

November 20, 2020

Herman Bounds, Director, Accreditation Group
Office of Postsecondary Education
U.S. Department of Education
400 Maryland Ave., SW
Washington, D.C. 20202

Re: Petition for Renewal of Recognition, Accrediting Council for Independent Colleges and Schools

Dear Members of the U.S. Department of Education and the National Advisory Committee on Institutional Quality and Integrity,

Thank you for the opportunity to submit comments regarding the application for renewal of recognition from the Accrediting Council for Independent Colleges and Schools (ACICS). This comment is submitted on behalf of the 16 undersigned organizations representing organizations and advocates working on behalf of students, veterans, faculty and staff, consumer, labor, and civil rights groups. Based on all evidence we recommend that you find ACICS out of compliance with federal requirements and withdraw the agency's recognition.

By February 2021, it will have been more than four years since the U.S. Department of Education decided to revoke ACICS's recognition in 2016. Since that time, the agency hasn't managed to go a year without additional evidence of non-compliance or investigations of institutions it accredits. This includes at least three incidents raised to ACICS by Department staff, resulting in seven new findings of noncompliance, and precipitous college closures affecting tens of thousands of students since the Secretary's decision to restore recognition in 2018. As you know, accrediting agencies' recognition cannot be extended unless the agency is able to come into compliance with agency standards within 12 months, something ACICS has repeatedly proven it is incapable of doing.

The Department cannot ignore the long history of non-compliance and the multiple investigations and evidence of additional non-compliance since the Secretary's decision to restore recognition in 2018. ACICS' pervasive and longstanding inability to serve as a reliable authority regarding the quality of education and training offered by the institutions of higher education or programs it accredits, and its lack of action has left tens of thousands of students' lives damaged. These students have taken on excessive debt levels to attend low-quality and predatory institutions of higher education that have been approved by ACICS and sanctioned by the Department of Education to access billions in federal taxpayer dollars.

In particular, we want to ensure the Department and NACIQI consider four key factors when considering ACICS' compliance with federal criteria:

- 1) Its continued non-compliance, four years after it first lost recognition;
- 2) The additional compliance concerns that have surfaced since it regained recognition;

- 3) Its failure to take appropriate action to safeguard students and taxpayers surrounding schools owned by Education Corporation for America; and
- 4) Its weak financial condition, which creates risk for students as a reliable authority.

ACICS continues to be a rubber stamp, allowing low-quality and predatory institutions of higher education access to billions in federal aid, and putting thousands of students at risk. It is too late to fix the damage to countless lives, but withdrawing recognition would restore integrity into the federal aid programs, send a strong and overdue message to other accreditors, and help protect future students enrolling in accredited institutions.

Persistent Issues of Non-Compliance

The decision in 2016 was based on whether ACICS could come into compliance with all criteria in a period of 12 months—a statutory requirement that prevents the Department from continuing the recognition of non-compliant agencies unless it has good reason to believe the agency will cure its deficiencies within a year. In 2018, contradicting numerous evaluations by the Department of Education’s Accreditation Group and a long track record of evidence, the Secretary of Education restored ACICS recognition but noted that it was still out of compliance with two recognition criteria. Now four years later, ACICS still fails to meet all recognition criteria.

The Secretary found ACICS non-compliant with 34 CFR 602.15(a)(2)-Competency of Representatives, which requires ACICS to demonstrate it has “competent and knowledgeable individuals... to conduct its on-site evaluations, apply or establish its policies, and make its accrediting and preaccrediting decisions, including, if applicable to the agency’s scope, their responsibilities regarding distance education and correspondence education.” Numerous recent examples suggest ACICS fails to meet this standard.

Just this year, a news investigation by *USA Today* reportedly found that ACICS-accredited Reagan National University appeared not to be in operation, with no students and faculty listed on its website who claim to have never worked there.¹ While it is not clear how long the institution operated this way, or whether it was ever a functioning school in the first place, fewer than two years after ACICS granted the school initial accreditation, it cited the school for a 0 percent job placement rate. And just months before the news investigation was published, ACICS placed the institution on warning raising questions about proper materials necessary for education and qualified faculty, reportedly following an on-site visit.² The school also had connections to a suspected visa mill that was previously shut down in the state of Virginia. This lapse in monitoring and evaluation raises concerns about how the institution could have met the agency’s standards and gained accreditation in the first place, and how ACICS could visit the institution and miss so many red flags.

Last year, the State Council of Higher Education for Virginia (SCHEV) recommended revoking state approval to operate ACICS-accredited Virginia International University (VIU). SCHEV raised serious concerns about VIU’s distance education program, citing rampant plagiarism, grade inflation, classes

¹ Chris Quintana and Shelly Conlon, “This College was Accredited by a DeVos-Sanctioned Group. We Couldn’t Find Evidence of Students or Faculty,” *USA Today*, February 15, 2020, available at <https://www.usatoday.com/story/news/education/2020/02/15/college-accreditation-department-education-bets-y-devos-south-dakota-sioux-falls/4746906002/>

² *Ibid.*

deficient in quality and content, graduate courses lacking academic rigor, and lack of student faculty interaction. None of these concerns were found in a review by ACICS, which had approved VIU for a three-year renewal of accreditation the year prior.³ Students enrolling in distance education are at increased risk of enrolling in low-quality programs, making it especially important that recognized accreditors conduct proper oversight and monitoring. ACICS' failure to uncover these problems are deeply concerning.

This lack of compliance is nothing new. Many of the seven new areas of noncompliance identified by the Department in its most recent notice have been known problems for years. Those areas include:

- 34 602.15(a)(1) — adequate administrative staff and financial resources. The Department found ACICS out of compliance with this standard in 2016; and Secretary DeVos required additional monitoring from ACICS when she restored recognition to ACICS in November 2018.⁴
- 34 CFR 602.15(a)(2) — competent and knowledgeable individuals. The Department found ACICS out of compliance with this standard in 2016; and out of compliance still in November 2018, when Secretary DeVos restored recognition to ACICS.
- 34 CFR 602.16(d) (formerly 34 CFR 602.16(c)) — effectively addresses distance education.
- 34 CFR 602.17(c) — conducts on-site review. The Department found ACICS out of compliance with this standard in 2016.
- 34 CFR 602.17(e) — conducts its own analysis of the institution.
- 34 CFR 602.18(b)(3) (formerly 34 CFR 602.18(c)) — bases decisions on published standards.
- 34 CFR 602.19(b) — effectively monitors and evaluates institutions. The Department found ACICS out of compliance with this standard in 2016; and Secretary DeVos required additional monitoring from ACICS when she restored recognition to ACICS in November 2018.

Additional Compliance Concerns

In the time since ACICS' recognition was restored, the Department of Education has investigated ACICS compliance on numerous other occasions, which have resulted in identifying seven standards where ACICS remains noncompliant.⁵ These include the examples of VIU, RNU, and the San Diego University for Integrative Studies, which sought ACICS accreditation even after being denied re-approval by ACCET. According to the Department's evaluation, evidence suggests that ACICS does not demonstrate its

³ Elizabeth Redden, "'Rampant Plagiarism' and Patently Deficient' Online Education," Inside Higher Ed, March 18, 2019, available at <https://www.insidehighered.com/news/2019/03/18/staff-virginia-regulator-recommend-revoking-colleges-certific-ate-operate-due>

⁴ Senior Department Official Decision on ACICS, September 2016, <https://blog.ed.gov/files/2016/06/ACICS.pdf>; and Final letter from Secretary DeVos, November 2018, <https://www.ed.gov/acics>

⁵ Michael Stafford, "Education Department Opens New Review of ACICS," Politico, July 7, 2019, available at <https://www.politico.com/newsletters/morning-education/2019/07/31/education-department-opens-new-review-of-acics-463618>; Shalina Chatlani, "Ed Dept Flags Compliance Issues with Troubled Accreditors ACICS," Education Dive, December 10, 2019, available at <https://www.educationdive.com/news/ed-dept-flags-compliance-issues-with-troubled-accreditor-acics/568819/>; Chris Quintana, "Betsy DeVos Orders Probe After USA TODAY Finds College Evidently Without Faculty, Students," USA TODAY, February 27, 2020, available at <https://www.usatoday.com/story/news/education/2020/02/27/college-accreditation-betsy-devos-education-department-house-committee-investigation-sd/4891749002/>

review and monitoring processes are as thorough as necessary to identify issues, that it has adequate mechanisms in place to conduct prompt review, and that it systemically fails to uncover significant quality concerns. These types of failures are typical of the agency's track record and demonstrate that, despite a second chance, the agency is incapable of serving as a reliable authority of quality needed to protect students and taxpayers.

Education Corporation of America

In December 2018, institutions owned by Education Corporation of America and accredited by ACICS precipitously closed, leaving 20,000 students to fend for themselves.⁶ While ACICS revoked their accreditation just before closure, the warning signs were extensive. ACICS failed to uncover numerous long-standing quality concerns and did not secure teach-out agreements for students to assist in transfer until it was too late. A review by another accrediting agency of ECA-owned Virginia College, the largest chain overseen by ACICS, uncovered extensive quality concerns including unacceptable job placement and graduation rates, lack of proper equipment and supplies, and high faculty turnover rates. Despite ACICS' claims that it has improved its ability to conduct oversight of at-risk institutions, and verify job placement rates and other data, it failed to catch any of these concerns or take appropriate action to protect students when the school was facing severe financial trouble.

Weak Finances

We are deeply concerned that ACICS' precarious financial state in combination with the agency's long record of failed oversight put students at further risk of new low-quality institutions gaining accreditation. ACICS has been operating at a \$2.1 million deficit and projects it will not be stable until at least 2023.⁷ In large part, that is because of declining fee revenue from a falling number of institutions accredited by the agency. ACICS approved more than 270 institutions several years ago; some of the agency's more reputable institutions have since fled to other agencies and many of the disreputable ones have collapsed, leaving the agency with a much smaller revenue base and a skeleton staff. Today, the agency accredits only 52 Title IV-participating institutions.⁸

That has created incentives for ACICS to bring in new members, potentially lowering its bar for consideration. At the time the financial trouble was reported, ACICS was considering four institutions for initial accreditation. It recently had 22 new institutions under consideration for initial accreditation, suggesting it is in high need of new membership to shore up its finances.⁹ In its most recent (May 2020)

⁶ Vanessa Romo, "For-Profit College Chain, Education Corporation of America, Announces Shutdown," NPR, December 6, 2018, available at <https://www.npr.org/2018/12/06/674343283/for-profit-college-chain-education-corporation-of-america-announces-shut-down>

⁷ Andrew Kreighbaum, "U.S. Reviewing Finances of Reinstated For-Profit Accreditor, Inside Higher Ed, July 31, 2019, available at <https://www.insidehighered.com/quicktakes/2019/07/31/us-reviewing-finances-reinstated-profit-accreditor>

⁸ Per the College Scorecard, ACICS now accredits 52 institutions. ACICS's directory of institutions includes 83 approved institutions, some of which are excluded from the College Scorecard universe of institutions for a variety of reasons, such as not participating in the Title IV federal financial aid programs.

⁹ ACICS, "Institution Invited to Apply," ACICS, available at <https://www.acics.org/council-institutions-invited> (link no longer active)

meeting, it considered the initial accreditation of just one.¹⁰ This puts ACICS in a hazardous spot as a federal gatekeeper since it both needs to maintain its existing membership while significantly growing, which raises the risk that institutions that do not meet quality standards will either remain accredited or gain new accreditation. If it fails to add new institutions, it will continue to suffer from serious financial shortcomings. The Department must seriously consider this information in its evaluation, and closely monitor ACICS review and approval of institutions seeking accreditation.

Procedural Concerns

The Department has made it particularly difficult to provide relevant comments on ACICS at this time. ACICS was originally scheduled to submit various compliance and monitoring reports to the Department in November 2019, February 2020, and March 2020.¹¹ These compliance issues were scheduled to be discussed at the Summer 2020 NACIQI meeting. However, at the last second, the Department abruptly removed ACICS from the agenda and bumped the review to February 2021. Shortly thereafter, in August 2020, the Department issued its call for these comments, to be discussed at the Summer 2021 NACIQI meeting. At no time prior to this comment deadline in November 2020 has the Department released either ACICS's responses to the compliance issues or its own analysis of those matters; and these comments are being submitted months before the analyses will be presented to NACIQI and the public.

It is clear that the Department has sought to protect ACICS, buy additional time for the agency to come into compliance, and withhold key documents from the public eye. Our comments address a host of known issues with ACICS, but in the absence of even a modicum of transparency from the Department, we are unable to effectively provide comment on each one of those issues. We are confident that a thorough and clear-eyed review of ACICS' many consecutive years of noncompliance that allowed dozens of poor-quality colleges to rip off students and taxpayers before many of them ultimately collapsed, ending millions of students' academic futures, will result in the Department withdrawing the agency's recognition.

Conclusion

¹⁰ ACICS, "Summary of May 2020 Council Actions,"

<https://static1.squarespace.com/static/5ce58a38738b880001909396/t/5f528f8d1d6416689ece6ce7/1599246221951/Summary%2Bof%2BMay%2B2020%2BCouncil%2BActions.pdf>

¹¹ These include a compliance report [due](#) in November 2019, addressing 34 CFR 602.15(a)(2) [competency of representatives] and 34 CFR 602.15(a)(6) [conflicts of interest]; monitoring reports required to be submitted at the same time pursuant to Secretary DeVos' [order, addressing](#) 34 CFR 602.15(a)(1) [administrative and financial resources], 34 CFR 602.16(a)(1)(i) [student achievement standards], 34 CFR 602.16(a)(1)(vii) [recruiting and admissions practices], and 34 CFR 602.19(b) [monitoring]; additional compliance reports submitted by ACICS to the Department, [due](#) February 1, 2020, addressing areas of noncompliance related to 34 CFR 602.15(a)(1) [administrative and financial resources], 34 CFR 602.16(c) [distance education], 34 CFR 602.17(c) [on-site reviews], 34 CFR 602.17(e) [agency conducts its own analysis of institutions' or programs' compliance with agency standards], and 34 CFR 602.28(d) [prompt review following another accreditor's action], especially as they relate to Virginia International University and San Diego University for Integrative Studies; and additional monitoring reports required by March 2020 regarding the Department's February 2020 [letter](#) opening an investigation into ACICS' actions or non-actions related to Reagan National University.

ACICS has repeatedly failed to fulfill its duty as gatekeeper to billions in federal taxpayer money. Four years after it first lost recognition, it still remains out of compliance with federal recognition criteria. The Department of Education and NACIQI have a responsibility to ensure that recognized agencies fully meet all recognition criteria, with significant implications for students and taxpayers. Allowing ACICS to continue despite this track record puts thousands of students at future risk. We urge you to find ACICS non-compliant based on all available evidence, and withdraw the agency's recognition.

Sincerely,

American Federation of Teachers
Center for American Progress
Consumer Action
David Halperin, Attorney
Generation Progress
National Association for College Admission Counseling
National Consumer Law Center (on behalf of its low-income clients)
New America Higher Education Program
Partnership for College Completion
Stephanie Hall, The Century Foundation
Student Veterans of America
The Education Trust
The Institute for College Access and Success (TICAS)
Third Way
Veterans Education Success
Young Invincibles