (“Serrano Decl.”), ¶26; Exhibit H at ¶21 to Johns Decl.</p>
83	<p>On July 3, 2013, City College received a letter from Barbara Beno stating that the Commission had voted to terminate the college’s accreditation (the “July 2013 Termination Letter”).</p> <p>Evidence: RJN Ex. 7; Declaration of Robert Agrella in Support of People’s Motion for Summary Adjudication (“Agrella Decl.”) ¶3.</p>	Undisputed.
84	<p>The July 2013 Termination Letter indicated that the Commission had based its decision in part on its determination that City College was not in compliance with thirty accreditation standards.</p> <p>Evidence: RJN Ex. 7 at 2.</p>	Undisputed.
85	<p>The July 2013 Termination Letter indicated that the Commission had based its decision in part on its determination</p>	Disputed. Misstates evidence. The July 2013 action indicates that the Commission based its decision in part

	<p>that only two of the recommendations made by the 2012 Evaluation Team had been fully met and only one had been partially met.</p> <p>Evidence: RJN Ex. 7 at 3.</p>	<p>on its determination that eleven out of the fourteen recommendations provided in the 2012 Evaluation Team Report and the Commission’s action letter of July 2, 2012 were not adequately dressed, including the recommendations identified in the 2006 comprehensive evaluation as noted in the 2012 evaluation team report and Commission action letter.</p> <p>Evidence: People’s RJN, Exhibit 7 at p.3.</p>
86	<p>The Show Cause Evaluation Report provided to City College had expressly determined that eleven of the thirty accreditation standards the Commission found not to be met—specifically standards I.A.3, I.B.1, I.B.2, I.B.3, II.A.6, II.B.4, III.B.1, III.C.1, III.C.2, III.D.1, and IV.A.1—<i>had beet met</i>.</p> <p>Evidence: <i>Compare</i> RJN Ex. 7 at 2 with RJN Ex. 6 at 10 (I.A.3), 11-12 (I.B.1), 12-14 (I.B.2), 14-15 (I.B.3), 25-26 (II.A.6), 31-32 (II.B.4), 42-43 (III.B.1); 45-46 (III.C.1), 46-47 (III.C.2), 47 (III.D.1), 55-56 (IV.A.1).</p>	<p>Undisputed that the Show Cause Evaluation Report for City College indicates that the college met standards I.A.3, I.B.1, I.B.2, I.B.3, II.A.6, II.B.4, III.B.1, III.C.1, III.C.2, III.D.1, and IV.A.1.</p>
87	<p>Prior to receiving the July 2013 Termination Letter from Barbara Beno, City College administration was not informed that the Commission was considering additional deficiencies that were not included in the Show Cause Evaluation Report.</p> <p>Evidence: Agrella Decl. ¶¶3-5; Declaration of Rafael Mandelman in Support of People’s Motion for Summary Adjudication (“Mandelman Decl.”) ¶¶7-9.</p>	<p>Disputed. This fact assumes there were additional deficiencies to which City College was entitled to receive notice. There were no additional deficiencies noted that required notice to City College.</p> <p>Evidence: Johns Decl., ¶¶42-45.</p>

88	<p>City College was not given additional time to respond to the additional perceived deficiencies listed in the July 2013 Termination Letter that had not been included in the Show Cause Visiting Report.</p> <p>Evidence: Agrella Decl. ¶¶3-5; Mandelman Decl. ¶¶7-9.</p>	<p>Disputed. This fact assumes there were additional deficiencies to which City College was entitled to receive notice. There were no additional deficiencies noted that required notice to City College.</p> <p>Evidence: Johns Decl., ¶¶42-45.</p>
89	<p>Prior to receiving the July 2013 Termination Letter from Barbara Beno, City College administration received no notice that the Commission disagreed with the Show Cause Evaluation Team's findings with respect to the recommendations made by the 2012 Evaluation Team.</p> <p>Evidence: Agrella Decl. ¶¶6-7; Mandelman Decl. ¶¶7-9.</p>	<p>Disputed. This fact assumes there were additional deficiencies to which City College was entitled to receive notice. There were no additional deficiencies noted that required notice to City College.</p> <p>Evidence: Johns Decl., ¶¶42-45.</p>
90	<p>City College was not given additional time to respond to the additional perceived deficiencies noted in the July 2013 Termination Letter concerning City College's compliance with the recommendations made by the 2012 Evaluation Team.</p> <p>Evidence: Agrella Decl. ¶¶6-7; Mandelman Decl. ¶¶7-9.</p>	<p>Disputed. This fact assumes there were additional deficiencies to which City College was entitled to receive notice. There were no additional deficiencies noted that required notice to City College.</p> <p>Evidence: Johns Decl., ¶¶42-45.</p>
91	<p>The ACCJC's Policy on Commission Good Practice in Relations with Member Institutions provides:</p> <p>"If the Commission's action lists any deficiency, which was not noted in the External Evaluation Report, before making any decision that includes a sanction, denying or terminating accreditation, or candidacy, the Commission, through its president, will afford the institution additional time to respond in writing to the perceived deficiency before finalizing its</p>	<p>Undisputed.</p>

	action at the next Commission meeting.” Evidence: RJN Ex. 8 at pp.43-44 (Policy on Comm. Good Practice in Relations With Member Institutions #20b); RJN Ex. 9 at p.44 (Policy on Comm. Good Practice in Relations With Member Institutions #21b).	
	The ACCJC Violated Section 17200 By Unfairly Imposing A Harsher Sanction On City College And Giving City College Less Time To Correct Purposed Violations Than Similarly Situated Institutions.	
92	The ACCJC utilizes a system of sanctions against institutions who fail to meet accreditation standards. Those sanctions from most lenient to most severe include warning, probation, show cause, and termination of accreditation. Evidence: RJN Ex. 9 at 40-41 (Policy on Commission Actions on Institutions Part IV).	To the extent this fact is characterizing the sanctions that a Commission may impose are imposed incrementally from less severe to most severe, this fact is disputed. ACCJC does not have a “system” of incremental sanctions. Nevertheless, it is undisputed that ACCJC has a range of sanctions that may be imposed on an institution. Evidence: Johns Decl. ¶¶39-41, Exhibit G at 40 to Johns Decl.
93	Several California community colleges have lengthy sanction histories, being subject to a variety of ACCJC accreditation sanctions over several years. Evidence: Ichino Decl. ¶¶40-67 & Exs. 25-46.	Disputed as to the characterization of “several community colleges” as having “lengthy sanction histories.” The phrase “lengthy sanction histories” is ambiguous in the context of this fact; How long is lengthy? As such, this fact is disputed on the grounds it is unintelligible. The documents attached as exhibits speak for themselves. Moreover, the Ichino Decl. lacks foundation.
94	In 2006, the ACCJC reaffirmed City College’s accreditation without imposing any sanction at all. Evidence: RJN Ex. 2.	Undisputed that City College’s accreditation was reaffirmed, but it was reaffirmed with a progress report with a visit and a focused mid-term report. Moreover, the evidence cited to this fact does not support it; RJN Exh. 2 is the 2006 Evaluation Report,