

## Bylaws of the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges

*(Adopted January 2013; Amended May 2013, October 2013, January 2014,  
March 2014, June 2014, January 2015)*

### ARTICLE I PURPOSE

#### Section 1. Name

The name of this nonprofit corporation shall be the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges. This corporation shall be referred to throughout these bylaws as ACCJC.

#### Section 2. Purpose

ACCJC is a nonprofit, public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporations Law of the State of California for public and charitable purposes. Those public purposes include improving and validating the quality of post secondary education at public and private educational institutions, with a focus on community colleges, career and technical colleges, and junior colleges, through the creation and application of standards of accreditation and related policies, and through a process of review by higher education professionals and public members. ACCJC's evaluation of institutions assures the educational community, the general public, and other organizations and agencies that an institution has clearly defined objectives appropriate to higher education; has established conditions under which their achievement can reasonably be expected; appears in fact to be accomplishing them **substantially**; is so organized, staffed, and supported that it can be expected to continue to do so; and demonstrates that it meets ACCJC's Eligibility Requirements, Accreditation Standards and Commission policies. ACCJC encourages and supports institutional development and improvement through an institutional self-evaluation using the Accreditation Standards, Eligibility Requirements and Commission policies, as well as Midterm, Follow-Up and **Other** Special Reports, **Annual Reports**, and periodic evaluation of institutional quality by qualified peer professionals.

#### Section 3. Principal Office

The principal office of ACCJC is located at 10 Commercial Blvd, Suite 204, Novato, CA, 94949, or at such other location as the ACCJC shall decide. The ACCJC may establish branch or subordinate offices.

## ARTICLE II ACCREDITED INSTITUTIONAL MEMBERSHIP

### Section 1. Member Institutions

The members of ACCJC shall consist of the institutions that it has accredited, and membership shall be granted automatically upon the initial accreditation of an institution. Membership shall thereafter continue for so long as the institution remains accredited, complies with these bylaws and remains current on payment of any dues or special assessment obligations. Institutions that receive candidate (pre-accredited) status, have achieved initial association with the ACCJC and may so identify themselves to the public. In the event an institution loses its accreditation for any reason, its membership status shall cease immediately. In the event an institution resigns its membership, its accredited status shall cease immediately and none of the review or appeal rights which might otherwise be applicable shall apply.

### Section 2. Scope

The ACCJC accredits institutions in California, Hawaii, the Territories of Guam and American Samoa, the Commonwealth of the Northern Marianas, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands, which have as a primary mission the granting of associate degrees, but which may also award certificates and other credentials, including bachelor's degrees, *where the provision of such credentials is within the institution's mission and, if applicable, as authorized by their governmental authorities*. The ACCJC may accredit non-domestic institutions in other geographic regions at its discretion.

## ARTICLE III THE COMMISSION

### Section 1. Membership

The Commission consists of nineteen members, all of whom are elected by the member institutions, as described in Article IV. One Commission member shall represent the California Community Colleges Chancellor's Office and shall be selected from among the nominees provided by the California Community Colleges Chancellor. One Commission member shall represent the system office of the University of Hawai'i Community Colleges and shall be selected from among the nominees provided by the University of Hawai'i Community College Vice President for Community Colleges. At least five of the Commission members shall be academic representatives who are faculty; at least three (the precise number of whom shall at all times represent at least one seventh of the total membership of the Commission) shall be representatives of the public; at least three members shall be administrative representatives who are two-year college administrators; at least one member shall represent independent institutions; at least one member will represent secondary educational institutions accredited by the Accrediting Commission for Schools, Western Association of Schools and Colleges; at least one member will represent four-year colleges and universities accredited by the Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges; at least one member shall represent institutions in the American Affiliated Pacific Islands; and a maximum of two Commission members will meet the definition of an Affiliate Member. A representative of

the public is someone who is not: an employee, member of the governing board, owner, shareholder, or consultant to an institution that has applied for or is in candidacy or is accredited by the ACCJC; a member of any trade association or membership organization related to, affiliated with, or associated with the agency; or a spouse, parent, child, or sibling of such individuals. An Affiliate Member shall be a person who does not qualify under any of the other categories enumerated in the preceding sentence but who shall nonetheless be deemed to have expertise or skills that will add meaningfully to the Commission.

## **Section 2. Election of Commissioners**

Commissioners are elected for staggered three-year terms. Appointments are limited to two three-year terms unless the person is elected an officer for a term which extends beyond a sixth year, in which case an additional three-year term or a term of the length necessary to complete service as an officer may be served. Regular appointments are effective on July 1 of the first year and end on June 30 of the last year of a Commissioner's term.

A Commissioner elected to a membership category defined by position or status is expected to maintain that status for the entire term. If the Commissioner's position or status changes during a term so that the Commissioner no longer meets the requirement for the category to which elected, the Commissioner shall notify the Commission's chair or President in a timely manner. A Commissioner whose status has so changed is considered to have completed the term on the date that the new status is actually assumed, except that a Commissioner who holds an administrative or faculty position on the Commission and elects to retire will, upon review and approval of the Commission Chair, be permitted to complete the ~~academic~~ year of service **ending June 30** as a Commissioner.

## **Section 3. Vacancies During a Term**

If the position of a Commissioner becomes vacant, whether through resignation, removal, separation from his/her institutional affiliation, or death, the Nominating Committee shall be promptly notified. The Nominating Committee shall, at its sole discretion, either recommend to the Commission a replacement to serve out the remainder of the term of the position vacated or have the position filled at the next regularly scheduled election as described in this Article IV. In recommending a person to fill a vacancy, the Nominating Committee should consider, but not be limited by, the list of those persons previously proposed by the presidents of constituent institutions.

## **Section 4. Other Vacancies**

Except as otherwise provided in Section 3 of this Article, Commission vacancies will be filled through the Commissioner Election Process described in Article IV of these Bylaws. Anticipated vacancies will be announced at ~~the winter~~ **January** meeting for Commission terms due to expire at the end of the following June. Notice of Commission vacancies will be sent to the chief executive officers, accreditation liaison officers, and academic senate presidents of all member institutions, districts and systems; major organizations; and individuals known to have expressed interest. The notice will include the positions open for election, the Commissioners eligible for election, and the deadline for receipt of applications. Institutional and organizational representatives may submit nominations.

Individuals may also submit applications. Applications are considered to be in effect for one year.

All individuals that wish to be considered will complete application materials required by the Commission. All applicants and nominees, including Commissioners seeking re-election, will be asked to submit the following:

- a. A letter of application stating the basis for interest in the Commission.
- b. A completed ACCJC data/biographical form. (Service as a Commissioner will be considered for Commissioners seeking a second term.)

Individuals who are seeking initial appointment to the Commission will be asked to submit a resume and two letters of recommendation.

## **Section 5. Removal of a Commission Member**

Commissioners may be removed by two-thirds vote of the Commission for failure to exercise their responsibilities in accordance with the Commission policy on Professional and Ethical Responsibilities of Commission Members or for conduct which is detrimental to the purposes of the Commission.

## **Section 6. Resignation**

A Commissioner may resign at any time and such resignation shall become effective upon such Commissioner providing written notice to the Chair, President, or Secretary of ACCJC.

# **ARTICLE IV COMMISSIONER ELECTION PROCESS**

## **Section 1. Nominating Committee**

There shall be a Nominating Committee, the purpose of which shall be to nominate persons to serve on the Commission. The Nominating Committee shall consist of eight (8) persons, and shall serve for two years. The Executive Committee shall appoint four Commissioners and four individuals from member institutions to the Nominating Committee. The Chair and Vice Chair of the Commission may not serve on the Nominating Committee. The Nominating Committee will be chosen to represent the broad interests of the Commission's member institutions. At least one such appointment shall be a current or former public member (§602.3) of the Commission. The Executive Committee shall select the Chair of the Nominating Committee. The names of individuals appointed to the Nominating Committee shall be reported to the member institutions by the Commission.

## **Section 2. Solicitation of Commission Applicants**

The Commission shall notify the members of the Nominating Committee of the number and types of Commissioners to be selected and of any special considerations pertaining to such vacancies. The Commission shall write to all of the Presidents/Chancellors of the Commission's member institutions, the President of the Accrediting Commission for Senior Colleges and Universities (ACSCU) and the Executive Director of the Accrediting Commission for Schools (ACS), the chief executive officers, accreditation liaison officers,

and academic senate presidents of all member institutions, districts and systems, and major organizations, and individuals known to have expressed interest, listing the number and nature of any positions to be filled and soliciting nominees for the projected vacancies. To be considered the nominations must be returned by the date and time established by the Commission. Members of the Nominating Committee are ineligible for nomination to the Commission while serving on the Nominating Committee. The Nominating Committee shall review the nominees' qualifications, and shall prepare a slate of candidates, with one candidate being recommended for each position. In preparing such a slate, the Nominating Committee shall consider the need to meet the membership requirements of the Commission as outlined in Article III of the Bylaws, as well as the following:

- Representatives from the entire area served by the ACCJC, including California, Hawai'i, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau and the Commonwealth of the Northern Marianas.

Diversity in institutional characteristics, such as mission, size, geography, and location, and personal characteristics, such as ethnicity and gender, are considered by the Nominating Committee in reviewing applications. The Committee may not nominate applicants from institutions which already have a sitting Commissioner and will not nominate two applicants from the same institution.

### **Section 3. Nominations At Large**

The notice to the Presidents/Chancellors informing them of the slate of the Nominating Committee shall also include a notice of the right of the Presidents/Chancellors to nominate candidates on an at-large basis for the vacant positions on the Commission within the time frame established by the Commission. To be added as an at-large candidate, a candidate must have the written endorsement of ten (10) or more Presidents/Chancellors. An at-large candidate may not be placed on the ballot if a sitting Commissioner is from the same institution or if the nominating committee has recommended an applicant from the same institution for a different position on the Commission. Presidents/Chancellors should also be mindful of the desired diversity in institutional and personal characteristics of Commissioners in nominating at-large candidates.

### **Section 4. Election**

The ACCJC shall send a ballot to the President/Chancellor of each member institution which shall include the slate of the Nominating Committee and any candidates at-large. Each President/Chancellor shall be asked to vote for or against the slate, or for any at-large candidates nominated by the process described in Section 3 in lieu of those individuals on the Nominating Committee's slate. To be considered, ballots must be returned to the ACCJC offices within the time frame established by the Commission. Ballots received after the cutoff date will not be counted. Ballots shall be handled by the ACCJC executive staff in a manner to preserve, insofar as practicable, the privacy of persons voting and the institutions they represent. Measures shall be taken by the executive staff to assure the validity of all ballots. The executive staff shall be responsible for the preservation of ballots and tally sheets, which shall be preserved for a period of one hundred eighty (180) days after the election is announced, absent a challenge to an election, in which case the ballots shall be preserved until the challenge is resolved. A challenge to the election results can be brought

by any President/Chancellor of a member institution. Any challenge to the election results must be received by the Chair of the Commission within fourteen days after the announcement of the election results. The Chair shall refer the challenge to the Nominating Committee which shall have the authority to take whatever steps it considers appropriate to make a final decision on the matter.

## **Section 5. Counting the Ballots**

The counting of the ballots shall take place at the ACCJC offices and shall be conducted by the executive staff. The persons receiving the highest number of votes shall be elected to the Commission. In the event of a tie, which prevents the seating of one or more vacant positions, there shall be a runoff of those persons who tied. All persons receiving more votes than those who tied shall be considered seated and shall not participate in the runoff. The runoff shall be by electronic means or mail and shall be conducted according to time frames established by the Commission. The results of the election shall be announced as soon as practicable thereafter. Every effort shall be made to complete the process by mid-May.

# **ARTICLE V COMMISSION MEETINGS**

## **Section 1. The Time and Place**

The Commission shall meet in regular session twice each year to consider the accredited status of institutions evaluated since the previous meeting and to address such policy and organizational business as shall come before it. Written notice of the time and place of meetings, and a preliminary agenda shall be mailed to the chief executive officer of each member institution, normally 45 days prior to the date of each meeting. At its discretion, the Commission may schedule such additional meetings as it deems necessary.

## **Section 2. The Agenda**

Consideration of the accredited status of institutions and other confidential matters concerning member institutions will take place in Closed Session. ACCJC personnel matters will be considered in Executive Session as will any matter where it has been deemed necessary to consult with legal counsel.

All institutional policy language being considered for Commission approval as first or second readings, and all language revising Accreditation Standards, shall be considered in public session. Observers are provided the opportunity to address the Commission in accordance with the Commission Policy on Access to Commission Meetings.

## **Section 3. Minutes**

The Commission shall maintain minutes of all of its meetings. The Commission Chair, in consultation with the President, shall designate those subjects which are to be discussed in executive, closed and public sessions.

## **Section 4. Commission Actions**

At the call of the Commission Chair, and subject to prior consent setting forth such action

by two-thirds of the Commission then in office, executed in writing, FAX, e-mail, telephone, or other electronic means, actions required or permitted to be taken at a meeting of the Commission may be taken without a meeting. Such consent, the reasons therefore, and the substance of the Commission action is filed with the minutes of proceedings of the Commission.

## **Section 5. Operational Policies**

From time to time, the Commission may adopt, amend, or repeal policies that deal with the internal operation of the ACCJC and its staff. Action on such policies may take place at any Commission meeting, in open or closed session, and do not require two readings.

# **ARTICLE VI THE BOARD OF DIRECTORS**

## **Section 1. Composition of the Board of Directors**

The Board of Directors shall at all times consist of those individuals elected to the Commission pursuant to Article III. The initial directors of ACCJC shall be the individuals identified under Article III, Section ~~1 Z~~, who shall also be named as directors in the Action by Incorporator, filed with the minutes of the Board of Directors ("Board"). The Board and the Commission shall at all times constitute the same body and shall consist of the same individuals; however, the Board shall be referred to as the Commission when it is meeting on matters concerned with the accreditation of its member *institutions*.

## **Section 2. Authority and Responsibility of the Board of Directors**

The direction and management of the affairs of ACCJC and the control and disposition of its properties and funds shall be vested in the Board. All powers, duties and functions of ACCJC, conferred by the Articles of Incorporation, these Bylaws, state statutes, common law and otherwise, shall be exercised, performed, or controlled by the Board. The Board shall determine ACCJC's policies or changes therein and supervise the management of funds. The Board may adopt, by majority vote, such rules and regulations for the conduct of its business and the business of ACCJC as shall be deemed advisable, and may in the execution of its duties, delegate its authority to an executive committee. Under no circumstances, however, shall any actions be taken which are inconsistent with the Articles of Incorporation and these Bylaws, and the fundamental and basic purposes of ACCJC, as expressed in the Articles of Incorporation and these Bylaws.

## **Section 3. Vacancies, Resignations, and Removals**

A board position will become vacant when the director filling such position ceases to be a Commissioner, regardless of the reason. For procedures and processes relating to resignation, removal, or other reasons which will cause a position to become vacant on the Commission and on the Board, see Article III, Section 4, 5 and 6.

## **Section 4. Quorum**

The majority of the Board (not counting any board positions that are vacant) shall constitute a quorum for the transaction of business, except in no instance may a quorum be less than one-fifth of the authorized number of directors. Every act or decision done or

made by a majority of the directors present at a meeting held at which a quorum is present shall be regarded as the act of the Board, subject to the provisions of the Nonprofit Corporation's Law (California Corporations Code, § 5000 et. seq.). A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of any director, if any action thereafter taken is approved by at least a majority of the quorum required for the meeting. A majority of the directors present, regardless of whether a quorum is present, may vote to adjourn a meeting.

### **Section 5. Action without a Meeting**

Any action required or permitted to be taken by the Board may be taken without a meeting if all directors individually or collectively consent in writing to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

### **Section 6. Minutes**

The Board shall maintain minutes of all of its meetings and proceedings. The meetings of the Board may take place concurrently with meetings of the Commission or separately, at the discretion of the Board, but the minutes of Board meetings shall be maintained separately.

### **Section 7. Agenda**

The Board's Chair, in consultation with the President, shall decide the Board's agenda. The Board's business shall include all matters which require Board action or review. When the Board meets to consider actions that concern the candidacy or accreditation of member institutions, the imposition of sanctions, or the review and approval of eligibility criteria, accreditation standards or institutional policies ("**Accreditation Matters**"), the Board shall do so as the Commission, *meeting in closed session*, and shall act under Articles III and V of these Bylaws. Authority and responsibility over all Accreditation Matters resides exclusively with the Board when it is acting as the Commission. Examples of Board agenda items, when the Board is not acting as the Commission, include the review and acceptance of ACCJC's annual audit, review and approval of any internal operational policies, review of ACCJC's investments and reserves, receipt of reports from the Executive and other committees concerning matters that do not involve Accreditation Matters, review of ACCJC's relationship with vendors, including its banking relations, review and approval of any leases for space or other significant contracts, approval of any loans or lines of credit, personnel issues that require board review, periodic evaluation of its President, review of ACCJC's insurance policies, and such other matters, involving the policy or direction of ACCJC that are referred to it. Board meetings that do not involve Accreditation Matters will ordinarily be conducted in Executive Session.

## **ARTICLE VII OFFICERS**

### **Section 1. Officers**

ACCJC shall maintain the following officers: a Chair, a Vice Chair, the President, a Secretary and a Chief Financial Officer. The positions of Chair, Vice Chair, and President

shall be held by different persons. The Secretary and Chief Financial Officer positions may be held by the same person or by persons who hold other officer positions.

## **Section 2. Selection of Officers**

The position of Chair is filled by the succession of the Vice Chair. The Vice Chair is elected by the Board and succeeds to the office of Chair when that office becomes vacant. He or she then serves a two-year term as Chair. No member of the Board may serve as its Chair for longer than three consecutive years. Thus, the Vice Chair may succeed to no more than twelve months of an unexpired term, followed by his or her two-year term. When a vacancy occurs in the Vice Chair position, an election to fill that office must occur within 45 days of the position becoming vacant.

Nominations for Vice Chair are normally solicited from the Directors before the ~~winter~~ **January** meeting prior to the end of the Chair's term. Nominees for the position shall represent a different membership category from that of the incoming Chair. Four weeks prior to the scheduled vote, each nominee must submit a ~~200-word~~ **statement of 200 words or less**, explaining why he or she is seeking the office. The statement is distributed to the full Board prior to the vote. Voting is conducted through a secret ballot submitted to the ACCJC executive staff. The results are to be announced to the entire Board within one week.

Officers are expected to serve in several ex-officio capacities. The Chair serves as an ex-officio, voting member of the Budget and Personnel Committee and of the Policy Committee, and as Chair of the Executive Committee. The Commission chair also serves on the WASC Board. The Vice Chair serves as an ex-officio voting member of the Executive Committee, and the Committee on Substantive Change, and may serve as the Substantive Change Committee's chair. The chair of the Budget and Personnel Committee serves as an ex-officio member of the Executive Committee.

The President, the Secretary, and the Chief Financial Officer shall be appointed by the Board and shall serve at the pleasure of the Board, subject to the rights, if any, under any contract of employment.

## **Section 3. Subordinate Officers**

The Board may appoint, and may empower the President to appoint, such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these Bylaws or as the Board may from time to time determine.

## **Section 4. Removal and Resignation of Officers**

Subject to the rights, if any, of an officer under any contract of employment, any officer may resign at any time by giving written notice to the President. Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by the Board, and, if appointed by the President, by the President.

## **Section 5. Vacancies in Office**

A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these Bylaws for regular appointments to that office.

## **Section 6. President**

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.

## **Section 7. Chair**

The Chair of the Board shall preside at all meetings of the Board and of the Commission. The Chair of the Board shall also serve concurrently as Chair of the Commission. The Chair shall exercise and perform such other powers and duties as may be from time to time assigned to him or her by the Board or by the Commission or as may be prescribed by these Bylaws. In the absence or ~~disability~~ **incapacitation** of the President, the Chair shall also perform the duties of the President.

## **Section 8. Vice Chair**

In the absence or ~~disability~~ **incapacitation** of the Chair, the Vice Chair shall perform the duties of the Chair, and, when so acting shall have all the powers of the Chair. The Vice Chair shall have such other powers and perform such other duties as from time to time may be prescribed by the Chair or by these Bylaws.

## **Section 9. Secretary**

The Secretary shall keep or cause to be kept, at the principal executive office or such other place as the President may direct, a book of the minutes of all meetings and actions of Board and the Commission with the time and place of holding, whether regular or special, and, if special, how authorized, the names of those present at such meetings, and actions taken.

The Secretary shall give, or cause to be given, notice of all meetings of the Board and the Commission and shall have such other powers and perform such other duties as may be prescribed by the Board, the President, or these Bylaws.

## **Section 10. Chief Financial Officer**

The Chair of the Budget and Personnel Committee shall act as the Chief Financial Officer and shall be responsible for maintaining, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the ACCJC, including accounts of its assets, liabilities, receipts, disbursements, gains, and losses. The books of account shall at all reasonable times be open to inspection by the President and any member of the Board.

The Chief Financial Officer shall report to the President and the Board, at such times as they shall direct, an account of all of the financial condition of ACCJC, and the Chief Financial Officer shall have other powers and perform such other duties as may be prescribed by the President or the Board or by these Bylaws.

## ARTICLE VIII COMMITTEES

The Executive Committee shall be comprised of the Chair, the Vice Chair, and the Chair of the Budget and Personnel Committee. For purposes of continuity of leadership, an individual who has completed a two-year period as Chair and who remains on the Commission to complete a term will also serve on the Executive Committee. The Executive Committee shall serve as council to the President between Board and Commission meetings and is authorized to act for the Board and the Commission between meetings on all matters that would appropriately come before the Board or the Commission and where action prior to the next Board or Commission meeting is necessary. All actions taken by the Executive Committee shall be reported to the Board or to the Commission, as appropriate, at its next meeting.

The Board and Commission shall be served by such standing and ad hoc committees as they create. Ad hoc committees, to serve the Board or Commission, may be created at the discretion of the Chair, but their creation, functions, and authority must be ratified by a simple majority of the Board or Commission at the first Board or Commission meeting following the creation of the ad hoc committee.

Standing committees shall be authorized by a simple majority of the Board or Commission and may be dissolved by the same margin of the Board or Commission. The Commission may charge a standing committee with authority to act on its behalf, to the extent permitted by law. In such case, the standing committee of Commissioners must comprise academic representatives and administrative representatives, and at least one seventh of the committee membership must comprise representatives of the public. No Standing Committee membership may be comprised of a majority of the Board or Commission. Members and chairs of standing committees are appointed by the Chair and serve ~~two~~ one-year terms. Current standing committees of the Commission are the Audit Committee, the Budget and Personnel Committee, the Committee on Substantive Change, the Policy Committee, and the Evaluation and Planning Committee. ***The Commission has charged the Substantive Change Committee with authority to act on its behalf on substantive change requests.*** The Commissioner Nominating Committee is constituted at regular intervals as described in Article IV, above.

## ARTICLE IX APPEALS

### Section 1. Right to Appeal

If an institution, after availing itself of ~~the Commission's~~ Review ***of Commission Action*** process, described in the Commission's Policy ~~on~~ Review of Commission Actions, is the recipient of a Commission action that sustains a denial or termination of candidacy or accreditation, the institution shall have the right to appeal that decision. In order to perfect the appeal, the institution, acting through formal authorization to its chair from the institution's governing board, must deliver a notice of appeal to the President within 30 calendar days of receiving notice of the ~~Commission's action decision on the~~ Review ***of Commission Action*** to affirm an adverse action on the institution. ***The notice of appeal must be*** in the form described in the ACCJC Appeal Procedures Manual (described in Section

3 below). During the period up to and including the pendency of the appeal, the institution's status with the Commission shall remain the same as it was prior to the decision being appealed.

## **Section 2. Hearing Panel**

Upon receipt of a properly completed and delivered notice of appeal, the Executive Committee shall appoint a Hearing Panel consisting of not less than five (5) nor more than seven (7) qualified persons. The Executive Committee shall also appoint the chair of the Hearing Panel. The Hearing Panel members may not be current Commission members and may not have participated, whether through Review Committee participation or through prior team participation, in the decision being appealed. At least one member of the Hearing Panel shall be a representative of the public. A representative of the public is someone who is not: an employee, member of the governing board, owner, shareholder, or consultant to an institution that has applied for or is in candidacy or is accredited by the ACCJC; a member of any trade association or membership organization related to, affiliated with, or associated with the agency; or a spouse, parent, child, or sibling of such individuals. The Hearing Panel shall also include an administrative representative with post-secondary administrative experience, and an academic representative with post-secondary faculty experience.

Each member selected must sign the Commission's "Appellate Conflict of Interest Policy," acknowledging that they do not have conflict of interest. The institution shall have the ability to challenge the selection of any Hearing Panel member for cause according to the procedures in the ACCJC Appeal Procedures Manual. ~~Each member, including the Chair, shall have one vote.~~ Any replacement Hearing Panel members shall be selected in the same manner.

## **Section 3. Appeal Procedures Manual and Appellate Conflict of Interest Statement**

The Commission has adopted an appeals manual, referred to herein as the "ACCJC Appeals Procedures Manual." The ACCJC Appeals Procedures Manual sets forth more fully the procedures for conducting the appeal. A copy of the ACCJC Appeals Procedures Manual will be provided to the institution when the institution receives notice of an appealable Commission action. The Commission has adopted an "Appellate Conflict of Interest Policy" which members of the Hearing Panel must sign before they may be seated to hear an appeal.

## **Section 4. Costs**

An institution bringing an appeal shall file a deposit to cover one half of those out of pocket costs of the Commission, as set forth more fully in the ACCJC Appeals Procedures Manual. The Commission will establish the amount of the deposit and may modify it from time to time at its discretion. In the event the actual costs exceed the amount of the deposit, the institution shall be responsible for the balance and may be required, during the appeal, to supplement the deposit. In the event the deposit exceeds the necessary costs, the institution shall receive a refund of the difference at the conclusion of the appeal. In the event the institution prevails in the appeal, the Hearing Panel shall have the discretion to refund the institution's deposit at the conclusion of the appeal.

## Section 5. New Financial Evidence

*If, following the Review of Commission Action, the institution's deficiencies leading to noncompliance only relate to the institution's finances, then on one occasion only and not later than thirty (30) days prior to the date the appeal is scheduled to commence ~~and only in the event the institution's deficiencies, following the Review, only relate to the institution's finances,~~ the institution may request a special review of new financial evidence* by filing a written request for such review with the President and identifying that information which, in the opinion of the institution's chief executive officer, constitutes New Financial Evidence. Such request shall be co-signed by the chair of the institution's governing board. New Financial Evidence is evidence that (1) was unavailable to the institution until after the date upon which the Commission's policies permitted the institution to submit evidence that was considered in connection with the action being appealed (and is therefore timely), and (2) bears materially on the financial deficiencies identified by the Commission ***which resulted in findings of noncompliance***. Evidence shall be deemed to bear materially on the financial deficiencies only if such evidence is of sufficient gravity that, if proven, would be likely to cause the Commission to reverse the decision being appealed.

Upon receipt of the New Financial Evidence, the Commission's Chair shall form an ad hoc committee of no fewer than three (3) Commissioners (the New Financial Evidence Committee) to review the New Financial Evidence. The membership of the New Financial Evidence Committee may include Commissioners who have acted as readers or for other reasons are familiar with the issues affecting the institution, but may not consist of any Commissioners who have a conflict of interest with respect to the institution as defined by the Commission's Conflict of Interest Policy. The New Financial Evidence Committee shall conclude prior to the date the appeal hearing is scheduled to commence. The decision of the New Financial Evidence Committee shall be communicated in writing to the institution and to the President. The decision of the New Financial Evidence Committee shall not be subject to any further review or appeal, except as herein provided. If, in the sole judgment and discretion of the New Financial Evidence Committee, acting by majority vote, the New Financial Evidence is found not to have been raised in a timely manner or is found not to bear materially on the financial deficiencies of the institution, the appeal hearing shall continue without interruption, and the New Financial Evidence shall not become part of the record on appeal.

If, in the sole judgment and discretion of the New Financial Evidence Committee, the New Financial Evidence is found to have been raised in a timely manner and to bear materially on institution's financial deficiencies, the President shall immediately postpone the hearing until after the date of the next Commission meeting at which time the Commission will reconsider the decision being appealed. The Commission shall independently review the New Financial Evidence and make its own determination regarding whether such evidence was timely and material. If, in the sole discretion of the Commission, the New Financial Evidence is found to have been raised in a timely manner and to bear materially on the institution's financial deficiencies, the Commission shall render a new decision which shall act to remove the previous sanction. It may, in its sole discretion, impose any other lesser sanction and conditions which it deems appropriate, and the institution shall not be able to seek further appeal or review from such lesser sanction, if any is imposed. In such instance, the Commission shall instruct the President to dismiss the appeal.

If, in the sole discretion of the Commission, the New Financial Evidence is not found to have been raised in a timely manner or if it is found not to bear materially and significantly on the financial deficiencies which served as the basis of the decision that is being appealed, the Commission shall instruct the President to take the necessary steps to resume the appeal hearing. In all events, the decision of the Commission shall include findings on the timeliness and materiality of the New Financial Evidence. Such decision shall not be subject to consideration by the Hearing Panel. Such decision in all instances shall be communicated in writing to the institution, to the President, and to the Hearing Panel's Chair.

## **Section 6. The Appellate Hearing**

The President shall arrange the appellate hearing at the earliest practicable date. Those testifying shall not be placed under oath. The Commission will ordinarily have legal counsel present, and the institution has a right, but is not required, to have legal counsel present.

At least sixty (60) calendar days before the time set for the appellate hearing of such an appeal, the President shall cause notice of the time and place of the appellate hearing to be delivered, by a means that will assure a written receipt, to the Chair of the governing board of the institution with a copy to its chief executive officer.

## **Section 7. Grounds for Appeal**

The grounds for appeal shall be limited to the following: (1) there were errors or omissions in carrying out prescribed procedures on the part of the evaluation team and/or the Commission which materially affected the Commission's action; (2) there was demonstrable bias or prejudice on the part of one or more members of the evaluation team or the Commission which materially affected the Commission's action; (3) the evidence before the Commission prior to and on the date when it made the action which is being appealed was materially in error; or (4) the action of the Commission was not supported by substantial evidence. The "action" referred to in this Section refers to the Commission's action at the conclusion of the ~~Commission's~~ **Review of Commission Action** process.

## **Section 8. Decision of the Hearing Panel**

The Hearing Panel shall make its decision by a vote of the majority on the basis of the admissible evidence and arguments presented to it at the hearing. ***Each member, including the Chair, shall have one vote.*** The Hearing Panel's decision ~~may~~ **shall** include a determination as to whether the grounds for appeal were established. The Hearing Panel may act to dismiss the appeal for lack of grounds, affirm in whole, affirm in part and amend, reverse, or remand the action being appealed and the reasons that were cited in its support. The Hearing Panel shall issue its decision and the reasons therefore in writing within thirty (30) calendar days and will inform the ACCJC President, the chair of the governing board of the institution and the chief executive officer of the institution of such decision. Such decision shall not be subject to any further appeal.

1. If the Hearing Panel finds in favor of the institution on one or more of grounds (1) through (4) of Section 7 above, the Hearing Panel's decision will have the effect of reversing the denial or termination of the candidacy or accreditation of the institution. Its decision may recommend, but shall not dictate, any terms or conditions to be imposed on the accreditation or candidacy of the institution by the

Commission when it implements the Hearing Panel's decision. The Commission shall thereafter implement the Hearing Panel's decision and, in doing so, shall retain the discretion to impose conditions, including a sanction which is less than the denial or termination of candidacy or accreditation on the candidacy or accreditation of the institution. The Commission's implementation action shall be consistent with the Hearing Panel's decision. Such implementation action by the Commission will be communicated to the institution and shall not be subject to further review or appeal.

2. If the Hearing Panel finds against the institution on any of the four grounds in Section 7 above, it shall deny that portion of the appeal which is based on that ground. If the Hearing Panel finds against the institution on all grounds appealed, its decision shall act to affirm the action of the Commission which was appealed. The decision under this subsection (2) shall not be subject to any further review or appeal.
3. If the Hearing Panel finds that there are issues which deserve further consideration by the Commission, the Hearing Panel shall remand the Commission's action to the Commission. Such remand decision shall identify the issues that must be addressed further by the Commission and shall include any instructions which the Hearing Panel believes are necessary in order to assure that the Commission's final action will be consistent with the Hearing Panel's decision. The Commission shall thereupon consider such issues and arrive at a final action which shall be consistent with the Hearing Panel's decision and instructions. The action by the Commission following such remand shall be final and shall not be subject to further review or appeal.

## **Section 9. Institutional Financial Obligations Following Litigation**

Any institution which takes legal action against the ACCJC regarding an accreditation decision and withdraws or loses its case is responsible for assuming all costs incurred by the ACCJC while defending its position, including attorney fees. These costs must be paid in full within 45 days following the institution's receipt of the ACCJC invoice, unless other arrangements are approved by the Executive Committee acting on behalf of the ACCJC Board of Directors.

## **ARTICLE X LEGAL EXPENSES REIMBURSEMENT**

*In the event and in instances when ACCJC is not a party to litigation, that ACCJC receives criminal or civil inquiries, including subpoenas, deposition notices or other discovery requests related to institutions which are applicants to ACCJC, accredited or granted candidacy for accreditation by ACCJC, or which have been previously accredited by ACCJC, then the institution that is related to the request will be responsible for reimbursing ACCJC for all costs associated with responding to the subpoena, deposition notice or other discovery request, including the reasonable cost of legal counsel, staff time, and copying. In addition, the institution will be responsible for the legal fees and related expenses associated with legal review of proposed memoranda of understanding, contractual agreements with other institutions or other issues arising from the accreditation process, including substantive change.*

## **ARTICLE X STANDING RULES**

Robert's Rules of Order shall govern all meetings of the Board, the Commission and committees, except in the case where ACCJC has adopted standing rules. All standing rules of the ACCJC shall take precedence over Robert's Rules of Order.

## **ARTICLE XI INDEMNIFICATION**

The Accrediting Commission for Community and Junior Colleges (ACCJC) does hereby grant indemnification to any officer, director, commissioner, or other agent, or former officer, director, commissioner, or other agent, including but not limited to the ACCJC's employees and team members, for claims or actions asserted against said person arising out of acts or omissions alleged to have occurred in connections with, or as a result of his or her activities as an officer, director, commissioner, employee, or agent, of the ACCJC, to the fullest extent permitted by law; provided however, as follows:

- a. If any claim or action is asserted or threatened to be asserted, as described in such statutes, the person requesting indemnification must give timely notice thereof to the President of the ACCJC; and
- b. The ACCJC must approve of the law firm that will defend that person in such claim or action.

Indemnification shall be provided herein only to the extent that valid and collectible insurance coverage under all existing policies of insurance held by the ACCJC has been exhausted.

## **ARTICLE XII AMENDMENTS**

These bylaws may be amended by a simple majority vote of the Board after the proposed amendments have been circulated among the Board members at least two weeks before the meeting at which the vote is taken. In those instances where time is of the essence, the Board may employ telephone, mail, or electronic ballot processes. Notwithstanding the foregoing, any amendment that would terminate all or any class of memberships shall not go into effect until the members have approved amendment in accordance with the procedures contained in Section 5342 of the Corporations Code, or its any successor statute.