

December 31, 2012

The Honorable Arne Duncan  
Office of the Secretary  
U.S. Department of Education  
LBJ Education Building, 7W311  
400 Maryland Avenue, SW  
Washington, DC 20202

Ms. Kay W. Gilcher  
Director, Accreditation Division  
Office of Postsecondary Education  
U.S. Department of Education  
1990 K Street NW, Room 8027  
Washington, DC 20006

Via email

Dear Secretary Duncan and Ms. Gilcher:

Earlier this month, the Southern Association of Colleges and Schools Commission on Colleges (SACS) placed the University of Virginia “on warning.” As outlined below, the action would appear to fall outside the accreditor’s legitimate authority and constitute a blatant intrusion into governance powers originally established by Thomas Jefferson, then codified by the Virginia Legislature to remain solely the purview of the Board of Visitors.

If federal accreditors are allowed to substitute their judgment in matters of state law and governance whenever internal constituencies feel aggrieved, they will bring about the sure erosion of institutional autonomy and undermine the ability of governing bodies everywhere to provide needed oversight.

The notion, suggested by SACS, that the board must give the Faculty Senate advance notice of its intention to terminate the president is both ludicrous and in utter violation of the board’s statutory and fiduciary responsibility to serve the public interest. Whether the accreditors like it or not, the authority of the UVA board is plenary. The board has responded fully and in considerable detail to the accreditor’s queries, noting that the university manual and the policies governing the board make clear that they are fully responsible for their own institution. It appears that SACS’ real issue is not the *absence* of board policy, but the *substance* of the board’s policy.

The accreditor has provided no evidence whatsoever that UVA is failing to meet a basic threshold of academic quality required for accreditation, leaving the question of the motive of their interference.

The Commission of over 70 members which reviewed the UVA response and sanctioned UVA, consists of college presidents, faculty and administrators; there appear to be no trustees. Moreover, SACS President Belle Whelan has been outspoken in her view of higher education governance, recently telling boards of trustees, according to a news account, that they have two roles only: making policy, and hiring, evaluating and possibly firing the president. “That’s it,” she said. “Anything else, you’re meddling.” (“Accrediting agency board to consider U.Va. sanctions,” *Richmond Times-Dispatch*,

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Oct. 24, 2012). Public speech of this nature from an accrediting official wielding power over an institution prejudices a fair and objective determination and discourages this board, and any other board for that matter, from exercising its fiduciary responsibilities.

Congress has made accreditors gatekeepers of federal funds. Yet SACS' action against UVA has *nothing* to do with protecting students or taxpayers by guaranteeing educational excellence. To the contrary, SACS' action would appear to constitute an effort to supplant those who are, by statute, responsible and whose plenary legal powers are established by the state legislature and attendant rules and regulations.

SACS' actions raise serious questions about its compliance with Department of Education regulations prescribing standards for recognized agencies. We believe there is substantial reason to believe that the accreditor has inappropriately become involved in a power struggle between the president, faculty, and the board of trustees and urge you to investigate.

Sincerely,

*Anne D. Neal*

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President  
American Council of Trustees and Alumni