



VETERANS EDUCATION SUCCESS

March 24, 2020

Herman Bounds
Director, Accreditation Group
U.S. Department of Education
400 Maryland Ave., S.W.
Washington, D.C. 20002

Dear Mr. Bounds:

On February 27, 2018, twenty-nine Veterans and Military Service Organizations [wrote](#) to ask you to deny the application by the Accrediting Council for Independent Colleges and Schools (ACICS) to gain recognition as a reliable authority on the quality of education or training. As you know, Secretary DeVos reversed the Department's 2016 withdrawal of ACICS recognition, which had been based on years of compliance concerns and shortcomings with the "bad actor" institutions it accredited. Of particular concern to Veterans and Military Service Organizations, the Department of Veterans Affairs (VA) and the Defense Department (DOD) rely on Education Department-approved accreditors to ensure the quality and integrity of schools.

Since her November 2018 reinstatement of ACICS, serious concerns about the effectiveness of its evaluation and monitoring approaches have continued to emerge. Your November 21, 2019, letter to the President of ACICS outlined several oversight lapses related to Virginia International University (VIU) and San Diego University for Integrative Studies (SDUIS) and required ACICS to respond through the submission of a compliance report by February 1, 2020. Since then, a USA Today [investigation](#) has uncovered similar and more troubling concerns about the competence of ACICS' evaluation and monitoring of Reagan National University (RNU). These written comments are intended to inform your upcoming review of the February 2020 ACICS' compliance report at the summer 2020 meeting of the National Advisory Committee on Institutional Quality and Integrity.

Secretary DeVos's November 2018 decision to grant ACICS continued recognition, overturning the 2016 [recommendations](#) to the then Secretary by career staff and the Department's National Advisory Council on Institutional Quality and Integrity, noted the accretor's noncompliance with staff competency [§ 602.15(a)(2)] and conflict-of-interest [§ 602.15(a)(6)] requirements. However, ACICS' noncompliance was procedural rather than substantive—"too early to determine the effectiveness of that [staff] training," or "failed to provide documentation" (the qualifications of its Data Integrity Reviewer and lack of evidence that staff had consistently signed conflict-of-interest attestations). In contrast, the compliance concerns raised about ACICS' evaluation and monitoring of VIU, SDUIS, and RNU are strikingly reminiscent of the concerns that led the Department to deny the accretor's petition for renewal of recognition in December 2016. We believe that the seriousness of these concerns undermine the Department's own November 2018 determination that ACICS deserves recognition as "a reliable authority on the quality of education or training."

1250 H STREET NW
WASHINGTON, D.C. 20005
VETSEDSUCCESS.COM
HELP@VETSEDSUCCESS.ORG



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Rationale for 2016 Withdrawal of Recognition

As you know, the Secretary of Education withdrew recognition of ACICS in 2016 after years of compliance concerns about the “bad actor” institutions it accredited, including Corinthian, ITT Tech, Fast Train, Westwood (Alta), Globe University, and Sanford-Brown (Career Education). These institutions are now closed and, prior to closure, many had been investigated by or settled with federal and state law enforcement agencies based on complaints about their predatory behavior. Nonetheless, ACICS maintained these institutions accreditations until the day they shut down. Two examples illustrate the scope of ACICS’ shortcomings, which led to the Department’s December 2016 decision to withdraw recognition:

- In December 2014, the Justice Department filed a [complaint](#) alleging that FastTrain used female exotic dancers as admission representatives to convince men to enroll. Even though some students had no high school diploma or GED, FastTrain coached them to lie on their FAFSA forms in order to qualify for federal student aid. The Justice Department case resulted in an 8-year jail term for the FastTrain CEO. Yet, ACICS found no major problems with FastTrain and, in fact, named the school an [honor roll](#) institution in 2011 for its “excellent understanding” of the quality assurance process. ACICS maintained FastTrain’s accreditation until the day the school closed.
- An Education Department finding that Corinthian had falsified job placement rates ultimately led to its 2015 bankruptcy and to a heated exchange between the ACICS CEO and several U.S. Senators. At a July 2015 hearing, ACICS’ CEO asserted that the accreditor had found [“no evidence they \[Corinthian\] lied to or defrauded students”](#) even though it was aware of 20 separate investigations and three lawsuits alleging fraud by Corinthian. Despite the Department’s findings about falsified job placement rates, an issue covered by ACICS’ standards, he went on to claim that Corinthian was in compliance with those standards when the Education Department took action against the for-profit chain. Similarly, ACICS ignored the California Attorney General’s 2013 [lawsuit](#) over Corinthian’s illegal use in advertising of official military department seals that sought to imply federal government approval or endorsement of the school.

Unfortunately, Corinthian and FastTrain are [not isolated examples](#) of ACICS’ “honoring” institutions that were under investigation or had settled lawsuits. Moreover, other ACICS-accredited institutions also engaged in similar predatory behavior: the [Art Institutes](#) (EDMC), [Daymar College](#), [Florida Technical College](#), [Fortis Institute](#) (Education Affiliates), [Lincoln Technical Institute](#), [National College](#), and [Salter College](#) (Premier Education Group). Some of these institutions have now closed (Art Institute, Salter College), merged with other schools (Florida Technical College), or rebranded by changing their name (National College). They all settled lawsuits or were sanctioned for using deceptive recruiting practices to persuade students to enroll, including misrepresenting job placement and graduation rates; enrolling individuals without the required high school diploma or GED; lying about the ability to transfer credits; and overstating post-graduation salaries.

These examples all point to the logical conclusion that ACICS simply turned a blind eye to obvious red flags raised by federal and state law enforcement agencies at the schools it accredited.



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Red Flags about Rigor of ACICS Oversight Reemerge

The November 2019 letter from the Director of the Education Department's Accreditation Group points out that ACICS similarly missed red flags raised by the Virginia State Council for Higher Education (SCHEV) about VIU and by the Accrediting Council for Continuing Education and Training (ACCET) concerning SDUIS. For example, the letter concludes:

- *VIU*. "The Department is concerned that the agency [ACICS] had information and documentation from SCHEV that called into question VIU's ability to potentially meet the ACICS' standards, but did not review the information and documentation, nor act upon it until over a month later once the issue was raised in the press. This appears to indicate that ACICS failed to follow its own policies and procedures related to the timely review of adverse information, as expected by Section 602.28(d)... The Department is concerned with the strikingly different conclusions reached by ACICS and SCHEV regarding the academic quality of the distance learning programs at VIU... We are concerned that either ACICS's distance education standards did not contain the same level of rigor as those utilized by SCHEV or that ACICS's onsite reviewers failed to uncover the deficiencies noted by the SCHEV audit in August 2018 as required by Sections 602.16(c) and 602.17(c)."
- *SDUIS*. "Therefore, it does not appear that ACICS conducted a comprehensive analysis to assess the relationship between SDUIS and USAELC [USA English Language Center, owned by SDUIS], to determine if ACICS is required to take into account the accreditation action by ACCET on USAELC when reviewing SDUIS, as required by Section 602.28(d)... [T]he lack of inquiry by ACICS does not demonstrate the agency conducted its own analysis of the [SDUIS] documentation, as required by Section 602.17(e)."

Based on the findings of the Department's staff, ACICS was directed to submit another compliance report by February 1, 2020, to address compliance concerns related to Sections 602.15(a)(I), 602.16(c), 602.17(c), 602.17(e), and 602.28(d)." It is worth noting that the Secretary's November 2018 decision found ACICS compliant with all but two recognition criteria and did not cite any compliance concerns related to any of the above criteria.

USA Today Investigation Found ACICS Accredited a "Ghost School"

Last month, USA Today reported the results of its [investigation](#) of ACICS-accredited RNU. ACICS accredited this school in 2017, several months after the Secretary of Education declined to renew ACICS petition for recognition. At that time, the number of ACICS-accredited schools had dwindled to 63 from a high of 290. Because schools pay fees for accreditation, ACICS' fiscal condition had also deteriorated, raising a question about the agency's motivation in approving RNU given both ACICS' own and USA Today's findings.

In 2019, ACICS threatened to revoke RNU's accreditation for failure to meet the agency's job placement standard of 60 percent but apparently RNU provided additional information and retained its accreditation. Then, in December 2019, ACICS raised concerns about the viability of some of RNU's course offerings, including lack of evidence of a qualified person to run its business programs and lack of equipment to teach computer science programs. RNU had until mid-February to respond to ACICS concerns and its accreditation was scheduled to be reviewed in April 2020.



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In the interim, USA Today's investigation, which began in late January 2020, found that South Dakota-based RNU was a ghost school, operating without faculty or students. Although the investigation was unable to determine how long RNU had been operating that way, it found that the school had links to the University of Northern Virginia, a fake university and visa mill that offered students a chance to live in the United States without offering a real education. When state officials closed the University of Northern Virginia in 2013, it resurfaced in South Dakota at the same business address as RNU and with a business agent whose name was similar to that of RNU's president. USA Today, however, was told that RNU never participated in the student visa program. RNU withdrew from accreditation at about the time USA Today published the findings of its investigation. The USA Today report provides further evidence of lax oversight by ACICS

Why Accreditation Matters to Military-Connected Students

Of particular concern to Veterans and Military Service Organizations, VA and DOD rely on Education Department-approved accreditors to ensure the quality and integrity of schools. VA and DOD should be able to rely on the Department's accreditors to weed out bad actors.

Moreover, weaknesses in ACICS oversight disproportionately affect veterans who are targeted by for-profit schools because of a statutory loophole in the Higher Education Act. As you may know, for-profit schools can obtain no more than 90 percent of their revenue from federal student aid, but military and veteran educational benefits are excluded from the cap even though they are also federal dollars. As a result, for every \$1 a for-profit school earns by enrolling a veteran, it can receive \$9 by recruiting students who depend on federal student aid to pay their tuition. This 90/10 loophole incentivizes for-profit schools to engage in deceptive recruiting that targets veterans.

In closing, we strongly urge the Department to revoke its recognition of ACICS as an accreditor.

Sincerely,

Carrie Wofford
President
Veterans Education Success

(b)(6)

Walter Ochinko
Research Director
Veterans Education Success

(b)(6)

April 1, 2020

Office of Postsecondary Education
U.S. Department of Education
400 Maryland Ave., SW
Washington, D.C. 20202

Written Comments: Accrediting Council for Independent Colleges and Schools (ACICS)

To Whom It May Concern:

Thank you for the opportunity to submit comments regarding the Accrediting Council for Independent Colleges and Schools (ACICS). Based on the information available on ACICS' recent track record with regard to the criteria mentioned in the report, I recommend the Department find ACICS non-compliant with federal requirements for recognized accrediting agencies. I detail the reasons for this finding of non-compliance below.

ACICS' History of Non-Compliance

As you know, ACICS was due to submit a compliance report to the Department¹ by November 2019 regarding two areas of noncompliance: competency of representatives, to demonstrate additional training had been provided to volunteers, submit evidence regarding the qualifications of the data integrity reviewer, and offer additional information regarding the agency's ethics review board²; and conflicts of interest, requiring intermediate review committee members to sign attestations that they do not have conflicts of interest.³

Alongside the compliance report sought by the Department, ACICS was also instructed to submit "monitoring reports" (a distinction not included in the effective regulations) regarding another four areas. And since the original decision, the Department has had to issue several subsequent requests for reporting from the agency on areas of non-compliance.⁴ Prior to the multiple separate compliance

¹ <https://opeweb.ed.gov/e-Recognition/PublicDocuments/DecisionLetter?agencyid=15&endpt=Final%20Decision%20of%20the%20Secretary%20November%202018.pdf&agencycd=ACICS&meetingdate=6%2F23%2F2016%2012%3A00%3A00%20AM>

² 34 CFR 602.15(a)(2)

³ 34 CFR 602.15(a)(6)

⁴ <https://www.educationdive.com/news/ed-dept-flags-compliance-issues-with-troubled-accreditor-acics/568819/>; and <https://www.documentcloud.org/documents/6789634-Education-Dept-Letter-to-ACICS.html>.

issues (each touching on multiple issues) over the last two years, the Department had withdrawn recognition from the agency completely, citing non-compliance with nearly two-dozen different criteria.⁵

Standards for Compliance

Given the agency's long track record of poor quality assurance, which has led to severe negative consequences for students and for taxpayers, the bar must be high for the Department to further extend ACICS' recognition.

In particular, the Department must follow current regulations, as they are in effect when ACICS submitted its compliance report and the Department reviews the report. Pursuant to 34 CFR 602, that means the Department's analysis must:

1. Ensure the agency satisfies both the agency's compliance with the criteria, and its effectiveness in applying the criteria (34 CFR 602.32(b)); and
2. Ensure that the agency has met the compliance reporting requirements within no more than 12 months from when the report was assigned, or deny, limit, suspend, or terminate recognition if the agency has not met the requirements within that timeframe (34 CFR 602.36(e)(3)(ii)).

While I am aware that the Department intends to put new regulations into effect as of July 1, 2020, those regulations are not applicable in this case. Thus, ACICS' compliance report must also be evaluated under the current rules.

Additionally, with such a long history of failing to meet prescribed standards in a timely manner, the Department should require extraordinary evidence to give ACICS yet another chance. For instance, ACICS failed to come into full compliance with federal criteria between December 2016, when the Department withdrew recognition, and April 2018, when Secretary DeVos restored recognition. Given four months *longer* than the maximum time frame contemplated in the regulations,⁶ ACICS still fell short.

Flawed Public Comment Process

As required by the regulations, the Department has sought comments from the public regarding this compliance report. It has not, however, released the compliance report on which it seeks comment, leaving third-party commenters without knowledge of the evidence ACICS provided itself.

In 2018, a court granted a temporary restraining order, forcing the Department to delay a third-party comment deadline for accreditors' recognition because the Department had not previously released the accreditor's petition. When the Department argued that it did not typically produce documents,

⁵ <https://www2.ed.gov/documents/acics/final-acics-decision.pdf>

⁶ 34 CFR 602.36(e)(3)(i)

the judge countered that “the fact that something has always been done a certain way does not necessarily mean that it is correct or lawful.” The judge also said that by “ending the comment period before [third-party commenters] have an opportunity to review the application, the Department may very well be acting arbitrarily and capriciously.”⁷

In this case, however, a FOIA request for the compliance report in question has gone unanswered for nearly a month.⁸ The Department should publish the compliance report submitted by ACICS, any monitoring reports that the agency has submitted, and all subsequent compliance reports. And future public-comment sessions should open only once the Department has made the relevant documentation available to the public, as well. For the purposes of this public comment period, the Department must recognize that commenters do not have access to all necessary information, and thoroughly analyze and consider all outside comments against federal rules and other materials denied to the public.

Competency of Representatives

The Department cited ACICS for its failure to adequately meet the standards around competency of representatives. Continued evaluation of ACICS suggests that those problems have continued.

For instance, the regulations require that agencies demonstrate they have “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.”⁹ But several recent incidents--situations that have occurred during the last year, since ACICS was assigned the compliance report--suggest ACICS is not adequately staffed with individuals who can uphold the agency’s responsibilities.

In December 2018, ACICS withdrew accreditation from the Education Corporation of America and its Virginia College brand, which operated both in-person and online programs. But that college’s precipitous closure--and the preceding actions by ACICS--came after years of questions about the institution’s quality, action by the Education Department to restrict federal financial aid dollars to the school, another accrediting agency denying the institution accreditation, and the institution’s drastic step to file for federal receivership in an attempt to evade federal bankruptcy rules.¹⁰ When the institution closed, it did not have teach-out agreements in place, despite having been on show cause status with ACICS for months.¹¹ And when ACICS was asked why it didn’t seek teach-out plans from the school sooner, it failed to respond to comments.¹² ECA’s collapse presents yet another

⁷ *The Century Foundation v. Betsy DeVos and the U.S. Department of Education*, Case No. 18-cv-1129(PAC)

⁸ FOIA submitted by the author.

⁹ 34 CFR 602.15(a)(2)

¹⁰ <https://www.insidehighered.com/news/2018/12/06/closure-education-corporation-america-raises-questions-about-oversight-and-support>

¹¹ <https://ope.ed.gov/dapip/#/institution-profile/163213>

¹² <https://www.insidehighered.com/news/2018/12/06/closure-education-corporation-america-raises-questions-about-oversight-and-support>

example of ACICS' failure to monitor institutions that present a known risk to students and taxpayers, and its continued failure to take actionable steps to protect students in advance of harm.

Another major flag comes with Virginia International University. In March 2019, Virginia's state authorizer (SCHEV) "uncovered allegations of widespread plagiarism, grade inflation, and other concerns about academic quality" and recommended revoking the school's recognition.¹³ Just six months earlier, ACICS had re-accredited the school for a full three years -- apparently missing all of the quality issues identified by the state. Only *after* SCHEV reported the issues did ACICS follow suit with an action. And when SCHEV reached a consent agreement with the institution in June 2019,¹⁴ ACICS promptly dropped its show cause order.¹⁵ Competent representatives can reasonably be expected to spot widespread quality issues at an institution, and to follow through on such an institution once those quality issues are acted upon. ACICS officials did neither.

In another disturbing example, a news story this year reportedly found that ACICS had been accrediting Reagan National University in South Dakota since 2017 -- but the institution did not appear to be operating at all, with no students and no faculty on site. Only after *USA Today* made calls to ACICS requesting comment did the institution withdraw from ACICS' accreditation.¹⁶ This clear dereliction of responsibility to conduct adequate oversight gets to the heart of questions about the competency of those managing ACICS operations and making accreditation decisions.

Other Noted Compliance Concerns

As previously mentioned, the Department has followed up with multiple additional requests for information and concerns about ACICS' compliance with various standards. These compliance concerns should be addressed during this same review as the conflict of interest and competency of representatives concerns. The Department cannot keep continuously extending the one-year clock for ACICS; it lacks good cause to do so, as required in the law, and students and taxpayers deserve better than an endless string of second chances for ACICS.

Administrative and Fiscal Resources

For instance, the Department's Accreditation Group staff have previously identified numerous areas of concern related to the agency's administrative and fiscal resources;¹⁷ and the Secretary herself required ACICS to complete additional annual monitoring in this regard. Accreditation staff pointed to Virginia International University (VIU, as described above) and San Diego University for

¹³ <https://www.chronicle.com/article/How-a-Troubled-Accreditor-s/246448>

¹⁴ <https://www.insidehighered.com/quicktakes/2019/06/18/agreement-allows-virginia-international-continue-operating>

¹⁵

<https://static1.squarespace.com/static/5ce58a38738b880001909396/t/5d824829cf1e8a6558472956/1568819242208/Summary+of+August+2019+Council+Actions.pdf>

¹⁶ <https://www.usatoday.com/story/news/education/2020/02/15/college-accreditation-department-education-betsy-devos-south-dakota-sioux-falls/4746906002/>

¹⁷ 34 CFR 602.15(a)(1)

Integrative Studies (SDUIS, which ACICS failed to investigate after its affiliated USA English Language Center lost accreditation from another accrediting agency), noting that “the lack of effective evaluation and monitoring approaches” to the two institutions “does not demonstrate effective compliance with Section 602.15(a)(1)” [adequate administrative staff and financial resources to carry out its accrediting responsibilities].

Additionally, after news reports about the agency’s budget deficit, Accreditation Group staff raised concerns about available resources for the agency to conduct rigorous quality assurance for its institutions. Despite a determination that ACICS would be back in the black soon enough, though, ACICS has continued to overfill its pipeline of new institutions. Today, nearly 20 colleges have been invited to apply for initial accreditation¹⁸ -- above and beyond the 10 per year that ACICS said it needed to add to its roster of accredited colleges in order to break even.¹⁹ This raises significant questions about the level of rigor the agency is applying, and whether its commitment to quality assurance is being overshadowed by its business decisions.

Distance Education

Several of the examples noted previously suggest that ACICS is not meeting federal criteria for oversight of distance education.²⁰ For instance, the Virginia findings with respect to Virginia International University implicated the school’s distance-education program. And Education Corporation of America (with its poor quality and serious financial problems that ultimately led to the school filing for federal receivership) operated online programs, as well. ACICS has demonstrated a clear lack of rigor and a consistent failure to meet federal standards related to distance education -- a matter that has never been of greater importance than during the current national emergency.

Regard for Decisions of States and Other Accrediting Agencies

The Department has also found evidence that ACICS failed to meet regulatory requirements to investigate an institution or program if another recognized agency takes an adverse action against the institution.²¹ With Virginia International University, for instance, it is not clear that ACICS conducted an independent investigation following the reported problems from SCHEV -- just that it eventually took an action. Similarly, following a decision from the Accrediting Council for Continuing Education and Training (ACCET) to withdraw accreditation from the USA English Language Center owned by San Diego University for Integrative Studies, ACICS failed to produce evidence sufficient to persuade the Education Department that it “conducted a comprehensive analysis to assess the relationship [between SDUIS and USA English Language Center] to determine if ACICS is required to take into account the accreditation action by ACCET.”²²

¹⁸ <https://www.acics.org/council-institutions-invited>

¹⁹ As described by ACICS at a June 2019 CHEA meeting, documented in the author’s notes; and <https://twitter.com/TheToniFlores/status/1135882203982946305>.

²⁰ 34 CFR 602.16(c)

²¹ 34 CFR 602.28(d); see: <https://www.documentcloud.org/documents/6572673-2019-11-21-Letter-From-ED-to-ACICS.html>

²² <https://www.documentcloud.org/documents/6572673-2019-11-21-Letter-From-ED-to-ACICS.html>

These repeated problems demonstrate ACICS' utter inability or unwillingness to follow federal rules and criteria where they require even the most basic quality assurance practices. In addition to demonstrating that ACICS is out of compliance with criteria regarding competency of representatives,²³ these cases depict an agency that has been persistently out of compliance with multiple criteria.

Moreover, ACICS' long track record of failure to adequately oversee institutions should increase the significance of these failures. In fact, even the Council for Higher Education Accreditation (CHEA) recommended denying ACICS' continued recognition (at which point the agency promptly withdrew its application).²⁴ While CHEA has declined to say with which nine standards the agency was out of compliance, such significant action by an entity that has historically been more membership association than regulator should carry substantial weight with the Department.

I am available to discuss these comments in greater detail if you have questions or concerns. Please do not hesitate to contact me at mccann@newamerica.org.

Sincerely,

Clare McCann
Deputy Director for Federal Policy
Higher Education Program, New America

²³ 34 CFR 602.15(a)(2)

²⁴ <https://www.educationdive.com/news/breaking-acics-withdraws-application-for-recognition/570711/>

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April 1, 2020

The Honorable Betsy DeVos
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary DeVos,

I am writing regarding the ongoing review and evaluation of the current scope of recognition of the Accrediting Council for Independent Colleges and Schools (ACICS), conducted by the Department of Education's Office of Postsecondary Education Accreditation Group. In light of ACICS's involvement in multiple major school closures in the last decade and its demonstrated lack of oversight of its institutions, I urge the Department of Education (Department) to rescind the federal recognition of ACICS. Tens of thousands of students continue to attend institutions accredited by ACICS and they deserve to know that these institutions are subject to rigorous accreditor oversight as intended under the *Higher Education Act of 1965* (HEA).¹

The Department's primary role in the accreditation process is to federally recognize accrediting agencies as laid out in Section 496 of HEA and Title 34 of the Code of Federal Regulations, section 602.² As further described below, ACICS is in clear noncompliance with the recognition criteria, has become ineffective in its performance, and should have its recognition revoked.

A Review of the Department's Failure to Reign in ACICS's Non-Compliance

After years of "perverse noncompliance",³ Secretary John B. King terminated federal recognition of ACICS in September 2016. This came after recommendations from both career staff at the Department and the National Advisory Committee on Institutional Quality and Integrity (NACIQI) – an independent and bipartisan body of members – to derecognize ACICS as a federal accreditor. At the time, ACICS oversaw 725 institutions receiving \$3.3 billion in federal student aid, and the majority of these schools were for-profit institutions. ACICS appealed Secretary King's decision and in December 2016, Secretary King rejected that appeal. ACICS then filed a lawsuit against the Department alleging procedural flaws in its decision to withdraw recognition.⁴ In March 2018, a District Court Judge ruled that the Department had failed to review key evidence when it withdrew recognition of ACICS and ordered you to revisit the 2016 decision.⁵ In April 2018, you tentatively restored recognition to ACICS while you deliberated a final decision on the 2016 application.⁶

As ACICS sought to restore its recognition via the courts, it simultaneously attempted to regain status as a recognized accreditor through other channels. In Fall of 2017, ACICS applied for "initial recognition" as an

agency. In June 2018, ED complied with a FOIA request and released an internal career staff report recommending that the Secretary deny the “initial recognition”⁷ request due to severe non-compliance with regulations.⁸ Despite the career staff report, in September 2018, Diane Auer Jones, a top political appointee designated by you as the Senior Department Official (SDO) reviewing the 2016 decision, recommended restoring recognition to ACICS.⁹ Undersecretary Jones’ analysis was in part based on factual inaccuracies. Notably, in November 2018, the Department restored ACICS’s recognition, despite non-compliance with two criteria and gave ACICS a 12-month period to come into full compliance.¹⁰ The decision to restore ACICS’s recognition based upon Undersecretary Jones’ report calls into question the entire re-recognition process.

For instance, Undersecretary Jones analysis inaccurately stated that ACICS met 19 of the 21 criteria, including that it was “widely accepted” in the higher education community. While her analysis stated that “ACICS provided letters of support from nine other accrediting agencies,” many of the accreditors cited stated that they “never submitted letters of support for ACICS.”¹¹ While the Department referred to this as an “inadvertent error in the editing process,”¹² even the Department’s correction, which you relied on in making your final determination, appears to have been based on a misstating of ACICS’s wide acceptance.

In its correction, the Department cited letters of support from the Accrediting Bureau of Health Education Schools (ABHES), the Accreditation Council for Occupational Therapy Education (ACOTE), the Commission on Accreditation in Physical Therapy Education (CAPTE), the Accreditation Commission for Education in Nursing (ACEN), and the American Registry of Radiologic Technologists (ARRT).¹³ However, when contacted “four out of five of these agencies carefully avoided asserting support, endorsement, or unequivocal acceptance of ACICS as a peer” and “all of them were also clear that they had not reviewed ACICS’s standards, policies, or procedures, or how ACICS makes their decisions to grant or deny accreditation.”¹⁴ These misstatements indicate that ACICS was not in compliance with one of the “basic eligibility requirements” of the regulation and cast doubt upon the validity of the entire review. In effect, the November 2018 decision to restore the recognition of ACICS raises questions of the legal and procedural underpinnings of that decision.¹⁵

Moreover, as noted above, Department career staff have twice found ACICS to be out of compliance with the criteria for recognition. In June 2016 while considering ACICS’s petition to renew recognition, Department career staff found that ACICS was not in compliance with 21 of the recognition criteria.¹⁶ And then in March 2018 in response to ACICS’s application for “initial recognition” Department career staff found ACICS out of compliance with 57 of the 93 criteria.¹⁷ Despite the recommendations of career staff, the Department made the decision to restore recognition of ACICS.¹⁸

CHEA Findings of ACICS’s Non-Compliance

In a December 16, 2019 letter, the Council for Higher Education Accreditation (CHEA) informed ACICS that it was in noncompliance with nine of its standards and that the Committee of Recognition recommended to the CHEA board that recognition be denied.¹⁹ Specifically CHEA found the following:

- “ACICS did not demonstrate that it sufficiently articulates its expectations for academic quality for the institutions that it accredits.
- Although ACICS asserted that it used Campus Accountability Report data as indicators of ACICS performance expectations, ACICS did not demonstrate that it uses those data, or other reports, in its decision-making about accreditation status.

- ACICS did not demonstrate that it makes its reasons for accreditation actions sufficiently accessible to the public.
- ACICS did not provide evidence of implementation of a procedure for taking timely action with regard to substantially underperforming institutions.
- ACICS did not provide evidence of attention to appropriate innovation practices in demonstrating public accountability.
- ACICS did not demonstrate that timely, readily accessible, accurate and consistent aggregate information regarding performance and student achievement is provided to the public. The information that was found is inconsistent and often specific to attendance but does not address performance and student achievement.
- ACICS did not provide adequate evidence of how it provides oversight of the institutions it accredits internationally, including evidence of taking into consideration the quality assurance practices in the country in which the ACICS accreditation is taking place.
- ACICS did not provide evidence that its standards to accredit internationally, including its expectations of results, are substantially comparably applied to U.S. and non-U.S. institutions alike.
- ACICS did not demonstrate sufficient viability and sustainability to carry out its accreditation functions, given its current financial constraints and the impact on staffing and operations.”²⁰

In response, ACICS withdrew its application for recognition by CHEA.²¹ These findings are especially critical because in its decision to restore recognition to ACICS, the Department relied on its continued recognition by CHEA as evidence that it was in compliance with federal accreditation standards. Specifically, the Department stated, “That CHEA continues to recognize ACICS pending review and has not taken negative action against ACICS ... is notable and an important indicator that ACICS continues to be widely accepted as an accreditor.”²² It is similarly notable that CHEA has determined that ACICS is noncompliant with nine of its standards and made a recommendation of denial of recognition.

ACICS’s History of Accrediting Failed Schools

Concerns regarding ACICS’s ability to meet federal standards were ongoing for some time due to its long and troubled history. As the accreditor for Corinthian Colleges, Inc., ITT Technical Institute, and the Education Corporation of America, ACICS has now overseen the three largest collapses of institutions of higher education in the history of the United States. These collapses have cost taxpayers hundreds-of-millions of dollars. In all three instances, ACICS, over a period of years, missed clear warning signs of problematic conduct, poor student outcomes, and a lack of financial stability.²³

More than any other recognized accreditor, institutions accredited and overseen by ACICS have a pervasive and documented record of engaging in deceptive and misleading recruiting practices and providing their students with misleading information regarding the transferability of credits, job placement data, or the promise of guaranteed employment.²⁴ According to a report from the Center for American Progress, ACICS accredited institutions have the worst graduation, default, and student loan repayment rates compared to any other major accreditation agency.²⁵

Financial Stability and Administrative Capacity

Concerns regarding the financial stability of ACICS were first raised in June 2019 when the president of ACICS stated before CHEA's recognition committee that the organization expected a loss of \$2.1 million for the year and that ACICS did not expect to break even until at least 2023.²⁶ As a result of these comments the Department opened a new inquiry into the financial stability of ACICS.²⁷ Specifically this inquiry was focused on whether ACICS has the, "administrative and fiscal capability to carry out its accreditation activities" in compliance with 34 CFR 602.15.

While Department career staff did find that "ACICS currently has sufficient financial resources to carry out its accrediting responsibilities," they have demonstrated that ACICS's financial difficulties led to a, "lack of effective evaluation and monitoring approaches" regarding Virginia International University (VIU) and the San Diego University for Integrative Studies (SDUIS).²⁸ As stated above, this is further concerning given CHEA's findings that, "ACICS did not demonstrate sufficient viability and sustainability to carry out its accreditation functions, given its current financial constraints and the impact on staffing and operations."²⁹ In regards to both VIU and SDUIS, the Department raised concerns that ACICS did not have a review or monitoring process which was as thorough as required to remain in compliance with the accreditation standards.³⁰

In the case of VIU, a state authorizing agency, the State Council for Higher Education in Virginia (SCHEV), found, "rampant plagiarism by students and grade inflation; online classes that are patently deficient in terms of quality and content and graduate courses that are lacking academic rigor; and the admission of large numbers of students with inadequate English proficiency."³¹ The Department raised concerns that: 1) ACICS received the audit and recommendation from SCHEV in February 2019, but appear to only have taken action only after the issue was raised by the press; 2) ACICS did not conduct its own review and relied on the SCHEV review, calling into question whether it has adequate mechanisms in place to do so promptly following a negative report from a state or other agency; and, and 3) ACICS and SCHEV reached very different conclusions regarding the academic quality of VIU's distance learning programs.³²

Regarding SDUIS, the Department's primary concerns were that: 1) ACICS did not conduct an analysis as required under 34 C.F.R. § 602.28(d) to determine whether ACICS was required to consider the fact that SDUIS is currently appealing a denial of reaccreditation decision by the Accrediting Council for Continuing Education & Training (ACCET); and, 2) ACICS did not demonstrate it conducted its analysis of the 400 pages of documentation provided by SDUIS in response to public comments as required under 34 C.F.R. § 602.17(e).³³

In sum, institutions like VIU and SDUIS were not held to the proper level of accountability, to the detriment of students and taxpayers, because ACICS lacked the financial resources to carry out its accrediting responsibilities to conduct proper monitoring and oversight of institutions. Regrettably, ACICS's lack of oversight is by no means limited to these two institutions, as demonstrated by what was recently found in the case of Reagan National University.

Reagan National University

According to recent news reports, the ACICS accredited college Reagan National University (RNU) appears to have no faculty, students, or classrooms.³⁴ ACICS first accredited RNU in 2017. Although ACICS placed RNU

on show cause status because of its zero percent job placement rate, show cause status was later removed after ACICS found that RNU had, "satisfactorily addressed all compliance concerns from previous actions."³⁵

The Department has initiated an inquiry into this matter and stated in its letter that these "allegations raise questions as to the effectiveness of the agency's evaluation and monitoring of its applicant and membership institutions."³⁶ The letter further notes that while RNU withdrew from accreditation, "the agency's member directory indicates that RNU is still accredited and there is no indication that the institution voluntarily withdrew."³⁷ These allegations further support the notion, that like the cases of VIU and SDUIS, ACICS lacks the adequate staffing and other resources to be able to comply with the requirement that they, "adequate administrative staff and financial resources to carry out its accrediting responsibilities."³⁸

Conclusion

ACICS has continued to demonstrate that it is unable to meet basic accreditation standards and that it is incapable of acting to protect students from low-quality predatory institutions. As a result, ACICS's inaction has cost taxpayers hundreds of millions of dollars. Further, the Department's own career staff have repeatedly affirmed ACICS's noncompliance with the accreditation criteria even though there is no evidence that ACICS has taken the requisite steps to correct these deficiencies. The Department quite simply has no choice but to revoke ACICS's federal recognition.

Thank you for your consideration of this matter.

Sincerely,

(b)(6)

ROBERT C. "BOBBY" SCOTT
Chairman

(b)(6)

SUSAN A. DAVIS
Chairwoman
Subcommittee on Higher Education and
Workforce Investment

cc: The Honorable Virginia Foxx, Ranking Member

cc: The Honorable Lloyd Smucker, Ranking Member, Subcommittee on Higher Education and Workforce Investment

¹ According to the Department the purpose of accreditation is to: "1) assess the quality of academic programs at institutions of higher education; 2) create a culture of continuous improvement of academic quality at colleges and universities and stimulate a general raising of standards among educational institutions; 3) involve the faculty and staff comprehensively in institutional evaluation and planning; and 4) establish criteria for professional certification and licensure and for upgrading courses offering such preparation." See U.S. Department of Education, "Accreditation in the United States,"

<http://www2.ed.gov/admins/finaid/accred/accreditation.html#Overview>. The Council for Higher Education Accreditation (CHEA) similarly defines accreditation as "a process of external quality review created and used by higher education to scrutinize colleges, universities, and programs for quality assurance and quality improvement."

<http://chea.org/userfiles/uploads/Overview%20of%20US%20Accreditation%202015.pdf>.

² Under 32 CFR 602.33 (a) Department staff may review the compliance of a recognized agency with the criteria for recognition at any time - (1) At the request of the Advisory Committee; or (2) Based on any information that, as determined by Department staff, appears credible and raises issues relevant to recognition.

³ <https://www2.ed.gov/documents/acics/final-acics-decision.pdf>.

⁴ "ACICS Files Motion for Summary Judgment in U.S. District Court." Accrediting Council for Independent Colleges and Schools. Retrieved from: <http://acics.org/news/content.aspx?id=6937>

⁵ Lederman, Doug. "Court Opens Door for For-Profit Accreditor's Futures." *Inside Higher Ed*. March 26, 2018. Retrieved from: <https://www.insidehighered.com/news/2018/03/26/federal-court-orders-education-dept-reconsider-acicss-fate>

⁶ U.S. Department of Education. Order, Accrediting Council For Independent Colleges and Schools. April 3, 2018. Retrieved from: <https://www2.ed.gov/documents/press-releases/acics-docketno-16-44-0.pdf>

⁷ Agencies applying for initial recognition are evaluated based on a different standard and the process includes the review of criteria that is not considered when seeking to renew recognition. <https://www2.ed.gov/adms/finaid/accred/accreditation.html>

⁸ U.S. Department of Education. FOIA Request No. 18-01346-F. June 8, 2018. Retrieved from: https://production-tcf.imgix.net/app/uploads/2018/06/08174207/ACICS-draft-and-written-comments-060818_1.pdf

⁹ U.S. Department of Education. Senior Department Official's Response to ACICS, Accrediting Council For Independent Colleges and Schools. September 28, 2018. Retrieved from:

https://www.insidehighered.com/sites/default/server_files/media/SDO%20Response%20to%20ACICS%209.28.18.pdf

¹⁰ Kreighbaum, Andrew. "DeVos Restores Recognition for Troubled For-Profit Accreditor." *Inside Higher Ed*. November 26, 2018. Retrieved from: <https://www.insidehighered.com/news/2018/11/26/devos-restores-authority-profit-accreditor>

¹¹ "Education Department overstated endorsements of for-profit college accreditor." *Politico Pro*. Published October 4, 2018 and updated October 5, 2018. <https://www.politico.com/newsletters/morning-education/2018/10/05/education-dept-overstated-endorsements-of-for-profit-college-accreditor-363214>.

¹² *Id.*

¹³ Correction to Letter from Diane Auer Jones, Deputy Under Secretary of Education, to ACICS, Updated October 15, 2018, Page 24. <https://www2.ed.gov/about/offices/list/ope/correctedresponsefinal.pdf>. Only ABHES had been cited in the original report.

¹⁴ Senator Warren and Representative Bonamici, et al to Secretary DeVos asking the Department to rescind recognition of ACICS. December 11, 2018. Retrieved from

<https://www.warren.senate.gov/imo/media/doc/2018.12.11%20Letter%20to%20Department%20of%20Education%20re%20ACICS%20recognition.pdf>. This letter also notes that eight of the nine accrediting agencies originally cited "disputed that they had provided any letters of support" and "confirmed that they did not provide any written or verbal statements to the Department or to ACICS regarding the agency's acceptance as an accreditor in the higher education community."

¹⁵ See e.g. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954)

¹⁶ U.S. Department of Education, Accrediting Council for Independent Colleges and Schools, "Petition for Continued Recognition," June 2016, <https://opeweb.ed.gov/e-Recognition/Home/StaffReport?aid=15&mid=68&status=final&format=pdf>.

¹⁷ Stratford, Michael, "DeVos reinstated for-profit college accreditor despite staff objections, report shows." *Politico*. June 9, 2018. <https://www.politico.com/story/2018/06/09/devos-for-profit-college-accreditor-report-611935>.

¹⁸ *Id.*

¹⁹ CHEA December 16, 2019 Letter to ACICS. In making this determination, CHEA "took into account the final (May 6, 2019) application narrative submitted by ACICS, the CHEA observation visit report, the response from ACICS to the observation visit report, the written third-party comments received by CHEA and the response provided by ACICS, and the information provided by ACICS during the June 3, 2019 public session of the Committee meeting."

²⁰ *Id.*

²¹ January 17, 2020 Letter from ACICS to CHEA.

²² Senior Designated Official (SDO), Diane Auer Jones, Deputy Under Secretary of Education, Response to ACICS, Updated October 15, 2018. <https://www2.ed.gov/about/offices/list/ope/correctedresponsefinal.pdf>.

²³ See U.S. Department of Education. Decision of the Secretary, Accrediting Council for Independent Colleges and Schools. December 12, 2016. <https://www2.ed.gov/documents/acics/final-acics-decision.pdf>; Kreighbaum, Andrew,

"Collapse of For-Profit Chain Long in the Making." *Inside Higher Ed*. December 6, 2018.

<https://www.insidehighered.com/news/2018/12/06/closure-education-corporation-america-raises-questions-about-oversight-and-support>.

²⁴ See October 24, 2016 memo from Borrower Defense Unit to Under Secretary Ted Mitchell, Re: Recommendation for Everest/Wyotech Borrowers Alleging Transfer of Credit Claims; January 9, 2017 memo from Borrower Defense Unit to Under Secretary Ted Mitchell, Re: Recommendation for Corinthian Borrowers Alleging That They Were Guaranteed Employment; January



April 1, 2020

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

Re: Compliance Report, 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 comment regarding the Accrediting Council for Independent Colleges and Schools (ACICS). This comment is submitted on behalf of the Postsecondary Education Team at the Center for American Progress.

While the recognition history of ACICS is well known, it bears repeating. In June 2016, the Department of Education's Accreditation Group recommended that the Accrediting Council for Independent Colleges and Schools (ACICS) lose federal recognition as a Title IV accreditor, citing "extensive and pervasive deficiencies," and non-compliance with 21 recognition criteria. The National Advisory Committee on Institutional Quality and Integrity (NACIQI) agreed, voting 10-3 to revoke recognition. The then Secretary of Education also agreed, revoking recognition. In 2017, ACICS submitted a new application for initial recognition. In an initial review from the Department's accreditation group, the draft report found ACICS out of compliance with 57 federal criteria for recognition.¹ That report was never considered by a senior department official or the Secretary of Education.

Instead, following a court case, a senior department official conducted a new review, this time finding ACICS in compliance with all but two criteria. The report concluded that the initial 2016 evaluation was "wrong," "an example of government strong-arming," and influenced by the "personal opinions..among staff...that are highly subjective."² In 2018, the Secretary of Education concurred, citing two areas of noncompliance and four additional areas for ongoing monitoring.

In the time since, the Department's Accreditation Group, on numerous separate occasions, has investigated other deeply concerning events that raise questions about ACICS' ability to serve as a reliable authority of quality in the institutions and programs it oversees, citing new evidence of non-compliance under one criteria the Secretary deemed compliant but subjected to ongoing monitoring, and at least five new criteria of compliance.³ The largest group of institutions the agency accredited, owned by Education Corporation for America, precipitously closed leaving thousands of students in its wake, but not before another agency flagged a long list of quality concerns that ACICS seemingly missed.⁴ And the Council of Higher Education Accreditation (CHEA) moved to deny recognition, pointing to nine standards the agency failed to meet.⁵ ACICS withdrew its application before a final decision could be made. However, CHEA's recognition weighed heavily in the Secretary's decision to restore ACICS' recognition and its loss of recognition should be considered a factor in the compliance report.

Almost four years after the Department first ruled to remove recognition, citing the agency's inability to demonstrate compliance in 12 months, the timeline laid out in legislation, serious concerns and a pile of evidence remain about the agency's long standing and repeated inability to meet federal recognition criteria. We write today to urge the Department to examine the full extent of evidence, find ACICS not compliant, and revoke recognition. We base this recommendation on publicly available evidence that ACICS still does not meet at least one of those two criteria cited in the Secretary's last decision, it fails to meet numerous other criteria the Department has since investigated, and other evidence that ACICS has failed in its duty to protect students and taxpayers. A full accounting of the evidence is detailed below.

Compliance Report

The Secretary found ACICS out of compliance with two federal recognition criteria, 602.15(a)(2)-Competency of Representatives and 602.15(a)(6)-Conflicts of Interest. Based on publicly available evidence, ACICS is still failing to meet at least one of these requirements.

34 CFR 602.15(a)(2)-Competency of Representatives

Under current federal regulations in effect at the time of this comment, ACICS must demonstrate that it has

“Competent and knowledgeable individuals, qualified by education and experience in their own right and trained by the agency on their responsibilities, as appropriate for

their roles, regarding the agency's standards, policies, and procedures, 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.”⁶

Numerous examples show that ACICS has failed to demonstrate it has competent and knowledgeable individuals able to effectively apply the agency's standards, policies, and procedures. Its failure has resulted in schools continuing to operate that do not appear to meet basic quality standards.

Virginia College

In May 2018, a review of Virginia College, the largest chain overseen by ACICS at the time, by another agency found a long list of quality concerns, including unacceptable job placement and graduation rates, lack of access to proper equipment and supplies, and high faculty turnover rates, among other issues.⁷ None of these issues were flagged by ACICS and up until the ACICS report, the school remained fully accredited. It was only after another agency reported the concerns, that ACICS conducted an investigation. In December 2018, ACICS eventually withdrew accreditation from schools owned by the Education Corporation of America, including Virginia College. Following the withdrawal, the school closed precipitously, without teach-out agreements in place, leaving roughly 20,000 students to fend for themselves.⁸

Virginia International University

In March, 2019, the State Council of Higher Education for Virginia (SCHEV), recommended revoking recognition of an ACICS accredited school, Virginia International University. Citing numerous quality concerns about the school's distance education program, SCHEV found rampant plagiarism, grade inflation, classes deficient in quality and content, graduate courses lacking academic rigor, lack of faculty interaction, and large number of students with inadequate English proficiency to qualify them for enrollment.⁹ ACICS had approved VIU for a three-year renewal of accreditation the year before, seemingly missing the lack of rigor and quality required under its own standards. It wasn't until the report from SCHEV that ACICS took any action and once the issue was resolved by SCHEV, ACICS dropped its actions against the school.

Reagan National University

In February 2020, a disturbing news investigation published in USA Today reportedly found that a school accredited by ACICS, Reagan National University, did not appear to be in operation, with no students, no classrooms, and faculty listed on its website who say they never taught there.¹⁰ This was despite an earlier review by ACICS that year including a site visit. Following the news report, the school withdrew its accreditation.

These repeated examples raise serious doubt over the competency and knowledge of individuals conducting reviews of ACICS-accredited schools to effectively review and apply the agency's standards, including distance education.

Additional Compliance Failures

In the time since the agency gained recognition, the Department's Accreditation Group has sent at least three additional letters citing failure to demonstrate compliance with at least five additional federal recognition criteria. These failures, in addition to the long history of non-compliance, raise questions about the Secretary's decision and analysis on which the decision was based and should be reevaluated as part of the compliance report. Those criteria are addressed below.

602.15(a)(1)-Administrative and Financial Resources

Under federal recognition criteria, ACICS must demonstrate it has "adequate administrative staff and financial resources to carry out its accrediting responsibilities." The Secretary's decision found ACICS compliant with this standard but subjected it to ongoing monitoring on an annual basis with the requirement. Available evidence and a Department investigation of compliance with this criteria show ACICS fails to meet the standard.

In a letter to ACICS, the Department's Accreditation Group cites two examples, Virginia International University and the Sand Diego University for Integrative Studies (SDUIS), "which demonstrate a lack of effective evaluation and monitoring approaches...reflects inadequate staffing and other resources, which does not demonstrate effective compliance with 602.15(a)(1)."¹¹ This failure of compliance and the evidence it is based on should be considered in this compliance report.

Moreover, while the Department found that although the agency is operating at a deficit it projects will continue until at least 2023 and it has significant reserves to cover it in the meantime, its fiscal uncertainty creates a moral hazard. ACICS is in a position where it both must maintain its current portfolio, and according to the agency, add additional institutions. At the time of that reporting, ACICS was considering four institutions for initial accreditation.¹² In the time since, the list of schools it is considering for initial accreditation has ballooned to 20, including SDUIS, which the Department has found demonstrate the agency is not adequately monitoring and considering all information in its process.¹³ This suggests ACICS' need for additional members to gain financial soundness is greater than the agency has stated. For an agency that has consistently and repeatedly demonstrated an inability to effectively monitor and oversee the institutions it accredits, its search for new members raises risk for both students and taxpayers.

34 CFR 602.16 (c), 602.17(c), 602.17(e), and 602.28(d)

The Department's investigation surrounding ACICS' oversight of VIU and SDUIS found failure to meet numerous other criteria for recognition, including 602.16(c), 602.17(c), 602.17(e), and 602.28(d). With regard to both institutions, the agency found that the evidence does not "demonstrate that the initial application review process is as discerning as described, nor that the renewal accreditation or monitoring processes are as thorough as necessary for the agency to identify issues with the institutions continued compliance with accreditation standards."¹⁴

Virginia International University

Evidence from the case of Virginia International University uncovered through review, discussed earlier in this comment, found that although ACICS had information and documentation from SCHEV that should have led the agency to call into question the institution's ability to meet standards, it did not take any action until over a month later after it was raised in a news story. While ACICS eventually took action, it did not appear that ACICS initiated its own review which raises concerns that ACICS "does not have adequate mechanisms in place to conduct a prompt review when it receives a negative report." ACICS' evaluation also failed to uncover the significant concerns found by SCHEV in regards to distance education.¹⁵

San Diego University for Integrative Studies

In its review of SDUIS, ACICS failed to investigate the USA English Language Center, owned by SDUIS, which had recently lost accreditation from the Accrediting Council for Continuing Education & Training (ACCET). According to the Department, the evidence ACICS provided "does not demonstrate that ACICS conducted a comprehensive analysis to assess the relationship to determine if ACICS is required to take into account the accreditation action by ACCET."¹⁶

ACICS inability to conduct adequate monitoring, take appropriate action and properly investigate when it receives concerning information, and inability to uncover even basic quality concerns are not new. CAP's 2018 comment to the Department pointed to countless and repeated examples of its failure to serve as an effective gatekeeper.¹⁷

34 CFR 602.33-Procedures for Review of Agencies During the Period of Recognition

In February 2020, the Department of Education's Accreditation Group sent yet another letter raising compliance concerns about ACICS' procedures for review of agencies. This letter was in response to the case of Reagan National University discussed above. RNU's reported lack of students, faculty, and classrooms raise questions about the effectiveness of ACICS' evaluation and monitoring of initial and member institutions.¹⁸ Based on the information and evidence the Department receives, it may raise additional compliance concerns beyond those cited here,

which should be incorporated into the Department's decision of whether ACICS complies with all federal recognition criteria.

Other issues

Loss of Council for Higher Education Accreditation Recognition-34 CFR 602.13-Acceptance of the Agency by Others

Under federal requirements, ACICS "must demonstrate that its standards, policies, procedures, and decisions to grant or deny accreditation are widely accepted in the United States by (a) Educations and educational institutions; and (b) Licensing bodies, practitioners, and employers in the professional or vocational fields for which the educational institutions or programs within the agency's jurisdiction prepare their students." CAP has previously noted how an overwhelming majority of evidence submitted to demonstrate compliance with the criteria was based solely on recognition by CHEA.¹⁹ CHEA's recognition weighed heavily the Department's decision to find ACICS compliant with the wide acceptance criteria, stating that

"CHEA recognition is considered by organizations in the United States and abroad as equivalent to the Department's recognition as a sign of quality assurance and is widely accepted by the higher education community. That CHEA continues to recognize ACICS...is notable and an important indicator that ACICS continues to be widely accepted. There is also no indication that CHEA will cease recognition of ACICS in the near future."²⁰

Earlier this year, ACICS withdrew its recognition from CHEA after the organization found 9 areas of noncompliance with CHEA standards.²¹ While the nine criteria have not been revealed publicly, this loss of recognition is an important indicator that ACICS is no longer widely accepted and could have implications for students, such as acceptance of transfer credits, licensing and employment. The Department should examine the areas of non-compliance found by CHEA and re-evaluate ACICS' compliance with the wide acceptance criteria.

If you have questions or would like to discuss these comments in greater detail, please contact Antoinette Flores at aflores@americanprogress.org.

Sincerely,

Antoinette Flores
Director, Postsecondary Education
Center for American Progress

¹ <https://tcf.org/content/about-tcf/devos-releases-career-staff-report-profit-college-accreditor-acics-reveals-continued-noncompliance/>

²

<https://drive.google.com/file/d/0B7adHdBE6w3mbnlneHpadHRSbHk4bmpfaUU5aWRMRVQxbFFj/view>

³ <https://www.politico.com/newsletters/morning-education/2019/07/31/education-department-opens-new-review-of-acics-463618>; <https://www.educationdive.com/news/ed-dept-flags-compliance-issues-with-troubled-accreditor-acics/568819/>; <https://www.usatoday.com/story/news/education/2020/02/27/college-accreditation-betsy-devos-education-department-house-committee-investigation-sd/4891749002/>

⁴ <https://www.insidehighered.com/news/2018/12/06/closure-education-corporation-america-raises-questions-about-oversight-and-support>

⁵ <https://www.educationdive.com/news/breaking-acics-withdraws-application-for-recognition/570711/>

⁶ <https://www.law.cornell.edu/cfr/text/34/602.15>

⁷ <https://www.insidehighered.com/news/2018/05/22/profit-chain-falls-short-attempt-get-new-accreditors-approval>

⁸ <https://www.npr.org/2018/12/06/674343283/for-profit-college-chain-education-corporation-of-america-announces-shut-down>

⁹ <https://www.insidehighered.com/news/2019/03/18/staff-virginia-regulator-recommend-revoking-colleges-certificate-operate-due>

¹⁰ <https://www.usatoday.com/story/news/education/2020/02/15/college-accreditation-department-education-betsy-devos-south-dakota-sioux-falls/4746906002/>

¹¹ <https://www.documentcloud.org/documents/6572673-2019-11-21-Letter-From-ED-to-ACICS.html>

¹² <https://www.chronicle.com/article/How-a-Troubled-Accreditor-s/246448>

¹³ <https://www.acics.org/council-institutions-invited>

¹⁴ <https://www.documentcloud.org/documents/6572673-2019-11-21-Letter-From-ED-to-ACICS.html>

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ <https://cdn.americanprogress.org/content/uploads/2018/03/08101157/Center-for-American-Progress-ACICS-Comment5b15d.pdf>

¹⁸ <https://www.documentcloud.org/documents/6789634-Education-Dept-Letter-to-ACICS.html>

¹⁹ <https://cdn.americanprogress.org/content/uploads/2018/03/08101157/Center-for-American-Progress-ACICS-Comment5b15d.pdf>

²⁰

<https://drive.google.com/file/d/0B7adHdBE6w3mbnlneHpadHRSbHk4bmpfaUU5aWRMRVQxbFFj/view>

²¹ <https://www.educationdive.com/news/breaking-acics-withdraws-application-for-recognition/570711/>

April 1, 2020

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

Re: Compliance Report, 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 compliance report for the Accrediting Council for Independent Colleges and Schools (ACICS). This comment is submitted on behalf of the 17 undersigned organizations representing organizations and advocates working on behalf of students, veterans, and consumer groups. Based on all evidence we recommend that you find ACICS out of compliance with federal requirements.

While this comment is in response to the compliance report requested in the 2018 restoration of recognition by Secretary DeVos, the U.S. Department of Education (Department) cannot ignore the long history of non-compliance and the multiple investigations and evidence of additional non-compliance since the Secretary's decision.

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 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 finding ACICS non-compliant would restore integrity into the federal aid programs, send a strong and overdue message to other

accreditors, and help protect future students enrolling in institutions overseen by federally recognized accreditors.

2020 Compliance Report

In 2018, contradicting numerous evaluations by the Department's Accreditation Group and a long track record of evidence, the Secretary of Education restored ACICS recognition, finding them compliant with all but two minor recognition criteria. The decision in 2016 was based on whether ACICS could come into compliance with all criteria in a period of 12 months. Nearly 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 zero 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 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' inability to uncover these problems are deeply concerning.

Additional Compliance Concerns

In the time since ACICS' recognition was restored, the Department has investigated it on numerous other occasions, pointing to at least five additional standards where ACICS remains noncompliant.⁴ These include the examples of VIU, RNU, and the San Diego University for Integrative Studies. According to the Department's evaluation, evidence suggests that ACICS does not demonstrate its 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 educational 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.⁵ 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 is operating at a \$2.1 million deficit and projects it will not be stable until at least 2023.⁶ At the time the financial trouble was reported, ACICS was considering four institutions for initial accreditation. It now has 20 new institutions under consideration for initial accreditation, suggesting it is in high need of new membership to shore up its finances.⁷ 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. The Department must seriously consider this information in its evaluation, and closely monitor ACICS review and approval of institutions seeking accreditation.

Conclusion

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 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.

Sincerely,

Allied Progress
Center for American Progress
Center for Law and Social Policy (CLASP)
Center for Responsible Lending (CRL)
Consumer Action
Generation Progress
Higher Learning Advocates (HLA)
Lumina Foundation
Maryland Consumer Rights Coalition (MCRC)
National Consumer Law Center (on behalf of its low-income clients)
New America Higher Education Program
Stephanie Hall, fellow at The Century Foundation
Student Veterans of America
The Education Trust
The Institute for College Access & Success (TICAS)
Third Way
Veterans Education Success

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-betsy-devos-south-dakota-sioux-falls/4746906002/>

² Ibid.

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-certificate-operate-due>

⁴ 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/>

⁵ 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>

⁶ 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>

⁷ ACICS, "Institution Invited to Apply," ACICS, available at <https://www.acics.org/council-institutions-invited>