

Statement of Anne D. Neal before the National Advisory Committee on Institutional Quality and Integrity

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Before I recuse myself this morning, I would like to enter into the record a protest and a more general statement of concern regarding the extensive conflicts of interest that abound here and in the accreditation community.

I was notified by NACIQI Executive Director Carol Griffiths in late May that I would be recused when it came to the matter concerning SACS. SACS had, I have now learned, requested my recusal and the Department attorney—duly responding to this request—had concluded that I could not participate ever again on NACIQI when it came to SACS. If I did so, she claimed, I would be violating a criminal statute. This finding was not supplied to me—until I requested it. I have never seen the SACS complaint and I had no opportunity to respond to the request for recusal or to the legal opinion before it was issued.

Quite frankly, I feel that the ruling is flawed. As I read it, it amounts to little more than criminalizing policy differences. The regulated entity has run to the regulators—to ask them to oust a critical voice.

The recusal puts me, I think, in a position very similar to those parties that are accredited under the current regime. If I push back, I find myself accused of criminal behavior. In the case of institutions that wish to push back against accreditors, something even more terrifying and coercive is threatened: the potential loss of Title IV money. This allows the accrediting agencies to hold a gun to the heads of our higher education institutions.

Ironically, it is an objection to accreditors' arbitrary and coercive exercise of power that puts me in this position today. In December of 2012, the independent, nonprofit organization of which I am president—which receives no Title IV money, no money from colleges and universities and which is wholly independent of the accrediting system—filed a complaint with the Education Department against SACS for wrongfully interfering with the institutional autonomy and governance powers vested in the UVA Board of Visitors by the state legislature.

The complaint, which is publicly available, asked for the Department to review this action, in accordance with Section 602.33 of the regulations which permits review upon credible information that raises issues relevant to recognition. In other words, in filing this complaint, my organization played by the rules—and raised questions about the appropriate behavior of the accrediting body—much as I am charged to do in my capacity as a member of NACIQI.

I think it is noteworthy that this major complaint does not find itself anywhere in the materials presented to us as we are asked to decide whether SACS' recognition should be renewed. As far as our record goes, we do not, and will never, know that these issues were raised and adjudicated up to the level of the Secretary—matters deemed so serious by the accreditor and DOE as to recuse me—but not so important or relevant as to be placed in your preparation materials. What else might be missing in our files?

The ACTA complaint raises questions about inappropriate intervention in state jurisdiction and intrusion into institutional governance. And the Department concluded that—when it comes to standards outside the statute—such as governance, it had no power to review the accreditor’s actions at all. In other words, the Secretary—and all of us here—are impotent to review, override or disagree with SACS when it comes to any standards they apply to schools, not required by the HEA.

And it’s not just SACS. This is true for all of the accrediting bodies. Surely, as Congress considers the reauthorization of the Higher Education Act—and we consider the Department’s and our review authority—we should keep in mind this troubling, unreviewable “blank check” authority that is provided accreditors under the HEA. This authority now allows accreditors to intrude, as never before, into the autonomy of our colleges and universities. Autonomy, I might add, that has been central to the success of American higher education.

Today, of course, we are being asked to review SACS’ compliance report regarding specific criteria under the statute, but I am nevertheless being forced to recuse because of my earlier question about SACS’s overreach. Again, how ironic, that I am being banned from ever addressing matters with SACS even when the so-called conflict is one that has been exhaustively adjudicated.

So, I will recuse. But in doing so, I want to ask a broader question:

If I cannot judge impartially, then who can?

A majority of the committee has a financial interest in the existing system. One is the CEO of a regional accrediting association. We have and will potentially vote on policy matters concerning the future of the accrediting system, and most especially the future of regional bodies. Conflict?

These kinds of conflicts on NACIQI are, sadly, not too much different from the conflicts that abound in the accreditation process itself. No one gets accredited without first paying dues to the accrediting association. On top of that is the cozy nature of review bodies, which are largely made up of faculty and administrators who benefit from the accreditation system as well. Knowing that members of the faculty and administration of the school under review may at some future point participate in an evaluation of their own school certainly makes it possible for collegiality to trump public protection.

I do not in any way seek to impugn the ethics of any of my colleagues here—all of whom I respect and admire and who are operating with the approval of counsel. But in the interest of “getting real,” isn’t it time to admit that systemic conflicts of interest abound in the accrediting process—just one more reason accreditors are questionable choices to be gatekeepers of billions in federal funds.