

Trial to begin on City College's fate, accrediting panel's reach

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Phelan Avenue is 'FEEL-ihn.' Pictured: The main CCSF campus on Phelan Avenue. Paul Chinn/The Chronicle

Now comes the denouement for [City College of San Francisco](#).

As the trial begins Monday to determine whether a commission illegally moved to strip the vast college of its accreditation, an audience of students, taxpayers, faculty and public officials will behold a Shakespearean moment in San Francisco Superior Court when players in the 2-year-old drama come together for the first time to publicly unveil their version of events.

One judge — no jury — will write the end of this play: Either the [Accrediting Commission for Community](#) and Junior Colleges will be permitted to proceed with revoking City College's

accreditation or it will not, in which case the clock turns back to 2012 before the commission sanctioned the college and placed it on the brink of closure.

The climax of this emotional debate over the value of a beloved college versus an accrediting commission's right to hold it accountable pits San Francisco City Attorney [Dennis Herrera](#) against three top law firms representing the commission headquartered in Novato.

Accrediting panel's case

Herrera's legal team will argue that the commission evaluated City College in 2012 and 2013 in a way that broke the state law prohibiting unlawful and unfair business practices, and violated federal regulations. The private, nonprofit commission is one of six regional accrediting agencies regulated by the U.S. Department of Education.

"We just want the commission to play by the rules and stop inventing rules as they go along," Herrera said. "We have an institution that serves 79,000 students and is part of the fabric of San Francisco, providing educational opportunity at all socioeconomic levels. Everyone is entitled to know that the accrediting process is fair and impartial."

The commission's lawyers will tell the judge that the accreditors are immune from the state law in question, and that the court should not insert itself into the accreditation process. In court papers, they say City College was amply warned of commission concerns about poor financial management and inadequate governance, and that college officials acknowledged on several occasions that they were out of compliance. When the college didn't fix the problems within the time required by federal regulations, the commission had no choice but to vote to revoke accreditation.

"The evidence at trial will conclusively establish the enormous problems that were facing (City College) and that the (commission's) decisions ... were absolutely correct," the court papers say. The commission's lawyers declined to comment beyond what is in their papers.

According to Herrera, the commission first broke the law in March 2012 by appointing [Peter Crabtree](#), a [Laney College](#) dean and husband of commission President [Barbara Beno](#), to the 16-member team it sent to evaluate City College as part of the college's accreditation review. Herrera says Crabtree's participation created the appearance of a conflict of interest because the team is supposed to act independently of the commission.

City attorney's arguments

In court papers, Herrera alleges a host of other violations he says "tainted every step of (the commission's) evaluation of City College":

- The commission appointed the 2012 and 2013 evaluation teams without guarding against conflicts of interest and by using a process invalidated by the U.S. Department of Education.

- The commission included too few academics on both evaluation teams; Judge [Curtis Karnow](#) has already ruled that the 2013 team should have had more than one academic.
- The commission gave unclear and inconsistent signals before 2012 that City College was violating accreditation standards, and then gave the college no chance to respond to additional problems before voting to revoke accreditation in June 2013.
- The commission sanctioned City College in retaliation for students' and faculty members' activism against legislation requiring all 112 community colleges to prioritize students who want to transfer to universities or earn a vocational certificate, rather than spending limited funds on those taking classes for enrichment or fun. The commission supported the legislation, which became state law.

“With respect to each of these acts, the evidence will show that the harm from the (commission’s) conduct outweighed any benefits,” Herrera argues in court papers, referring to a 20 percent drop in enrollment of students taking classes for credit. In 2011-12, the year the commission first evaluated City College, 48,921 students took classes for credit compared with 39,191 in 2013-14, a loss of 9,730 students.

Lawyers for the commission say no harm has occurred.

“None of the (commission’s) allegedly improper conduct was the cause of any cognizable or demonstrable harm,” they say in court papers.

The lawyers go on to bat away each of Herrera’s points.

While Herrera says that Crabtree, the president’s husband, urged the evaluation team to lessen the complimentary tone of its report on City College, the commission’s lawyers say he played only a “subordinate role” on the team.

Nor are any of the allegations about the evaluation teams a reason to invalidate the commission’s decision to revoke City College’s accreditation, they argue.

“Even when there are procedural irregularities, courts do not interfere with accreditation decisions” unless the irregularities would change the outcome. They say it would not.

As for retaliating against the college for political reasons, the lawyers defend the commission’s right to stake out a public position and say Herrera has offered no evidence that the commission is biased.

Looking beyond ruling

Both sides are also arguing about the immediate future of City College after the ruling. The argument deals with City College’s application to the commission for a two-year extension to come into compliance with accrediting standards. The commission will decide in January whether to grant the extension.

Herrera will ask the judge not to consider the extension as a solution because if it isn't granted, City College would immediately lose its accreditation and have to shut down. And if it is granted, he argues, the terms of the extension are so restrictive that the college could easily lose accreditation after two years and have no right to appeal.

The commission's lawyers portray the potential extension in the opposite light and say that the college has already had more than its allotted time to come into compliance.

The trial, *The People of the State of California vs. Accrediting Commission for Community and Junior Colleges*, is expected to last five days.

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