

**REPORT HIGHER EDUCATION**

Protected: Academic Freedom Is Under Attack. College Accreditors May Be the Best Line of Defense.

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What You Should Know:

- The academic freedom enjoyed by American universities is envied around the world, but amid campus protests and the responses to them that freedom is once again under attack.
- College accreditors—the agencies vested with the task of ensuring institutional quality in America’s higher education system—are best suited for ensuring that colleges can withstand pressure from politicians, religious leaders, social organizations, and even from within the academies themselves to change their curricula, faculty, and pedagogy.
- This report—the first of its kind—surveys the published standards of fifty-six accrediting agencies to see what policies they contain regarding academic freedom, as well as faculty job security, faculty academic leadership, and institutional autonomy.
- The report concludes that rather than let politicization of America’s higher education system undermine perhaps its most valued characteristic around the world, accreditors would best assert their own role in protecting academic freedom.

In the year 1600, Giordano Bruno, a Dominican friar, was burned at the stake. Why? His intellectual pursuits led him to believe that the Earth revolves around the Sun, rather than the Sun revolving around the Earth as the Catholic Church insisted.¹ In the ensuing decades, Galileo Galilei was more cautious in how he published the findings from his telescopic observations, following guidance from the Pope's representatives regarding how to frame the research. His strategy worked for a while. Eventually, however, intolerant activists demanded that Galileo be punished, and ultimately, as an old man, he was called to Rome, forced to recant his views under threat of torture, and imprisoned until his death.²

In similar ways, for centuries, academies of higher learning around the world have at times been subject to intense pressure to change such things as what is taught, how it is taught, who teaches it, and how the academies are run. While no academics in the United States have been burnt at the stake, American colleges and universities have, over the years, felt enormous pressure from politicians, religious leaders, social organizations, and even some offices and factions inside the academies themselves to change curricula, prohibit or pursue certain fields of study, fire or hire faculty, or make changes in governance structures.

All of these attempts to pressure colleges and universities threaten academic freedom, a bedrock principle of American higher education. Academic freedom is the idea that a higher education institution, while grounded in academic disciplines that have developed over time, should nonetheless be a place where ideas can be expressed, questioned, and debated without restrictions or consequences, especially those imposed from outside the academy. More than a hundred colleges have affirmed that concept as expressed in a 2014 report that has become known as the "Chicago Principles."³ It includes a description of the ideal from Hanna Gray, a former University of Chicago president:

Universities should be expected to provide the conditions within which hard thought, and therefore strong disagreement, independent judgment, and the questioning of stubborn assumptions, can flourish in an environment of the greatest freedom.⁴

That bedrock principle is a large part of the reason that American universities are the envy of the world, as institutions that develop innovative leaders, scientists, and entrepreneurs.

With the principle of academic freedom under such frequent and sometimes vigorous attack, what bolsters college leaders' ability to withstand the pressure? One way is for colleges to join together to uphold high academic standards—which is exactly the role that college accrediting agencies took on when they emerged about a hundred years ago. These accrediting agencies, therefore—an array of them, with varying approaches—are the most appropriate organizations to continue holding colleges and universities accountable for maintaining academic freedom.

This report analyzes the extent to which the written standards of college accrediting agencies include elements related to academic freedom. The standards of fifty-six accrediting agencies were examined with regard to four components critical to ensuring that colleges maintain academic freedom:

- **Faculty academic freedom.** Faculty should be able to choose what they teach, but principles are difficult to enforce if they are not written. Does the accreditor have policies requiring member colleges to support faculty academic freedom?
- **Faculty job security.** When faculty do not have tenure, they are in far greater peril when discussing controversial topics, or raising questions that might conflict with powerful interests. Do the accreditor's policies support job security for faculty?
- **Faculty academic leadership.** A quality university is guided by reasoned inquiry, the province of discipline experts. Does the accreditor expect institutions to generally defer to faculty for making decisions regarding curriculum and other academic matters?
- **Institutional autonomy.** Outsiders frequently seek to impose their will on colleges, often to change what is being taught or even silence who is teaching it. Does the accreditor have policies that help institutions protect against academic interference from politicians, donors, and activists?

Most of the accreditors examined for this report are federally recognized, which means they have been determined to have certain structures and procedures.⁵ The requirements for federal recognition do not include academic freedom or related topics, though the federal requirements include an expectation that accreditors enforce any standards they adopt.

Academic Freedom Evolved as an American Strength

As influential social institutions, colleges are magnets for social conflicts and battles over control of their curricula, faculty, and pedagogy. Church leaders want to tell affiliated colleges what to teach; elected officials believe it should be their right to do as they wish with public institutions; new trustees arrive with agendas they seek to implement; faculty, as experts in their discipline, seek to protect their domain; donors, alumni, and activists of all stripes press to add to or subtract from what is taught, what is required, who can teach, and even, sometimes, how students are graded.

These kinds of disputes have roiled colleges worldwide for a millennium. Two hundred years ago in the United States, fights over the control of Harvard, Columbia, William and Mary, and the University of Pennsylvania culminated in an 1819 U.S. Supreme Court decision involving Dartmouth, severely limiting government intrusion into college affairs if the intrusion was not envisioned in the original corporate charter.⁶ This was one of the cases that essentially helped establish the concept of the private corporation, and caused states, as they established new universities, to be more explicit about their ongoing role at what are now called “public” institutions.

As the nation and its system of higher education grew, the role of college trustees, private or public, needed refinement. With larger, research-oriented universities emerging in the 1800s, governing boards became frequently “officious, meddling, and often tyrannical,” according to historians of academic freedom.⁷ To promote knowledge production, college leaders began to see a benefit in deferring to the faculty, individually and as a collective, on academic issues—while acknowledging that the boards of

trustees had the ultimate authority.⁸ The European university model had developed with faculty in the driver's seat, and colleges in the United States began to emulate it by granting faculty relatively freer reign, viewing their role as not only spreading knowledge but also questioning received wisdom; Johns Hopkins University was explicitly founded on that model.⁹

In 1915, faculty members from various universities gathered to develop a declaration about what they labeled *academic freedom*, the idea that faculty, while surely responsible for a particular curriculum, should not be unduly constrained. They launched the American Association of University Professors (AAUP) to monitor and support faculty academic freedom and expression. These Principles on Academic Freedom and Tenure were updated in 1940, and endorsed by the major associations of colleges and universities.¹⁰ The statement has continued to evolve and adapt in various quarters.¹¹ (It is important to note that academic freedom is not the same thing as freedom of speech. Unlike free speech, which is a constitutional right applicable to public institutions, the concept of academic freedom is an institutional choice, a characteristic that is commonly considered to be a marker of quality.)

At about the same time that the AAUP emerged a hundred years ago, to ensure educational quality, regional associations of colleges began to take on the task of establishing standards to hold themselves to.¹² Eventually spanning the country, the regional associations and some other associations of colleges were tapped by the federal government in 1952 as “reliable authorities” on educational quality—accrediting agencies—through which colleges would be eligible for financial aid under the GI Bill for veterans.¹³ (In this report, the regional agencies are still referred to by their historic regions even though they are no longer geographically restricted under federal law.)¹⁴

Today, all of the formerly regional accreditors include, to varying degrees, faculty academic freedom in their standards. So do five of the eleven medical accreditors and three of the five religion-based accreditors. Much less common are standards affirming faculty job security, which exist in only five of the fifty-six accreditors' standards, none of them a regional agency. Protection from external meddling is addressed in the standards of five of the formerly regional accreditors and just a few of the others. And with regard to the fourth element, faculty leadership on academic matters, thirteen agencies have a requirement, including four of the six formerly regional agencies. The findings are detailed below.

College Accreditors and Their Standards

The standards of fifty-six accrediting agencies were examined for this report, including the six formerly regional agencies that have historically accredited nearly all of the name-brand institutions in the country.¹⁵ The other fifty agencies analyzed in this report generally accredit fewer schools than do the formerly regionals, but can be important in particular sectors or disciplines, such as medicine and law. (See Table 1.)

Eight of the examined accreditors are *not* federally recognized. Those reviewing chemistry programs, teacher preparation (Council for the Accreditation of Educator Preparation, or CAEP), early childhood educator preparation, engineering, business schools, and social work, are included because they accredit a substantial number of university programs. The two other

agencies included are new efforts to base accreditation on workforce outcomes.¹⁶

TABLE 1

ACCREDITOR STANDARDS EXAMINED		
Accreditor Standards Examined	Description	Number of Schools or Programs
Formerly Regional Accreditors (6)		
Higher Learning Commission (HLC)	Historically limited to midwestern and southwest states (now not restricted)	1,069
Middle States Commission on Higher Education (MSCHE)	Historically limited to Delaware, the District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, the Virgin Islands (now not restricted)	550
New England Commission of Higher Education (NECHE)	Historically limited to New England states (now not restricted)	249
Northwest Commission on Colleges and Universities (NWCCU)	Historically limited to Washington, Oregon, Idaho, Alaska, Montana, Utah (now not restricted)	174
Southern Association of Colleges and Schools (SACS)	Historically limited to Southern states, including Texas (now not restricted)	851
Western Association of Schools and Colleges (WASC) Senior College and University Commission (WSCUC)	Historically limited to California, Hawaii, and Pacific territories (now not restricted)	243
Religion-based Accrediting Agencies (5)		
Association for Biblical Higher Education (ABHE)	Institutional accreditor	158
Association of Advanced Rabbinical and Talmudic Schools	Institutional accreditor	98
Association of Institutions of Jewish Studies	Institutional accreditor	37
Association of Theological Schools	Institutional accreditor	249

Transnational Association of Christian Colleges and Schools (TRACCS)	Institutional accreditor	139
Specialized Professional/Doctoral Accrediting Agencies (13)		
Accreditation Commission for Acupuncture and Herbal Medicine	Programmatic institutional	83
Council of the Section of Legal Education and Admissions to the Bar, American Bar Association	Programmatic/institutional accreditor of law schools	210
American Osteopathic Association Commission on Osteopathic College Accreditation (COCA)	Programmatic/institutional accreditor of schools training physicians earning the DO degree	38
Council on Podiatric Medical Education	Programmatic/institutional	11
Council on Chiropractic Education	Programmatic/institutional	17
American Psychological Association, Commission on Accreditation (APA-CoA)	Programmatic only	899
Council on Naturopathic Medical Education (CNME)	Programmatic only	6
Liaison Committee on Medical Education (LCME)	Programmatic accreditor of schools training physicians earning the MD degree	150
American Speech-Language-Hearing Association (CAA-ASHA)	Programmatic only	326
American Veterinary Medical Association, Council on Education (AVMA-COE)	Programmatic only	33
Commission on Dental Accreditation, American Dental Association (CODA)	Programmatic only	977
Accreditation Council for Pharmacy Education (ACPE)	Programmatic only	145
Accreditation Council on Optometric Education	Programmatic only	243

(ACOE)		
Other Specialized Accreditors (12)		
Commission on English Language Program Accreditation	Programmatic only	455
Council for the Accreditation of Educator Preparation (CAEP)	Teacher preparation programs (not federally recognized)	551*
Montessori Accreditation Council for Teacher Education	Programmatic/institutional	175
National Association of Schools of Art and Design	Programmatic/institutional	341
National Association of Schools of Dance	Programmatic/institutional	82
National Association of Schools of Music	Programmatic/institutional	679
National Association of Schools of Theatre	Programmatic/institutional	198
Association to Advance Collegiate Schools of Business (AACSB)	Programmatic (not federally recognized)	707*
Accreditation Board for Engineering and Technology (ABET)	Programmatic (not federally recognized)	828*
American Chemical Society (ACS) Approval Program	Undergraduate chemistry programs (not federally recognized)	699*
National Association for the Education of Young Children (NAEYC)	Early childhood educator preparation programs (not federally recognized)	150
Council on Social Work Education, Board of Accreditation (CSWE-BoA)	Social work degree programs (not federally recognized)	750*
Allied Health Training Accreditors (11)		
Academy of Nutrition and Dietetics, Accreditation Council for Education in Nutrition and Dietetics	Programmatic only	524
Accrediting Bureau of Health Education Schools	Programmatic/institutional	922

Accreditation Commission for Education in Nursing	Programmatic only	1,310
American Board of Funeral Service Education	Programmatic only	68
Commission on Massage Therapy Accreditation	Programmatic/institutional	143
Council on Accreditation of Nurse Anesthesia Educational Programs	Programmatic (and institutional only for hospital locations)	149
Joint Review Committee on Education in Radiologic Technology	Programmatic (and institutional only for hospital locations)	832
Midwifery Education Accreditation Council	Programmatic/institutional	15
Commission on Collegiate Nursing Education (CCNE)	Programmatic only	928
American Physical Therapy Association, Commission on Accreditation in Physical Therapy Education (APTA-CAPTE)	Programmatic only	659
American Occupational Therapy Association, Accreditation Council for Occupational Therapy Education (AOTA-ACOTE)	Programmatic only	462
Other (Mostly Vocational) Accreditors (9)		
Accrediting Commission for Community and Junior Colleges (ACCJC)	Western accreditor for associate's degrees and lower ("WASC junior")	151
Accrediting Commission of Career Schools and Colleges (ACCSC)	Institutional accreditor	1,082
Accrediting Council for Continuing Education and Training	Institutional accreditor	463
Council on Occupational Education	Institutional for non-degree and applied associate's degrees	990
Distance Education Accrediting Commission	Institutional accreditor	161

Middle States Commission on Secondary Schools	Institutional (non-degree)	92
National Accrediting Commission of Career Arts and Sciences	Institutional for cosmetology and massage therapy	1,578
Workforce Talent Educators Association (WTEA)	In development (not federally recognized)	n/a
Postsecondary Commission (PSC)	In development (not federally recognized)	n/a

Source: Compiled by author from various sources. For federally recognized accreditors, the number of schools (main campuses, not including additional locations) is from the federal Database of Accredited Postsecondary Institutions and Programs (DAPIP) website, <https://ope.ed.gov/dapip/#/home>. Some sources of figures for health accreditors include numerous internship sites, inflating the figures. For the other accreditors, the school totals are from their websites.

Accreditors' standards are a set of expectations for the campuses and programs they review, covering topics ranging from curriculum and faculty qualifications, to facilities and equipment, to complaint policies, financial stability, data, and much more. Agencies that are federally recognized must meet certain requirements based on whether they cover the whole college (an institutional accreditor) or only a particular discipline (a programmatic accreditor).¹⁷

Some standards documents are brief, while others are lengthy, with a lot of detail. The largest institutional accreditor, Higher Learning Commission (HLC), is typical, with core standards that run about fifteen pages.¹⁸ Academic freedom is included in a section titled "Integrity: Ethical and Responsible Conduct," and it reads, simply: "The institution is committed to academic freedom and freedom of expression in the pursuit of truth in teaching and learning."

Institutions are fully reviewed by their accreditors periodically, at least every six to ten years, and also when complaints or events prompt an interim look. Typically, an institution undergoing a regular review will undertake a self-study in which it describes its own sense of how it is doing in relation to the standards. After completion of the self-study, the accreditor typically sends a team of peer reviews from other institutions to review the institution. The self-study, a report from the visiting team, and other materials are provided to the accreditor's decision-making body.

At times, accreditors offer some leeway on particular standards in recognition of an institution's "mission," a federal requirement.¹⁹ For example, HLC may have considered the U.S. Air Force Academy's national security mission in granting full continued accreditation in 2009 despite concerns raised about academic freedom.²⁰ The issue of institutional mission most frequently comes up with regard to church-affiliated colleges.

Faculty Academic Freedom in Accreditors' Standards

The standards of all of the formerly regional accreditors at least give a nod to faculty academic freedom. The New England Commission of Higher Education (NECHE) includes the most detail, asserting with regard to faculty that “The institution protects and fosters academic freedom for all faculty regardless of rank or term of appointment,” and, in a section about the overall integrity of the institution: “The institution is committed to the free pursuit and dissemination of knowledge. It assures faculty and students the freedom to teach and study, to examine all pertinent data, to question assumptions, and to be guided by the evidence of scholarly research.”

As noted above, all federally recognized accreditors are required to consider an institution's mission in applying their standards. The standards of the Northwest Commission on Colleges and Universities (NWCCU, one of the only accreditors that publishes standards on a webpage rather than a PDF), after explicitly acknowledging that its academic freedom requirement is mission-dependent (“Within the context of its mission and values, the institution adheres to the principles of academic freedom...”), clarifies that intellectual freedom is not to be compromised:

While the institution and individuals within the institution may hold to a particular personal, social, or religious philosophy, its constituencies are intellectually free to test and examine all knowledge and theories, thought, reason, and perspectives of truth. Individuals within the institution allow others the freedom to do the same.²¹

Three of the other formerly regional agencies simply say that academic freedom must be supported, without further explanation or definition in the standards:

- HLC: “The institution is committed to academic freedom and freedom of expression in the pursuit of truth in teaching and learning”;
- Middle States Commission on Higher Education (MSCHE): “a commitment to academic freedom, intellectual freedom, freedom of expression, and respect for intellectual property rights”; and
- Southern Association of Colleges and Schools (SACS): “The institution publishes and implements appropriate policies and procedures for preserving and protecting academic freedom.”

The sixth regional, WASC Senior College and University Commission (WSCUC), simplified its policies last year in a way that could be interpreted as weakening its expectations from a “commitment” to academic freedom, to merely a requirement that the school have something.²² The apparent weakening may have been unintentional: deliberations leading to the change did not evidence any intent to alter the meaning of the standard.

In response to controversies at law schools, including protests that shut down campus speakers, the American Bar Association (ABA) in February of this year adopted a new policy on academic freedom and campus speech for its law school accrediting arm. On academic freedom, the new standard is the strongest of any reviewed for this report.²³ It requires, in part:

A law school shall adopt, publish, and adhere to written policies that protect academic freedom. A law school's academic freedom policies shall:

- (1) Apply to all full and part-time faculty, as well as to all others teaching in law school courses;
- (2) Apply to conducting research, publishing scholarship, engaging in law school governance, participating in law related public service activities, curating library collections and providing information services, and exercising teaching responsibilities, including those related to client representation in clinical programs; and
- (3) Afford due process, such as notice, hearing, and appeal rights, to assess any claim of a violation of the academic freedom policies.²⁴

Three of the five religion-based accreditors include some mention of academic freedom in their standards (the two Jewish agencies' standards, which are sparse in their detail, do not). The standards of the Association of Theological Schools (ATS), which accredits schools of various faiths, says nothing more than requiring academic freedom within "the context of institutional mission."²⁵ In contrast, the bible school accreditor, Association for Biblical Higher Education (ABHE), includes in its standards various constrictions on its academic freedom requirement. In the curriculum section, for example, all programs are to support the "development of a biblical worldview," and "ensure students develop and demonstrate significant ability to think biblically in relation to their academic or professional disciplines." Each year the college president must commit to ABHE Tenets of Faith.²⁶

And, while the standards require an institution to "foster an academic climate that stimulates the exchange of ideas," that phrase is preceded by a requirement that the institution ensure "a faculty committed to its mission and qualified academically and spiritually to facilitate student learning within their disciplines and to contribute to the development of a biblical worldview."

The standards of the other Christian accreditor, The Transnational Association of Christian Colleges and Schools (TRACCS), supports academic freedom ("The institution ensures academic freedom for faculty"). It requires institutions to have faith statements that "conform to the historical creeds and statements of Christianity . . . but also accurately state the current position of the institution as set forth by the institution's Board and administration."

Several of the medical accreditors include mention of academic freedom in their standards, with two alternative medicine accreditors using the strongest language [emphasis added]: Naturopathic ("The program has adopted an academic freedom policy that *ensures* academic freedom in teaching, scholarship and research"), and Acupuncture and Herbal Medicine ("The

institution's faculty members *must be accorded* academic freedom in their work"). The chiropractic accreditor's standards include a modifier that weakens the apparent commitment: "Faculty members are afforded *appropriate* academic freedom."

The accreditor for the prestigious MD degree, Liaison Committee on Medical Education (LCME), does not use the term *academic freedom* in its standards, but it does require its accredited programs to be "conducted in an environment that fosters the intellectual challenge and spirit of inquiry appropriate to a community of scholars." The podiatry accreditor's phrasing is similar but more vague: "The college should provide an environment that is conducive to research and scholarly inquiry by faculty." The accreditor of osteopathic physician programs (conferring the DO rather than MD degree) has a standard it applies only to its freestanding schools ("a commitment to academic freedom, intellectual freedom, freedom of expression, and respect for intellectual property rights").

The western junior college accreditor, Accrediting Commission for Community and Junior Colleges (ACCJC, also known as WASC Junior), has a relatively strong requirement, requiring schools to "uphold an explicit commitment to principles of academic freedom, academic integrity, and freedom of inquiry" (including for students), with "procedures for addressing . . . violations of its principles of academic freedom and freedom of inquiry." And the physical therapy accreditor's standards require "institutional policies and practices that allow for faculty to employ academic freedom when making decisions."

Policies regarding academic freedom were not evident in other accreditors' standards. An emerging accreditor seeking federal recognition, Postsecondary Commission (PSC), has explicitly rejected the idea of including any provisions regarding academic freedom.²⁷ Further, PSC's adopted standards reject any complaints related to personnel issues, which would likely be the issue in any academic freedom controversy.²⁸

Faculty Job Security in Accreditor Standards

In 2002, John Yoo, on leave from his law professor job at the University of California, Berkeley, authored a set of legal memos that facilitated the Bush administration's use of torture against detainees held after 9/11. After Yoo returned to Berkeley, various organizations argued that he should not be able to retain his position at the law school. In 2008, the dean, Christopher Edley, who had served in the Clinton administration, refused to take any action against Yoo, releasing a statement explaining that academic freedom would be meaningless if disagreement alone were enough to remove faculty.²⁹

In 2016, Gordon College, an evangelical Christian school, denied a promotion to a social work professor because she had raised concerns about the school's anti-LGBTQ policies. To evade discrimination laws, the school's president had declared all of its professors to be ministers, testifying that "there are no non-sacred disciplines" at the college.³⁰ The college settled with the professor.

It is no coincidence that both of the above examples, in which the faculty members retained their jobs after discussion and debate, involved faculty who had *tenure*. The primary reason for the existence of tenure is to facilitate free inquiry and open debate.³¹ A faculty member with some security of employment can foster difficult debates that deepen and complicate students' thinking. In contrast, a faculty member in at-will employment risks their livelihood by doing or saying anything that might upset someone with authority. In a recent example, an art history professor at Hamline University in Minnesota, after warning her students, showed a medieval painting of Muhammed. A student complained and the professor, untenured, was dismissed.³²

No accreditor requires a system of tenure, and only five (none of which are formerly regionals) have standards that lean in the direction of promoting policies that would mitigate against summary dismissal of a faculty member: two of the accreditors that are not federally recognized, for business schools (Association to Advance Collegiate Schools of Business, or AACSB) and chemistry programs (American Chemical Society Approval Program); the veterinary accreditor (American Veterinary Medical Association, Council on Education, or AVMA–COE); the western junior college accreditor (ACCJC); and new policies at the law school accreditor (ABA).³³

To gain accreditation by AACSB, a business school must (“normally”) have the bulk of its courses taught by faculty who are “ongoing members of the faculty, regardless of whether their appointments are full-time or part-time, whether their positions with the school are considered their principal employment, and whether the school has tenure policies.”

In the American Chemical Society's endorsement process for undergraduate chemistry programs, the “normal expectation” is that courses are taught by “permanent faculty without excessive reliance on temporary or part-time faculty.” (And “Where faculty contracts are renewed on a regular basis, the positions hold the expectation for long-term and full-time employment.”)

To comply with the AVMA–COE's standards, “Academic positions must offer the security and benefits necessary to maintain stability, continuity, and competence of the faculty.”

The ABA's policy prior to this year was simply that law schools must “have an established and announced policy with respect to academic freedom and tenure” (accompanied by an “interpretation” that prohibits any fixed limit on the proportion of faculty with tenure). The new policy discussed above includes a requirement that “due process, such as notice, hearing, and appeal rights” be afforded for any alleged violation of academic freedom. That would seem, in effect, to provide some security of position to instructors.

Faculty Academic Leadership in Accreditor Standards

Faculty organizations have long made the case that they are in a better position to assess academic matters than are the lay members of a board, or administrators focused on other aspects of running the institution. Some argue that allegations of the violation of academic freedom should first be adjudicated by faculty.³⁴ At schools accredited by four of the formerly regional

agencies, and nine other agencies, the faculty are to take the lead on curriculum and certain other areas of responsibility. (At about half of all accreditors, the colleges' boards and administrators are expected to at least *consult* with faculty, and usually with other constituencies, in managing the institution).

To be approved by NECHE, "The institution places primary responsibility for the content, quality, and effectiveness of the curriculum with its faculty." HLC's policy "expects the institution's faculty to oversee academic matters." (Both also try to protect against meddling by board members, such as with HLC's policy: "The governing board delegates day-to-day management of the institution to the institution's administration.") A school approved by the Southern accreditor "places primary responsibility for the content, quality, and effectiveness of the curriculum with its faculty." With the Western accreditor, "The faculty exercise effective academic leadership and act consistently to ensure that the quality of academic programs and the institution's educational purposes are sustained." (According to the AAUP, the other two formerly regional accreditors, NWCCU and MSCHE, have weakened their shared governance requirements in recent years.)³⁵

The standards of one of the religion-based accreditors, the Association of Theological Schools, includes a section on shared governance that provides that:

The school's governing body delegates to the faculty appropriate authority to oversee the school's academic programs and policies in light of their expertise in those areas. Faculty are also delegated an appropriate role in establishing admissions criteria, in recommending candidates for graduation, and in developing and implementing procedures for appointing, retaining, and promoting faculty.

Others requiring deference to faculty include the physical therapy agency ("Institutional policies related to academic standards support academic and professional judgments of the physical therapist program core faculty"); the podiatric medicine accreditor ("The faculty develops, delivers, assesses, and revises the curriculum"); and the speech-language-hearing accreditor ("the program's faculty is recognized as the body that can initiate, implement, and evaluate decisions affecting all aspects of the professional education program, including the curriculum"). The four arts accreditors—separate agencies for art, dance, music, and theater that are managed as a group—expect accredited programs and institutions to grant the faculty "a major role in developing the artistic and academic program."

Finally, the standards of ACCJC assume a strong faculty role: "The institution, relying on faculty and other appropriate stakeholders, designs and delivers academic programs that reflect relevant discipline and industry standards and support equitable attainment of learning outcomes and achievement of educational goals."

Institutional Autonomy in Accreditor Standards

Florida Governor Ron DeSantis, as he ramped up his campaign for the Republican presidential nomination, objected to the southern accrediting agency's inquiry into allegations that his administration had overstepped in its attempts to force changes at the state's public institutions. But far from being unfair or unusual, the agency's questions were a continuation of longtime policies to ensure that the proper lines of institutional governance are followed in making policy decisions. In 1941, for example, SACS removed accreditation from all Georgia state schools after the racist governor fired key administrators over their alleged intent to integrate the colleges.³⁶ SACS is not unusual in having such policies: five of the six formerly regional accreditors have institutional autonomy requirements (NECHE is the sole outlier), as do five other agencies.

Among the formerly regionals, HLC standards required each institution's governing board to be "autonomous to make decisions in the best interest of the institution in compliance with board policies and to ensure the institution's integrity." To be in compliance with the accreditor's standards, the board "preserves its independence from undue influence on the part of donors, elected officials, ownership interests or other external parties." At the same time, the standards require the board to review "the reasonable and relevant interests of the institution's internal and external constituencies during its decision-making deliberations." HLC's own reviews, therefore, would consider who are the constituencies that have a voice, and when does it cross over into "undue influence."

SACS's standards assess whether a governing board "protects the institution from undue influence by external persons or bodies," while MSCHE expects the governing body to have "sufficient . . . independence . . . to ensure the integrity of the institution." WSCUC wants an institution to operate "with appropriate autonomy governed by an independent board or similar authority that is responsible for mission, integrity, and oversight of planning, policies, performance, and sustainability." NWCCU simply demands "an effective governance structure," while also requiring a board "composed predominantly of members with no contractual, employment relationship, or personal financial interest with the institution."

LCME, which accredits programs leading to MD degree, only accredits a medical school if it "does not permit financial or other influences to compromise the school's educational mission." Similarly, the dental and optometry accreditors require an assurance that support from entities outside of the institution "does not compromise the teaching, clinical and research components of the program."

In reviewing its schools, the Christian college accreditor TRACCS assesses whether "The institution has sufficient independence from any external entity, such that it is solely accountable for meeting accreditation requirements." And the bible school accreditor ABHE requires accredited colleges to be nonprofit, a method of ensuring that decisions are based on educational or religious grounds not on the personal financial interests of trustees or equity owners.

What Should Accreditors Do Regarding Academic Freedom?

Academic freedom emerged organically in the United States, and it remains an ideal that is critically important to protect. In current campus disputes, government actors have been too quick to view themselves as the arbiters of when academic freedom has been violated, or how to protect it. Government involvement invites ongoing politicization, undermining the very freedom that politicians are claiming to protect. Rather than let this politicization of America's higher education system push it down a road that ends with colleges being tools of the state—thus undermining perhaps their most valued characteristic around the world—accreditors would best assert their own role in protecting academic freedom.

Questions that would benefit from further exploration include: What effect do these accreditor standards, or the lack of standards, have on the operation of a college? Do some agencies or their visiting teams promote or enforce relevant policies that are not formally written into standards? To what extent have the standards been invoked formally or informally to deter or spur decisions? To what extent are mission-based beliefs, religious or otherwise, preventing free inquiry?

Views expressed in this report are those of the author and not of NACIQI (on which he serves as one of the appointed members) or of the U.S. Department of Education.

Notes

1. Richard Hofstadter and Walter P. Metzger, *The Development of Academic Freedom in the United States* (New York: Columbia University Press, 1955), 53–55.
2. Richard Hofstadter and Walter P. Metzger, *The Development of Academic Freedom in the United States* (New York: Columbia University Press, 1955), 56.
3. The term used in the Chicago Principles was *freedom of expression*. See "Chicago Statement: University and Faculty Body Support," FIRE, undated, accessed May 24, 2024, <https://www.thefire.org/research-learn/chicago-statement-university-and-faculty-body-support>
4. "Report of the Committee on Free Expression," University of Chicago, <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf>.
5. The requirements vary based on whether the accreditor's imprimatur is used for Title IV financial aid versus as a link to other federal programs (such as research grants).
6. *Dartmouth College v. Woodward*, 17 U.S. 518 (1819), https://en.wikipedia.org/wiki/Dartmouth_College_v._Woodward.
7. The boards of Princeton and Penn were particularly problematic. Richard Hofstadter and Walter P. Metzger, *The Development of Academic Freedom in the United States* (New York: Columbia University Press, 1955), 304.
8. "Gradually... the college teacher was elevated from the position of a powerless subaltern to the status of an executive officer in the realm of discipline and instruction." (Ibid., 306.) This elevated faculty role at the collective level is often now referred to as "shared governance." See "Statement on Government of Colleges and Universities," AAUP, <https://www.aaup.org/report/statement-government-colleges-and-universities>.
9. "Privately endowed, the Johns Hopkins University was founded in 1876 as the first true American university on the European model"; see the Johns Hopkins University website, <https://advanced.jhu.edu/about/>.

10. "1940 Statement on Principles of Academic Freedom and Tenure," AAUP, <https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>.
11. A report and chart from the National Association of Scholars shows how fourteen different statements since 1915 have varied on twenty-five different factors. David Randall, "Charting Academic Freedom: 103 Years of Debate," National Association of Scholars, January 15, 2018, <https://www.nas.org/reports/charting-academic-freedom-103-years-of-debate>.
12. John S. Brubacher and Willis Rudy, *Higher Education in Transition: A History of American Colleges and Universities*, 4th ed. (Piscataway, N.J.: Transaction Publishers, 2008), 358–60.
13. David Whitman, "Truman, Eisenhower, and the First GI Bill Scandal," The Century Foundation, January 24, 2017, <https://tcf.org/content/report/truman-eisenhower-first-gi-bill-scandal/>.
14. Regulations adopted by the Trump administration in 2020 lifted any geographical restriction, allowing the agencies to serve as the federal funds gatekeeper for schools anywhere. Hallie Busta, "Western US accreditor to break rank on regional boundaries," *Higher Ed Dive*, February 26, 2020, <https://www.highereddive.com/news/western-us-accreditor-to-break-rank-on-regional-boundaries/573052/>.
15. The versions reviewed were the most recent available on the accreditors' websites as of February–April 2024.
16. Paul Fain, "New breed of accreditors aims to hold colleges 'to task' for economic gains," WorkShift, March 2, 2023, <https://workshift.opencampusmedia.org/new-breed-of-accreditors-aims-to-hold-colleges-to-task-for-economic-gains/>.
17. Institutional accreditors qualify their colleges for the Higher Education Act's Title IV financial aid, while programmatic accreditors are linked to a different federal program, such as research grants. Some programmatic accreditors are recognized for the purposes of being institutional accreditors for freestanding schools that only teach the accredited discipline, such as an art college.
18. The agency's policy manual has an additional section listing areas required under federal regulations, such as credit hour policies.
19. The provision is part of a paragraph requiring *consistency*: "such agency or association consistently applies and enforces standards that **respect the stated mission of the institution of higher education, including religious missions**, and that ensure that the courses or programs of instruction . . . are of sufficient quality." 20 U.S. Code § 1099b(a)(4)(A), emphasis added.
20. Staff Sgt. Don Branum, "HLC releases Academy accreditation report," United States Air Force Academy, December 3, 2009, <https://web.archive.org/web/20231212185920/https://www.usafa.af.mil/News/News-Display/Article/429034/hlc-releases-academy-accreditation-report/>.
21. The first part of the same paragraph reads: "Within the context of its mission and values, the institution defines and actively promotes an environment that supports independent thought in the pursuit and dissemination of knowledge. It affirms the freedom of faculty, staff, administrators, and students to share their scholarship and reasoned conclusions with others." See Northwest Commission on Colleges and Universities, "NWCCU 2020 Standards," <https://nwccu.org/standards/>.
22. The 2013 standards said:

"The institution publicly states its commitment to academic freedom for faculty, staff, and students, and acts accordingly. This commitment affirms that those in the academy are free to share their convictions and responsible conclusions with their colleagues and students in their teaching and writing."
- The policy adopted last year is: "The institution maintains, publishes, and adheres to policies on academic freedom."
23. The prior standard simply required that a law school have a policy on academic freedom.
24. The policy also includes provisions on free speech. See Resolution adopted by the American Bar Association House of Delegates, 2024 Midyear Meeting, Louisville, Kentucky, February 5, 2024, <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2024/300-midyear-2024.pdf>.
25. ATS standards: "The school supports and safeguards freedom of inquiry for faculty with policies and procedures that are consistent with the mission and theological commitments of the school."

26.

(1) We believe that there is one God, eternally existing in three persons: Father, Son, and Holy Spirit.

(2) We believe the Bible to be the inspired, the only infallible, authoritative Word of God.

(3) We believe in the deity of our Lord Jesus Christ, in His virgin birth, in His sinless life, in His miracles, in His vicarious atonement through His shed blood, in His bodily resurrection, in His ascension to the right hand of the Father, and in His personal and visible return in power and glory.

(4) We believe that man was created in the image of God, that he was tempted by Satan and fell, and that, because of the exceeding sinfulness of human nature, regeneration by the Holy Spirit is absolutely necessary for salvation.

(5) We believe in the present ministry of the Holy Spirit by Whose indwelling the Christian is enabled to live a godly life, and by Whom the church is empowered to carry out Christ's great commission.

(6) We believe in the bodily resurrection of both the saved and the lost; those who are saved unto the resurrection of life and those who are lost unto the resurrection of damnation.

27. Josh Moody "Aspiring Accreditor Focuses on Student Outcomes," *InsideHigherEd*, February 5, 2024,

<https://www.insidehighered.com/news/governance/accreditation/2024/02/05/aspiring-new-accreditor-focuses-outcomes>.

28. "PSC does not investigate complaints pertaining to grades, admission decisions, personnel disputes, decisions related to hiring or termination of personnel, or other similar matters."

29. Christopher Edley, Jr., "The Torture Memos and Academic Freedom," *Berkeley Law*, April 10, 2008,

<https://www.law.berkeley.edu/article/the-torture-memos-and-academic-freedom/>.

30. Daniel Silliman, "Gordon College Settles with Professor It Said Was a Minister," *Christianity Today*, December 16, 2022,

<https://www.christianitytoday.com/news/2022/march/scotus-ministerial-exception-college-gordon-deweese-boyd.html>.

31. The 1915 declaration that launched the American Association of University Professors' (AAUP) work on academic freedom gave equal importance to tenure. See "Declaration of Principles on Academic Freedom and Academic Tenure," AAUP,

<https://www.aaup.org/NR/rdonlyres/A6520A9D-0A9A-47B3-B550-C006B5B224E7/0/1915Declaration.pdf>. See also "Resources: Tenure," AAUP, <https://www.aaup.org/issues/tenure>.

32. Sabrina Conza, "FIRE calls on Hamline University to reinstate art history instructor dismissed for showing medieval depiction of Muhammad," Foundation for Individual Rights and Expression (FIRE), December 27, 2022, <https://www.thefire.org/news/fire-calls-hamline-university-reinstate-art-history-instructor-dismissed-showing-medieval>.

33. Two other accreditors have somewhat relevant standards. The Accrediting Bureau of Health Education Schools, which assesses schools and programs in medical assisting, medical laboratory technology, and other health fields, faculty that ensure "continuity of development for the educational programs. The institution demonstrates that the faculty's average years of service to the institution allows the institution to meet its stated mission." Finally, the accreditor for audiology and speech-language pathology requires that "faculty who are tenure eligible have the opportunity to meet the criteria for tenure of the sponsoring institution."

34. Michael Bérubé and Jennifer Ruth, *It's Not Free Speech: Race, Democracy, and the Future of Academic Freedom* (Baltimore, Maryland: Johns Hopkins University Press, 2022). See also *Pluralism and Academic Freedom in Higher Education: Promising Practices and Lessons Learned from the Difficult Dialogues Initiative*, ed. Hilda Hernández-Gravelle, Robert M. O'Neil, Garret S. Batten (Charlottesville, Virginia: Thomas Jefferson Center for the Protection of Free Expression, 2012).

35. Michael DeCesare, "Accrediting Commissions' Standards on Faculty Governance: What do accreditors say about the role of the faculty?" AAUP, Winter 2021, <https://www.aaup.org/article/accrediting-commissions%E2%80%99-standards-faculty-governance>.

36. James F. Cook, "Cocking Affair," *New Georgia Encyclopedia*, August 12, 2002 (last edited November 8, 2013), <https://www.georgiaencyclopedia.org/articles/government-politics/cocking-affair/>.



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