

3rd Party Written Comments		
Document Title	File Name	Pro/Con
Carlson	Gary R. Carlson proACICS Reference LTR 2018.docx	PRO
Laurus College	Laurus College Support Letter for ACICS.docx	PRO
Steve Gunderson	Steve Gunderson pro ACICS n Written Third-Party Comments 2018-2-16 Final.docx	PRO
Ravish Shah	Ravish Shah for ACICS.doc	PRO
MindySchaffner	Mindy Schaffner WA dept Health.ACICS Accreditation Letter of Support.doc	OTHER
Mindy Schaffner	Mindy Schaffner WA dept Health.ACICS Accreditation Letter of Support.doc	PRO
30 Veterans	Military and Veterans 30 lts deny ACICS Feb 2018 VSO ltr.docx	CON
Lauren Fox	Lauren Fox pro Written Comments ACICS.docx	PRO
Dinny Matthew	Dinny Mathew for ACICS.doc	PRO
Center for American Progress	Center for American Progress oppose ACICS Comment.docx	CON
AG Multistates	AG Multistate Letter to USDOEd Opposing ACICS Recognition.docx	CON
AG Balderas	AG Balderas Letter to USDOEd Opposing ACICS Recognition.docx	CON
5 Senators	5 senators re ACICS against comments.doc	CON
Paul Hill WV	Paul Hill ACICS WV code.doc	OTHER
TCFcomments	TCF comment on ACICS deny.docx	CON
Committee on Education and Workforce	Committee on Education and the Workforce con ACICS Public Comment Letter.docx	CON
Written Comment #1 Carlson	Gary R. Carlson proACICS Reference LTR 20181.docx	PRO
Written Comment #2 Laurus College	Laurus College Support Letter for ACICS1.docx	OTHER
Written Comment #3 Steve Gunderson	Steve Gunderson pro ACICS n Written Third-Party Comments 2018-2-16 Final1.docx	PRO
Written Comment #2 Laurus College	Laurus College Support Letter for ACICS.docx	PRO
Written Comment #3 Steve Gunderson	Steve Gunderson pro ACICS n Written Third-Party Comments 2018-2-16 Final.docx	PRO
Written Comment #4 Ravish Shah	Ravish Shah for ACICS1.doc	PRO
Written Comment #5 Mindy Schaffner	Mindy Schaffner WA dept Health.ACICS Accreditation Letter of Support1.doc	PRO
Written Comment #6 30 Veterans	Military and Veterans 30 lts deny ACICS Feb 2018 VSO ltr1.docx	CON
Written Comment #7 Lauren Fox	Lauren Fox pro Written Comments ACICS1.docx	PRO
Written Comment #8 Dinny Matthew	Dinny Mathew for ACICS1.doc	PRO
Written Comment #9 Center for American Progress	Center for American Progress oppose ACICS Comment1.docx	CON
Written Comment #10 AG Multistates	AG Multistate Letter to USDOEd Opposing ACICS Recognition1.docx	CON
Written Comment #11 AG Balderas	AG Balderas Letter to USDOEd Opposing ACICS Recognition1.docx	CON
Written Comment #12 5 Senators	5 senators re ACICS against comments1.doc	CON
Written Comment #13 Paul Hill WV	Paul Hill ACICS WV code1.doc	OTHER
Written Comment #14 TCF	TCF comment on ACICS deny1.docx	CON
Written Comment #15 Committee on Education andWorkforce	Committee on Education and the Workforce con ACICS Public Comment Letter1.docx	CON

Staff Analysis of 3rd Party Written Comments

There were 15 written third-party comments received regarding this agency, with seven in support of the agency, seven against the agency and one other.

The agency received comments of support from an educator (and former ACICS commissioner); an administrator at an ACICS-accredited institution; the chief executive of an ACICS-accredited institution; an administrator and instructor from another ACICS-accredited institution; a state agency (Nursing Care Quality Assurance Commission, State of Washington, Department of Health); and a higher education institutional membership organization (Career Education Colleges and Universities). Most of these comments discuss the reform efforts and changes made by ACICS since its last review in June 2016, as well as the quality of education provided by the institutions that the agency accredits. They also state that failure to recognize ACICS will cause harm to students and institutions.

In regard to Section 602.13, recognition by the Council for Higher Education Accreditation (CHEA) of ACICS is accepted by some State education agencies and/or State licensing boards for institutional and/or programmatic licensure purposes. The letter from the Nursing Care Quality Assurance Commission of the State of Washington, Department of Health stated that recognition of ACICS by CHEA is accepted for institutional licensure and/or program approval purposes by that commission.

Comments against the agency were received from a group of 20 State attorneys general and a State Office of Consumer Protection officer; the attorney general for New Mexico; a group of 29 veterans' and military organizations; a group of five U.S. Senators; two members of the U.S. Congress, Committee on Education and the Workforce; and two independent organizations (Center for American Progress and The Century Foundation). Most of these comments discuss actions or examples that were reviewed in 2016, such as inadequate placement verification, deceptive recruiting and advertising practices, and misrepresenting job placement and graduation rates. The comments also assert that those actions or examples should continue to preclude ACICS from obtaining recognition from the Department. Most of the

comments do not appear to include any new or current information or documentation concerning ACICS' compliance with the Secretary's Criteria for Recognition since it was last reviewed in 2016.

The scope of this review for initial recognition is to assess the agency since it was last reviewed by Department staff in June 2016. Therefore, only information and documentation concerning actions or examples since June 2016 would be applicable to this analysis.

Four of the comments also raised a concern that ACICS is ineligible to apply for initial recognition as it will not be able to demonstrate two years of successful or effective accreditation experience. The regulations require that an agency seeking initial recognition "must demonstrate that it has conducted accrediting activities, including deciding whether to grant or deny accreditation or preaccreditation, for at least two years prior to seeking recognition." As noted in Section 602.12(a)(2), ACICS has provided such documentation.

The comments from the Center for American Progress and The Century Foundation also address specific information and documentation included within the agency's petition. The Center for American Progress raises concerns with the documentation provided to address wide acceptance in Section 602.13, application of standards in Section 602.16(a), and reasonable assurance of information in Section 602.18(d). The Century Foundation raises specific concerns with the documentation provided to address wide acceptance in Section 602.13, public representation in Section 602.15(a)(5), effective evaluation mechanisms in Section 602.17(a), reasonable assurance of information in Section 602.18(d), and monitoring in Section 602.19(b).

For the comment about adequate public representation, the definition of a representative of the public in regulation is as follows:

"A person who is not--

- (1) An employee, member of the governing board, owner, or shareholder of, or consultant to, an institution or program that either is accredited or preaccredited by the agency or has applied for accreditation or preaccreditation;
- (2) A member of any trade association or membership organization related to, affiliated with, or associated with the agency; or
- (3) A spouse, parent, child, or sibling of an individual identified in paragraph (1) or (2) of this definition."

The Department reviewed the agency against that definition and the agency's own definition in Section 602.15(a)(5).

With regard to the issues raised by the Center for American Progress and The Century Foundation, the Department has questions related to the agency's wide acceptance in Section 602.13, application of standards in Section 602.16(a), effective evaluation mechanisms in Section 602.17(a), reasonable assurance of information in Section 602.18(d), and monitoring of institutions in Section 602.19(b), and has noted the concerns in those sections in its analysis.

3rd Party Request for Oral Presentation

There are no oral comments requested for this Agency.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
Accreditation Group

December 1, 2017

Michelle Edwards
Accrediting Council for Independent Colleges and Schools
750 First Street, NE, Suite 980
Washington, D.C. 20002-4223
Via email: medwards@acics.org

Dear Ms. Edwards:

Thank you for your submission on behalf of the Accrediting Council for Independent Colleges and Schools ("ACICS" or "the agency") to the Accreditation Group ("AG") within the Office of Postsecondary Education at the U.S. Department of Education ("Department") for review under the Secretary's Criteria for Recognition ("Criteria") as defined in § 496 of the Higher Education Act of 1965, as amended, and in Department regulations in 34 C.F.R. Part 602.

The Department reviews accrediting agencies via the recognition process to make a determination about whether an agency is a reliable authority as to the quality of education or training provided by the institutions of higher education and the higher education programs it accredits. The inclusion on the list of nationally recognized agencies allows those institutions and programs accredited by those agencies or students and/or graduates from those institutions and programs to gain access to federal funds.

The first part of the recognition review process includes the basic eligibility requirements set forth in §§ 602.10 through 602.13 of the Criteria. Based on the information and documentation provided, the AG has determined that ACICS has not demonstrated compliance with § 602.13 of the Criteria. Therefore, pursuant to the procedures outlined in § 602.32 (e), the AG is returning the agency's application.

Section 602.13 of the Criteria states:

The agency must demonstrate that its standards, policies, procedures, and decisions to grant or deny accreditation are widely accepted in the United States by—

- (a) Educators 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.

ACICS has not demonstrated that it has wide acceptance of its standards, policies, procedures, and decisions to grant or deny accreditation by all of the entities required by § 602.13 of the Criteria, to include educators, educational institutions, licensing bodies, practitioners, and employers.¹ It is the agency's responsibility to provide persuasive documentation to demonstrate support by all entities required by § 602.13 of the Criteria.

The AG provides a set of guidelines ("Guidelines for Preparing/Reviewing Petitions and Compliance Reports") to accrediting agencies and the public on the AG's website. The guidelines include the types of information and documentation that typically assist an accrediting agency in demonstrating compliance with the federal regulatory requirements included in the Criteria. Information and documentation not noted in the guidelines may also be needed for an accrediting agency to demonstrate compliance with the Criteria. For § 602.13 of the Criteria, the guidelines state that an accrediting agency is expected to "demonstrate an acceptance/support of its policies, procedures, accreditation standards and decisions by applicable group(s) (to include individuals/groups beyond those directly involved in the accrediting agency activities) in each of the categories, appropriate to the type of accrediting agency." The guidelines also include review elements and typical documentation that the Department expects in the assessment of this section of the Criteria. For § 602.13 of the Criteria, the review elements include participation by the entities listed in accreditation activities of the agency, accreditation as a requirement for State licensure or approval, geographic diversity, and institutional and educator diversity. Typical documentation includes letters of support and evidence of participation in accreditation activities by the entities listed (internal and external to the agency). ACICS did not provide sufficient information and documentation to demonstrate compliance with § 602.13 of the Criteria.

As stated in the petition and supporting documentation, ACICS accredits 239 institutions with 560 campuses throughout the U.S. and abroad. Given the sheer number of institutions it accredits, establishing wide acceptance requires ACICS to provide documentation from a significant number of educators and educational institutions – both from within its membership and from the greater higher education community. It should also provide documentation from licensing bodies, practitioners, and employers in the professional or vocational fields for which the educational institutions within the agency's jurisdiction prepare their students.

Despite the requirement to demonstrate wide acceptance, and as set forth in more detail below, ACICS provided extremely limited documentation – both in breadth and depth. At a very basic level, the documentation was extremely limited in quantity. Moreover, much of the information and documentation submitted was from one school group – Education Corporation of America ("ECA"), which owns 73 ACICS accredited institutions and campuses, and which is affiliated with an ACICS council member. Documentation primarily from one school group is not representative of wide acceptance. Beyond relying heavily on ECA for support, other documentation was primarily from individuals or institutions with an established relationship with ACICS, such as ACICS volunteers or ACICS accredited institutions. Thus, ACICS has not demonstrated wide acceptance by the greater higher education community.

Educators

¹ As noted in a recent decision by the Secretary (Docket No. 14-10-O), the term "educator" is not synonymous with the term "educational institution" for purposes of satisfying § 602.13 of the Criteria.

ACICS provided two letters of support from educators at member institutions (Exhibit 26), and two letters from educators at institutions outside its membership (Exhibit 30). However, the educators from outside its membership are also ACICS volunteers (evaluator and board member), which does not represent support external to the agency. The agency also provided a list of site visitors (Exhibit 32a), but the documentation was extremely limited as only the name and category (administrator, academic, neither) were provided. ACICS provided six curricula vitae/resumes of people on the site visitor list (Exhibit 32b). ACICS also provided lists of its council members (Exhibit 33) and appeals panel pool (Exhibit 34); however those lists include a total of 26 members. Wide acceptance by educators – both within the ACICS membership and outside it – is not demonstrated by such limited and general documentation.

Educational institutions

ACICS included a document which it titled “Letters of Support-Accredited Institutions” (Exhibit 27). The exhibit does not include any letters however, and therefore the title is misleading. Rather, the exhibit is a list of 63 institutions and campuses that indicated “support” for ACICS in an online survey posted by ACICS. The responses are not substantive – they simply reflect “clicks” in response to the survey. Of the 63 clicks, 18 were “clicked” by one individual and 16 were clicked by another individual – both of whom are employees of ECA’s corporate office. Wide acceptance by the agency’s membership is not demonstrated when the support is an online survey, over half of the responses are from one school group, and the total of responses represents just under 8% of the accredited institutions and campuses.²

In an effort to demonstrate acceptance outside of its accredited institutions, ACICS provided 12 letters confirming transfer of credits for students transferring to five non-ACICS accredited institutions (Exhibit 28), but all 12 letters are for students transferring from one ACICS accredited institution (Schiller International University). The agency also provided executed articulation agreements (Exhibit 29) with four non-ACICS accredited institutions, but all four are from ACICS accredited institutions owned by ECA (Brightwood College, Golf Academy of America (2), and Virginia College). Wide acceptance by educational institutions not accredited by ACICS is not demonstrated by such a small and related sample.

Licensing bodies

ACICS did not provide any information or documentation to demonstrate wide acceptance of its standards, policies, procedures, and decisions to grant or deny accreditation by licensing bodies. Instead, the agency stated that it has undergone formal recognition reviews by the American Registry of Radiologic Technologists (“ARRT”), Accrediting Commission for Education in Nursing (“ACEN”), and Council for Higher Education Accreditation (“CHEA”). As documentation, the agency provided a screenshot of the website for both ARRT and ACEN (Exhibit 37) listing ACICS as a recognized accrediting agency by those organizations. But, the screenshots do not provide any information or documentation on what a review by ARRT or ACEN entails, how often or when such a review is renewed, nor what such review means with regards to licensure in the professional or vocational fields for which the educational institutions

² ACICS states it accredits 239 institutions and 560 campuses. A total of 63 institutions and campuses indicated support of ACICS within Exhibit 27, which represents just under 8% of its accredited members.

within the agency's jurisdiction prepare their students. Significantly, ACICS has not provided any information to document *current support or a recent recognition review* by any licensing body.

Although CHEA is not a licensing body, ACICS also provided a September 28, 2012, letter from CHEA for a three-year grant of recognition beginning in January 2013 through January 2016 (Exhibit 36). ACICS provided no information or documentation concerning its current status with CHEA.

ACICS's petition also states that the agency is recognized by the American Association of Colleges of Nursing, which is not a licensing body, but provided no documentation to support that statement. In addition, the agency stated that it is listed as an accrediting agency on a form from the Accrediting Council for Occupational Therapy Education ("ACOTE") to initiate accreditation. ACICS provided the form (Exhibit 38) and the related ACOTE standard, which clearly states "The sponsoring institution(s) and affiliates, if any, must be accredited by a recognized regional or national accrediting authority." As a result, the form does not demonstrate acceptance since ACICS is not recognized and accordingly its accreditation currently would not support an application for ACOTE accreditation.

ACICS also stated that its accreditation is a requirement for State licensure for its institutions in Tennessee, by the Tennessee Higher Education Commission ("THEC"), and provided a screenshot of a sample of ACICS member institutions authorized by THEC (Exhibit 39). A review of the THEC regulations reveals that authorization by THEC is mandatory for an institution to operate in Tennessee, but accreditation – by any agency – is voluntary and not required by State law.

The agency also provided documentation of information-sharing notices from/with the Commission on Accreditation of Allied Health Education Programs (Exhibit 38), the Illinois Board of Higher Education, and State Council of Higher Education for Virginia, as well as coordinated observations by the Pennsylvania Department of Education and Connecticut Office of Higher Education of ACICS site visits (Exhibit 40). These routine notices and observational activities do not alone convey acceptance of its standards, policies, procedures, and decisions to grant or deny accreditation by such entities.

Practitioners

ACICS did not provide any information or documentation related to the wide acceptance of its standards, policies, procedures, and decisions to grant or deny accreditation by practitioners in the professional or vocational fields for which the educational institutions within the agency's jurisdiction prepare their students.

Employers

ACICS states that support by employers is demonstrated by the placement of graduates, citing its 2016 (71%) and 2015 (75%) mean placement rates. However, as the agency acknowledges, it had to overhaul its process for collecting student achievement data due to significant concerns

noted by the Department in 2016. Accordingly, the reported rates cannot be used to demonstrate employer support, since they are from the prior process using self-reported and unverified data. The agency indicated that it has a new process for collecting and verifying student achievement data in a web-based system. The agency states that the process was first implemented in July 2016 and will be reflected in the 2017 annual report (due November 15, 2017), therefore no data from the new process is available for review.

ACICS also states that employer participation as site visitors, service on advisory committees/boards, and a general contribution "to the process of ACICS" constitutes evidence of wide acceptance by employers. Again, this evidence falls short, because the only documentation submitted are five letters (Exhibit 43), all of which are from institutions owned by ECA (Brightwood College (4) and Virginia College).

Accordingly, pursuant to the procedures outlined in § 602.32 (e), the AG is returning the agency's application. As required by § 602.32 (e)(2), the Department recommends that ACICS withdraw its application and reapply when it can demonstrate full compliance. If ACICS declines to withdraw its application, the AG recommends that ACICS submit additional documentation to satisfy the deficiencies identified in this letter. For ACICS's petition to be reviewed at the May 2018 meeting of the National Advisory Committee for Institutional Quality and Integrity, any additional documentation should be submitted on or before December 29, 2017, so that the AG can review the documentation before it issues its draft analysis.

Sincerely,

(b)(6)

Herman Bounds Jr., Ed.S., Director
Accreditation Group



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
Accreditation Group

December 1, 2017

Michelle Edwards
Accrediting Council for Independent Colleges and Schools
750 First Street, NE, Suite 980
Washington, D.C. 20002-4223
Via email: medwards@acics.org

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Sincerely,

(b)(6)

Herman Bounds Jr., Ed.S., Director
Accreditation Group

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Writer's direct e-mail: david.armstrong@allisonlaw.net

March 9, 2018

Via US Mail and Electronic Mail:

Mr. Ken Ingram
Whiteford, Taylor, Preston, LLP
1800 M Street NW
Suite 450N
Washington, DC 20036
kingram@wtplaw.com

Dear Mr. Ingram:

Larkin University (formerly *Larkin Health Sciences Institute*) offers two programs: a master's degree in biomedical sciences and a doctorate in pharmacy. The Pharmacy Program was first approved by the State of Florida by order dated August 11, 2015 and Larkin University has offered the pharmacy doctorate since August 2016 at the pre-candidate level. The pharmacy doctorate has been accredited by ACPE as Candidate Status, the highest level that can be achieved before graduating the first class since July 2017. The first class will graduate in May 2019. Attached is a copy of the state of Florida license #5133 for Larkin University confirming licensure since January 29, 2014 and listing all programs offered, including the doctorate in pharmacy. This license is publicly posted online and has always been available as such to ACICS.

Larkin University received ACICS Initial Accreditation in December 2016 for three years. However, initial meetings between Larkin University and ACISC began as early as May 2015 when Gary Levin, Dean of the Pharmacy College of Larkin University and Sandy Sosa-Guerrero, Larkin University President met with ACISC Board Members in a private meeting at the ACICS Annual Meeting at the Cosmopolitan Hotel in Las Vegas. With the Pharmacy Program soon to come online these discussions in May 2015 centered around credentialing the Pharmacy Program side-by-side with the College of Biomedical Sciences.

In fact, at the May 2015 meeting ACICS discussed financial aid offerings for the Pharmacy Program and suggested that they could credential the first 2 years of the Pharmacy Program as a master's degree program to allow students to get Title IV funding. Larkin University, however, was reluctant to revisit its state of Florida Pharmacy Program application and so informed ACICS that it intended to offer the Pharmacy as a doctoral program. As a result, ACICS offered Institutional Accreditation for a master's degree in Biomedical Sciences only **but expressly assured Larkin University that the pharmacy doctoral program would not affect their Institutional Accreditation.** In reliance on this representation, following full disclosure and discussion of the

Mr. Ken Ingram
Whiteford, Taylor, Preston, LLP
March 9, 2018
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pharmacy doctorate, Larkin University agreed to proceed with the ACICS Institutional Accreditation of its master's degree program within the College of Biomedical Sciences.

Thereafter, Larkin University welcomed its first site visit from ACICS on July 6, 2016 conducted by Ms. Perliter Walters-Gilliam, Vice President of Accreditation. During this initial visit to the campus Ms. Walters-Gilliam was made aware that Larkin University would host its first group of Pharmacy students in its doctoral program in August, 2016 with 64 students enrolled to start. On or before this same date the Pharmacy Program was fully launched on the Larkin University public website as well.

A second ACICS accreditation visit took place on September 13-14, 2016. This visit took place after the first Pharmacy class had commenced their on-campus curriculum and was conducted by a team which consisted of Dr. Darlene A. Minore, Chair; Dr. William Winger, Student- Relations Specialist; Dr. Kevin James Davies, Educational Activities, Data Integrity Reviewer; Dr. Carollyn Boykins-Winrow, Biomedical Sciences Specialist; and Ms. Cathy Kouko, Staff Representative.

During the second site visit to the Larkin University campus, which consists of a single building where all classes (including biomedical and pharmacy) are held, was bustling with students from both Colleges - Biomedical Sciences and Pharmacy. During this second campus tour, ACICS council members toured both Biomedical as well as Pharmacy classrooms. In fact, during the opening session on the first day of this second ACICS survey, Dr. Gary Levin, Dean College of Pharmacy opened up the session speaking to the ACICS team about the pharmacy program and how he was seeking programmatic accreditation via ACPE. Indeed, ACICS visited with the first-year pharmacy class during that visit and Dr. Levin led the tour showing both the Pharmacy Program classrooms and laboratories to the ACICS representatives.

It's important to pause at this point and emphasize that the pharmacy doctorate was approved by the state of Florida on August 11, 2015 and at all times relevant hereto, including meetings between the parties commencing in May 2015 and subsequent site visits, the pharmacy doctorate was always fully disclosed to ACICS. As a point of fact, in addition to the meetings, the site visits, the campus tours, the presentations and the public records all pertaining to the pharmacy program and all made available to ACISC -- during site visits ACICS was presented with a binder of documentation including a copy of the license showing the pharmacy program. (photocopies of the binder-front and included license attached hereto) as part of the Larkin University diligence package.

Therefore, it is clear that ACICS was well aware the Larkin University was seeking only accreditation of its College of Biomedical Sciences but that it also had a separately accredited pharmacy doctorate. ACICS had been fully informed of the pharmacy doctoral program and had participated in tours and discussions with the Dean of the College of Pharmacy as noted above. **Most importantly, ACICS had expressly assured Larkin University that the pharmacy doctoral program would have no effect on their Institutional Accreditation of their College of Biomedical Sciences – absent such assurance Larkin University would never had proceeded with ACICS as it did.** Indeed, Larkin University is no exception as no less than five (5) other universities are on public record as having separately accredited doctoral programs contemporaneous with ACICS accredited master's degree programs.

To be clear, if ACICS had an objection to the pharmacy doctorate program it was incumbent upon ACICS to put Larkin University on notice of this fact before granting accreditation and ACICS has no basis or excuse for not doing so. As noted already, notwithstanding it had no need for ACICS accreditation of its pharmacy doctorate Larkin University made no secret of that program. To the contrary, Larkin University not only disclosed the College of Pharmacy to ACISC but made it a centerpiece during ACICS

Mr. Ken Ingram
Whiteford, Taylor, Preston, LLP
March 9, 2018
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pre-accreditation site visits – with the Dean of the College of Pharmacy giving the keynote address during the second site visit and tours of the College of Pharmacy and interaction with pharmacy students.

As such, ACICS was on notice of the doctoral program and, with that knowledge, had a duty to object or not grant accreditation. ACICS, however, **with full knowledge of the pharmacy doctoral program not only failed to object to the pharmacy program but expressly assured Larkin University that it presented no obstacle to Institutional Accreditation.** Indeed, ACICS thereafter granted candidate status accreditation. If this was a mistake it was as the result of the negligence of ACICS at best, or fraudulent inducement of Larkin University's reliance at worse. Regardless, Larkin University relied upon the representations of ACICS and the granting of accreditation. Larkin University was given certifications of accreditation and ACICS publicly announced its accreditation. **These further representations by ACICS were thereafter relied upon by countless students who enrolled in the university in good faith and reasonable reliance upon the representations of ACICS. Both Larkin University and its students are now in jeopardy of damages as the result of their reasonable reliance upon ACICS false promise and representations.**

Larkin University and its students proceeded under the ACICS representations of accreditation for two years without ACICS objection. Larkin University paid its accreditation fees and ACICS accepted them. ACICS continued to publicly proclaim Larkin University's accreditation and students continued to enroll in reliance. All along, Larkin University continued to publicly promote its pharmacy doctorate program never once attempting to hide or disguise that program or to deceive or shield ACICS from its existence. The website and all signage at the building has always promoted the Doctor of Pharmacy Program and, in fact, when the University changed its name it provided ACICS with a copy of the amended license again listing all approved programs.

Abruptly, by the attached letter dated January 26, 2018 ACICS for the first time notified Larkin University that its accreditation was allegedly invalid as the result of it having a pharmacy doctorate program. In this absurd letter ACICS falsely misrepresents that the doctorate program was a "new" program of which it was allegedly "unaware" and allegedly implemented only after ACICS accreditation – a blatant misrepresentation clearly known to be false to ACICS. Moreover, despite purporting to be a Notice to Show Cause and invitation to attend a show cause hearing the letter made it clear that the only option available to Larkin University – show cause hearing or not – was to terminate and abandon its pharmacy doctorate program. In fact, the letter demanded that evidence of such action -- including "communication [of the doctorate program termination] to all stakeholders, including students, as well as the removal of all references [to the pharmacy doctorate program] on its website and other publications" – be submitted along with the show-cause application by February 28, 2018.

As such, the January 26, 2018 letter made it abundantly clear that ACICS had made up its mind and would consider nothing less than termination of the pharmacy doctorate program – and its students – before even hearing a single word of argument at the show cause hearing. This kangaroo court treatment was unacceptable to Larkin University and unreasonable extortion by any reasonable measure. Because application for the show cause hearing was expressly conditioned upon the prior termination of its pharmacy doctorate program Larkin University was left with no choice but to decline the invitation. **As a result, ACICS wrongfully denied Larkin University its due process and wrongfully coerced its intended outcome** – Larkin University declined the show cause hearing and, under duress, was forced to withdraw without a hearing.

Since that time Larkin University, and its students, now find themselves to be without accreditation for the College of Biomedical Sciences. The wrongful actions of ACICS in first fraudulently inducing and

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misrepresenting accreditation and now coercing and extorting a withdrawal have, and will continue to, cause great damages to Larkin University and its students. Make no mistake, Larkin University has gained no monetary advantage from being accredited with ACICS including Title IV funding secondary to ACICS's bungling of its relationship with the Department of Education (a fact that will be fully explored in litigation). That additional element of damage to Larkin University aside, the immediate concern is the fully 43 students who are now adversely affected by the wrongful actions of ACICS. The detrimental reliance taken by them in terms of their time, their education and their future cannot be remedied by money damages alone. In short, absent an immediate resolution, an emergency injunction is clearly in order.

In summary, Larkin University and its students reserve all rights to any and all causes of action and measure of damages against ACICS. It is clear that, at a minimum, ACICS committed negligent or intentional fraud and misrepresentations of material fact when, with full knowledge of the pharmacy doctorate program, it awarded accreditation to Larkin University and its College of Biomedical Sciences. Larkin University and its students reasonably relied upon these representations for at least two years. Notwithstanding knowledge of the pharmacy doctorate program ACICS abruptly terminated its accreditation via a bogus Notice of Show Cause letter that prematurely proclaimed, in advance of the so-called hearing, that termination of the pharmacy doctorate program, and its students, was the only course of action that would be accepted -- thereby denying due process.

The show cause letter is evidence itself of the guilt felt by ACICS and calculated to compel a withdrawal without hearing precisely because it was fully aware that it was at fault for the misrepresentations and responsible for the resulting damages. This inartful attempt at forcing a withdrawal, however, is of no consequence or obstacle to the causes of action and damages to the University and its students that have already accrued that can be undone only upon the immediate reinstatement of accreditation. To be clear, ACICS has one opportunity to avoid an immediate injunction and concurrent complaint for damages and that is immediate reinstatement of accreditation. ACICS was, and is, in the wrong in this entire scenario which is a fact well known and understood by them. Larkin University, however, is willing to permit ACICS to avoid liability for these indiscretions upon reinstatement. Should ACICS choose to reject this proposal, however, Larkin University will promptly file suit upon all causes of action and for all damages to which it, and its students, are entitled. We look forward to your reasonable response to this proposal and request your prompt reply.

(b)(6)

David J. Armstrong, Esq.


DJA/
Enclosures as referenced

Cc: Cecelia Rokusek, Ed.D., M.Sc., RDN, Provost and Executive Vice President for Academic Affairs
Larkin University
Gary Levin, Pharm.D., BCCP, FCPP, Professor and Dean, Larkin University College of Pharmacy
Michelle Edwards, President and CEO, ACICS
Cathy Sheffield, Accreditation and State Liaison, U.S. Department of Education
Christopher Miller, U.S. Department of Education, School Participation Division, Region IV
Samuel Ferguson, Florida Commissioner on Independent Education



Larkin University
College of Biomedical Sciences

**OFFICIAL ACICS
DOCUMENTS
BINDER**



Commission for Independent Education


Approved 1/1/18

Larkin University (ID# 5133)

Corporation Data Name: Larkin Health Sciences Institute, Inc. Foreign or Domestic: Domestic Profit or Non Profit: Non Profit	
Address Data 18301 N Miami Ave Miami, FL 33169 Miami-Dade County	
Contact Data Contact: Mr. Gary M Levin Phone: (305) 760-7502 Phone Ext: Fax: (305) 760-7458 E-Mail: glevin@Ularkin.org Web Site: www.Ularkin.org	License Data Lic #: 5133 Campus Type: Main Lic Status: Provisional Program Specialist: Angela Harvell Annual Review Date: 1/31/2018

Accredited by: AGICS	Level of Accreditation: Programmatic	Last Granted: 12/27/2016	Renewal Date: 12/31/2019	Next visit Scheduled:
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Program Title as Licensed:	Hours:		Degree Type:	Credential:
	Clock	Credit		
Biomedical Sciences	33	36	MS	Masters
Clinical Anatomy			MS	Masters
Clinical and Translational Research	102		PhD	Doctoral
Clinical Cellular and Molecular Biology	35		MS	Masters
Diagnostic Medical Sonography	72		AS	Associate in Science
Pharmacy	141		PharmD	Doctoral
Radiologic Technology	73		AS	Associate in Science



Angela Harvell
Program Specialist
Commission for Independent Education

3/7/2018

Larkin University (#5133)

18301 N Miami Ave
Miami, FL 33169

Map

Contact: Gary Levin

Phone: (305) 760-7502

Fax: (305) 760-7458

Email: glevin@Ularkin.org

Website: www.Ularkin.org

License Status: Provisional

Licensed Since: 1/29/2014

Accreditation

Accredited By
ACICS

Level of Accreditation
Programmatic

Note: Accreditation generally means that a college or school has been evaluated by a group of educators, and meets the accrediting agency's standards. This process is VOLUNTARY for the college; it is not "required". However, accreditation is required for financial aid eligibility, recognition of degrees or credits by employers or other colleges, universities, or schools, easy transfer of credits, acceptance into another school, and other education-related opportunities.

Be aware that some so-called "accrediting agencies" may not be recognized by the U.S. Department of Education, or may even be bogus! A current listing of recognized "accrediting agencies" may be found on the [U.S. Department of Education's web site](#). Check with this office before you send money to any college, even if it claims to be accredited.

Programs Offered

Program Title	Credential	Clock Hours	Credit Hours	CIP Code
Biomedical Sciences	Masters		33	260102
Clinical Cellular and Molecular Biology	Masters		35	260406
Clinical Anatomy	Masters		36	260403
Clinical and Translational Research	Doctoral		102	511401
Pharmacy	Doctoral		141	512001
Radiologic Technology	Associate in Science		73	0351090704



Gary R. Carlson Ed.D.

720 S. 206th Avenue
Elkhorn, NE. 68022
317 258 3401
gary@grcarlson-inc.com



Dear NACIQI Board Members,

My journey and experience in providing education to youth, adults, special education and incarcerated people has ranged over forty-eight years. This experience has led on a journey of secondary education on to post-secondary. During this period of being a teacher, administrator and consultant has given me the opportunity to work for and with numerous schools across the United States. Compliance is nothing new to any of us in the partnership with the federal government to offer the best possible education to our society. Our demographics of our education audience may have changed but the ultimate goal of citizenship responsibilities, contributor in the world of work and family responsibilities have been high on the means to success. Through the past forty-eight years I have volunteered to be part of school boards, council for exceptional children, evaluator for national accreditors, program evaluator and a national commissioner for an accreditation organization. My journey has given me the opportunity to work with profits and non-profits. It is with this experience that I come to you with the perceptions of history and future as we look at our accreditation process and governance.

The philosophy of education to be viable needs to provide the opportunity to be creative and the necessary freedoms to explore for new discoveries. Over the years I have witnessed these attitudes and values communicated through teachers with their students. As we consider the circle of influence on our schools and colleges today, we must understand the circumstances that follow like falling dominoes when a single decision to rectify part of the circle may damage the entire process.

Elimination is not a sacrifice we can afford. Scapegoating schools or organizations will not improve our outcomes. Anyone being part of the accreditation process understands the accreditation organizations have always adhered to the U.S. Department of Education's guidance. My experience with accreditation has been over the past twenty-eight years. So, what do I see as a difference in the U.S. Department of Education approved accreditors? Compliance is always one of the goals of schools and colleges. To meet the compliance standards established by the U.S. Department of Education accreditors create established

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criteria standards for schools and colleges to follow. These criteria parallel the guidance of the U.S. Department and are submitted to subcommittee of NACIQI for approval and reauthorization. On this basis after reading criteria from the national and regional accreditation organization standards you will find little or no differences. As an evaluator you are confirming standards communicated to the accreditations organizations and implemented in schools and colleges. In the visits made by me over the years have clear results for criteria standard success or failure. Outcomes resulted in approval, deferral or denial of accreditation. Each accrediting organization needs follow and adhere to appropriated due process in taking actions with any school. Throughout the accreditation history the role of these organizations have taken on additional oversight that were not existent in the past. Accreditation was primarily except for program accreditation focused on the institution. Outcomes were evaluated for student retention, career placement and graduation. Additional outcomes have been added in the past eight years. Student success, gainful employment, program success, marketing, advertising, recruitment and financial audit results has increased further over-site.

ACICS as we look at the adherence to U.S. Department criteria has worked in conjunction with the criteria adjustments as communicated by the department. While serving as a commissioner for ACICS the standard of communication was to keep a two-way constant translation between the two departments. Commissioners were always vigilant to ask if the U.S. Department had been in contact with ACICS about any changes adjustments and did we have their approval. In 2010-11 ACICS worked closely with the U.S. Department of Education to create a better process of evaluating large corporate operated schools and colleges with actual audits for not only the schools and colleges but actual corporate headquarter visitations and reports. The entire process was overseen by the U.S. Department. It was piloted in two corporate operations. Upon the completion of the pilot the U.S. Department determined the visitation of headquarters was outside the jurisdiction of ACICS. ACICS discontinued the process. This is just one example of many where ACICS has followed the guidance of the U.S. Department of Education.

I have taken part in school compliance preparations for ACCSC, ABHES and ACICS to discover there is very little difference in the criteria evaluation in each member school. As ACICS approaches their consideration for re-authorization it must be considered what actions have been taken to adhere to the U.S. Department of Education guidance has ACICS achieved? ACICS is an organization that has served the United States for over 100 years. It is without question this institution has provided guidance and direction to hundreds of schools and colleges who have provided thousands of graduates with an education to enter a viable career in the workforce. ACICS focuses their compliance in the areas of mission, administration, academic and student services, recruitment, financial aid, library, marketing and advertising and facilities. This focus is no different than other approved accrediting organizations.

It is obvious that with societal and administration changes the accrediting criteria may change. Any organization that once was deemed necessary and maintained a long history of

service should not be eliminated unless it has committed fraud or has been unlawful. All of the above organizations represent thousands of students, employees and communities. By hastily terminating the services of ACICS has placed students, employees and communities in jeopardy. If any organization needs guidance or a leadership adjustment would be more appropriate than complete elimination. Throughout the past several months ACICS has operated in good faith to abide by guidance from the U.S. Department of Education. U.S. Department of Education professional staff have been accompanying ACICS evaluation teams to assess the actual visits to schools and colleges. ACICS has had leadership changes, commissioner adjustments and criteria changes all to satisfy the requirements of the U.S. Department of Education. Finally, we must not forget the students and communities affected by the loss of ACICS. This would be entirely different if ACICS had taken an adversary position on their future operations, process and practices but to the contrary they have shown good faith in complying with the U.S. Department of Education's standards.

Because of ACICS obvious action steps to both satisfy and comply with the required changes requested of them I would encourage and recommend they be re-authorized to serve their constituent schools and colleges. Authorization is redundant to be revisited and assessed ongoing in the future. ACICS has approached their challenge with a positive attitude and concrete changes that have been completed with guidance from the U.S. Department of Education.

Thank you for this opportunity to communicate my opinions in conjunction with my colleagues.

Gary R. Carlson Ed.D.
President gCarlson Inc.
gary@gcarlson-inc.com
Phone: 317-258-3401



Laurus College serves 800 students and employs 100 staff. ON their behalf, we are enthusiastically behind the reconsideration of ACICS approval by NAICIQI. As an organization ACICS has dramatically changed both in terms of personnel and procedures. They have made difficult decisions and moved rapidly to create a first class organization. To deny this application would punish innocent schools and students for actions no longer represented by today's ACICS. It would be unfair and injurious to thousands of students.

ACICS provides a unique platform for accreditation to schools that do not easily fit under the traditional trade school mentality. ACICS allows for innovation and choice that is greatly needed in today's post-secondary space. The cost in terms of monies and time spent by schools under ACICS jurisdiction could better be spent on improving education rather than on refitting into a new accreditor that in many cases may not be aligned with their real mission.

The punishment of bad actors has been achieved; any further sanction of ACICS would be an exercise in vengeful thinking that would ultimately result in hurting thousands of innocent lives. We respectfully request that NACIQI grant ACICS recognition as an approved accreditor.

Sincerely,

(b)(6)

A large rectangular box with a black border, used to redact the signature of Steve Johnson. The text "(b)(6)" is written in the top-left corner of the box.

Steve Johnson
CEO, Laurus College
805 267 7388 ph.
steve.johnson@LaurusCollege.edu
421E. Betteravia Rd, Suite 100
Santa Maria CA. 93454

February 16, 2018

Lynn B. Mahaffie
Deputy Assistant Secretary for
Planning, Policy, and Innovation
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202

Re: FR Doc. 2018-01220

Dear Ms. Mahaffie:

On behalf of the approximately 450 higher education institutions represented by the Career Education Colleges and Universities, I write to provide comments regarding the Application for Initial Recognition submitted by the Accrediting Council for Independent Colleges and Schools (ACICS). The solicitation for written comments was published in the Federal Register January 24, 2018 (FR Doc. 2018-01220) and comports with section 496(n)(1)(A) of the Higher Education Act of 1965, as amended.

ACICS, a national institutional accreditor, was founded in 1912 – well over a century ago – and has a rich history contributing to America’s postsecondary education system. ACICS-accredited institutions have contributed hundreds of thousands of well-prepared graduates to today’s diverse workforce. Until recently, ACICS had also been recognized by the Secretary of Education (Secretary) since 1956. This continuous recognition supports the fact that the Department had for over 60 years determined that ACICS was a reliable authority in gauging institutional quality.

In 2016, the Department considered ACICS’s Petition for Continued Recognition. In its final staff report to the senior department official (SDO), career staff from the Department’s accreditation group identified several areas in which the agency was found not to be in full compliance with the Secretary’s recognition criteria. Based on these findings, along with the belief that the agency was not capable of coming into full compliance with the recognition criteria within the 12-month statutory timeframe, staff recommended to deny the agency’s petition and withdraw the agency’s recognition. This recommendation was forwarded to the National Advisory Committee on Institutional Quality and Integrity (NACIQI). At its June 23, 2016 meeting, NACIQI voted to recommend that the SDO deny ACICS’s petition.

After considering recommendations from both career staff at the Department and NACIQI, the SDO denied ACICS’s request for renewal of recognition and withdrew the agency’s recognition. Although ACICS appealed the SDO’s decision, the Secretary upheld the SDO’s decision and terminated the agency as a nationally recognized accrediting agency, effective December 12, 2016.

ACICS's 2016 petition is extensive and well-documented. It is clear based on the record that at the time, the Department was concerned that there were substantive and wide-spread issues that resulted in ACICS's noncompliance with the Secretary's recognition criteria. We do not refute these findings, nor dispute that these issues led to ACICS's lack of effective oversight and enforcement of its accredited institutions. As a result, a few ACICS-accredited institutions – out of the hundreds it accredited – engaged in inappropriate behavior that is unbecoming of an institution of higher education and not reflective of nor supported by career education colleges and universities.

In its 2016 staff report to the SDO, career staff described in several sections that although ACICS had already made commendable improvements toward its compliance with the Secretary's recognition criteria, more time was necessary to implement the agency's new and strengthened initiatives, or for these initiatives to produce significant and tangible results necessary to determine full compliance.¹ We do not disagree, nor did ACICS, that additional time was necessary beyond June 2016 for the agency to evidence full compliance with the recognition criteria. However, the Department ultimately chose not to afford the agency a chance to come into compliance within the 12-month timeframe before terminating its recognition, an opportunity provided to the vast majority of accreditors.²

The absence of such an opportunity to evidence compliance within a reasonable timeframe, which the Department has historically provided, adversely and unnecessarily affected approximately 269 institutions and over 500,000 students. Many of these institutions are still struggling to this day to identify alternate accreditors that will provide them the chance to continue to offer quality education to their students.

ACICS's Application for Initial Recognition, which is currently being reviewed by the Department, is the culmination of significant reform efforts undertaken by new leadership at the agency over the last year. These reform efforts were not exclusively made just to meet the Secretary's recognition criteria but in furtherance of improving the institutional oversight process expected from students, families, and taxpayers. Although not an exhaustive list, the agency's reform efforts include: developing and effectively implementing student achievement standards; strengthening monitoring to deter misconduct regarding placement, recruiting, and admissions; taking immediate action against institutions when faced with reliable information from third-parties about potential violations of its standards; and ensuring through systematic and regular reviews that its standards are adequate to evaluate the education provided by member institutions.

It is now the Department's responsibility to review ACICS's application to determine whether the agency currently complies with the Secretary's recognition criteria. In doing so, my request to this Department is not to ignore ACICS's past, for doing so would be a disservice to the

¹ For example, *see* Staff Report to the Senior Department Official on Recognition Compliance Issues, p. 14 (career staff noting the agency's plans should improve the "ability to uncover difficulties more expeditiously" but that "at this time the plans have not...produced significant and tangible results").

² For example, *see* Senior Department Official Decision Letter to the American Osteopathic Association, October 28, 2016 (noting that although the agency was in violation of 18 separate recognition criteria (ACICS had only 3 additional), it was afforded the 12-month compliance timeline).

positive contributions the agency has made to the American higher education system over the past 100 years. We must also not forget those previously identified deficiencies, but instead, recognize how these past challenges have informed and contributed to the significant improvements demonstrated today.

I look forward to Department staff and NACIQI undertaking a fair, transparent, and non-ideological evaluation of ACICS's application and providing an objective recommendation based on all of the information reviewed.

Sincerely,

(b)(6)

Steve Gunderson
President & CEO

Good Afternoon,

I work at a school which received their accreditation by ACICS after its derecognition by the Education Department. This was school's first accreditation. Due to this, I have firsthand experience with ACICS's accreditation policies and procedures including student outcome standards.

Since it's derecognition, school applied for the accreditation with different agency where our application is still in process. During this period, we realized that standards of this other accreditation agency are similar or may be more lenient in some cases.

I strongly believe reinstating ACICS will help students to achieve their goals and succeed.

Ravish Shah, MS
Administrative Director



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*Approved by Office of Higher Education
State of Connecticut*



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Nursing Care Quality Assurance Commission
PO Box 47864 Olympia, WA 98504-7864

February 20, 2018

Herman Bounds Jr., Ed.S.,
Director Accreditation Group
U.S. Department of Education
Office of Postsecondary
Education Accreditation Group
400 Maryland Avenue, SW, Room 270-01
Washington, D.C. 20202

Dear Director Bounds:

In response to the Federal Register Notice published on January 24, 2018, we are submitting this comment to register our support of the Application for Initial Recognition submitted by the Accrediting Council for Independent Colleges and Schools ("ACICS"). The Notice solicits third-party comments concerning the performance of accrediting agencies under review by the U.S. Secretary of Education as required by section 496(n)(1)(A) of the Higher Education Act (HEA) of 1965, as amended. ACICS has presented an Application for Initial Recognition for the accreditation of private postsecondary institutions offering certificates or diplomas, and postsecondary institutions offering associate, bachelor's, or master's degrees in programs designed to educate students for professional, technical, or occupational careers, including those that offer those programs via distance education.

One of the criteria for recognition of an accrediting agency is § 602.13 requiring the accrediting agency to demonstrate "Acceptance of the agency by others." As the state nursing educational licensing agency in Washington State, we require that institutions offering educational programs be accredited by an agency recognized by the U.S. Department of Education or by the Council for Higher Education Accreditation (CHEA). Since Accrediting Council for Independent Colleges and Schools (ACICS) is recognized by CHEA, institutions accredited by ACICS meet a required element for state licensing in the state of Washington.

The Washington State Nursing Care Quality Assurance Commission is responsible for the approval of all nursing education programs in the state of Washington and the licensing of all nurses. The Commission has approved of many nursing distance-learning programs that come from CHEA approved institutions and meet the standards of approval by the Commission.

Please accept this letter as acknowledgement by the Washington State Nursing Care Quality Assurance Commission that, for those institutions that have ACICS accreditation to obtain state licensing, ACICS accreditation is a valued component of licensure by the Commission. As a

result, we support the petition for initial recognition submitted by ACICS to the Department.

If you have any questions, I can be reached at 360-236-4745.

Sincerely,

Mindy Schaffner, PhD, MSN-CNS, RN
Associate Director, Nursing Education State of Washington

February 28, 2018

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

Dear Mr. Bounds:

The undersigned Veterans and Military Service Organizations are writing 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, the Secretary of Education withdrew recognition of ACICS in 2016 after years of compliance concerns and shortcomings with the “bad actor” institutions it accredited.¹ In addition, we ask you to remove ACICS from the upcoming May 2018 agenda of the National Advisory Committee on Institutional Quality and Integrity.

Many institutions that ACICS accredited are now closed. Prior to closure, they had been investigated by or settled with federal and state law enforcement agencies based on complaints about their predatory behavior, including Corinthian, ITT, FastTrain, Westwood (Alta), Globe University, and Sanford-Brown (Career Education). Two examples illustrate the scope of ACICS’s shortcomings, which led to the Department’s December 2016 decision to withdraw recognition:

- A Justice Department case that resulted in an 8-year jail term for the FastTrain CEO suggests that ACICS was asleep at the wheel. 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. 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’s 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’s standards, he went on to claim that Corinthian was in

¹ Documented Education Department concerns about ACICS date back to the post-Vietnam War era when ACICS was documented to approve low-quality education programs that were targeting veterans. See The Century Foundation, [“Vietnam Vets and a New Student Loan Program Bring New College Scams: The Cycle of Scandal at For-Profit Colleges”](#) (2017).

compliance with those standards when the Education Department took action against the for-profit chain. In addition, the California Attorney Generals 2013 [lawsuit](#) indicated that Corinthian's illegal use of official military department seals in its advertising sought to imply federal government connection, approval, or endorsement, an issue that should have been captured during ACICS's oversight of recruiting practices. ACICS maintained Corinthian's accreditation until the day the school closed.

Unfortunately, Corinthian and FastTrain are [not isolated examples](#) of ACICS' "honoring" institutions that were under investigation or had settled lawsuits.²

Moreover, others ACICS-accredited institutions are still open and enrolling students even though they also engaged in similar predatory behavior. For example, the [Art Institutes](#) (EDMC), [Daymar College](#), [Florida Technical College](#), [Fortis Institute](#) (Education Affiliates), [Lincoln Technical Institute](#), [National College](#), and [Salter College](#) (Premier Education Group) have 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. Again, these settlements suggest that ACICS was "asleep-at-the-wheel."

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. When alerted to predatory behavior by a school that participates in VA or DOD educational benefits, VA and DOD officials often explain that they rely on ED's approved accreditation as an indicator of quality. VA and DOD should be able to rely on the Department's accreditors to weed out bad actors.

Second, 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.

Although the Department of Education has refused to provide a copy of ACICS's application for recognition, ACICS has done nothing in the past 13 months to suggest that it has taken sufficient steps to address its self-acknowledged shortcomings. Several changes in leadership since Albert Gray left as ACICS's CEO in 2016 raise questions about the ACICS claim that it launched reform efforts during 2017 and that it "is fundamentally *changing* as an organization" (italics added). Moreover, by acknowledging that reform is a work-in-progress, we believe that ACICS is reaffirming the Department's 2016 assessment that ACICS could not address all of its 21 compliance shortcomings within 12 months. Because ACICS's application is likely to be considered sometime in the late spring or early summer, less than 2 years will have elapsed since

²See Table 1, pp. 10-13.

the Department found it to be out of compliance with required accreditation criteria. As a result, ACICS cannot possibly meet the requirement that organizations demonstrate *2 years* of successful experience with the laws and regulations governing accreditors before seeking recognition.³

The brief amount of time ACICS has had to implement the extensive reforms needed to restore its credibility combined with its failure to meet the requirement for 2 years of successful experience suggest that now is not the time to reinstate ACICS.

Sincerely,

Keith A. Reed
Headquarters Executive Director
Air Force Sergeants Association

³34 CFR 602.12.

Nichole King-Campbell
Air Force Women Officers Associated

Joseph Chenelly
Executive Director
AMVETS National Headquarters

Gary E. Hall
National Executive Director
Association of the United States Navy

Kathy Roth-Douquet
CEO
Blue Star Families

Kristina Kaufmann
Executive Director
Code of Support Foundation

John R. Davis
Director, Legislative Programs
Fleet Reserve Association

Kristofer Goldsmith
President
High Ground Veterans Advocacy

Paul Rieckhoff
Founder & CEO
Iraq & Afghanistan Veterans of America

Luke Opyd
President
Ivy League Veterans Council

Paul D. Warner, Ph.D.
National Commander
Jewish War Veterans of the U.S.A.

Lyman Smith
Executive Director
Military Chaplains Association

Mary M. Keller, Ed.D.

President & Chief Executive Officer
Military Child Education Coalition

Neil Van Ess
National Commander
Military Order of the Purple Heart

Juliana Mercer
Managing Director
MVPvets

Tony Flores
President
National Association of Veterans' Program
Administrators

Joyce Wessel Raezer
Executive Director
National Military Family Association
Jon Ostrowski
Executive Director
Non Commissioned Officers Association

Jeffrey E. Phillips
Executive Director
Reserve Officers Association

Lydia C. Watts, Esq.
CEO
Service Women's Action Network

Jared Lyon
President & CEO
Student Veterans of America

Deirdre Parke Holleman, Esq.
Washington Executive Director
The Retired Enlisted Association

Bonnie Carroll
President and Founder

Tragedy Assistance Program for Survivors

Randy Reid, USCG (Ret.)
Executive Director
U.S. Coast Guard Chief Petty Officers
Association & Enlisted Association

Carrie Wofford
President
Veterans Education Success

Anthony Hardie
Director
Veterans for Common Sense

Robert Muth
Managing Attorney
Veterans Legal Clinic, University of San
Diego

Matthew Boulay
Executive Director
Veterans Student Loan Relief Fund

Bethany Keirans
Director
VetsFirst, a program of United Spinal
Association

February 14th, 2018

Good Afternoon,

I work at a school where the students' needs always come first. It is my job as an Enrollment Administrator to be transparent with all prospective students I meet. I have seen firsthand the countless hours administration has devoted into ensuring student success. Students are made aware of the academic requirements they need to achieve in order to pass and complete the program. From orientation to graduation and then job placement, the administration and instructors work together to empower students with the knowledge and skills in order to be successful in the real world.

There are standards that each program must meet in order to ensure that student success is possible. Many individuals want to ensure that the school they select meets the standard and criteria that constitutes as quality education, which is the reason accreditation is an important part of the education system.

ACICS has been the leading accreditation agency protecting academic freedom and student choice. I believe they should continue to review institutions standards to ensure a quality educational experience for students.

ACICS states in their mission statement their goal is to "implement standards that ensure institutional accountability while encouraging institutional growth..."; I believe ACICS should be allowed that same growth. Let us move past binary decisions regarding quality and allow the agency to grow and improve their system of institutional approval. The students should always be the first concern, and that should be the made reason to reinstate the recognition of ACICS.

Sincerely,

Lauren Fox

Enrollment Administrator

American Institute of Healthcare and Technology

480 Lordship Blvd, Stratford, CT 06615 | web: www.aihtedu.com

Email: lfox@aihtedu.com | Phone (off): (203) 870-8400 x 222

Good Afternoon,

As an instructor and also as an administrator, I have had the experience of getting our school accredited by working with ACICS on accreditation related policies and procedures. We recently got accredited by ACICS after more than three years of hard work of aligning our school with the standards set by the ACICS.

ACICS has always reinforced working for the benefit of students by keeping in mind the standards set by the accrediting council. As a school, we find that the standards set by ACICS match with other accrediting councils. They have certainly worked on their shortcomings and have tremendously improved them from previous years by raising their standards even further.

The future of many other students like our school depends on the recognition of ACICS. ACICS had been a reputed accreditation agency and was working to protect academic freedom and options for students.

If ACICS gets derecognized, the future of thousands of students will be at stake. This action will shake the faith of these students on the accreditation councils and also their schools.

I strongly believe that they should be given a chance in continuing to review institutions standards to ensure a quality educational experience for students.

Thank you.

Dinny Mathew MPH, MBBS, RDCS
Coordinator of Education Affairs



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Herman Bounds
Director, Accreditation Group
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400 Maryland Ave., SW
Washington, D.C. 20202

March 1, 2018

**Comment on application for recognition by the Accrediting Council for Independent
Colleges and Schools**

This comment is submitted on behalf of the Center for American Progress' postsecondary education team.

In June 2016, the Accreditation Group of the United States Department of Education recommended to the Senior Department Official in Education and to the National Advisory Council on Institutional Quality and Integrity (NACIQI) that the Accrediting Council for Independent Colleges and Schools (ACICS) not be re-recognized as a Title IV qualifying accreditor.¹ The Accreditation Group analysis found ACICS to be out of compliance with numerous federal standards. NACIQI voted 10-3 to deny ACICS's request for recognition.² The Senior Department Official and then, after ACICS appealed, the Secretary of Education concurred with this opinion in December 2016, formally withdrawing ACICS's ability to serve as a gatekeeper for federal financial aid dollars.³

Now, less than two years after that decision, ACICS is seeking recognition as a new agency so that it can again grant institutional access to federal financial aid. We write today to oppose that request on both procedural and substantive grounds. Briefly, we argue:

- 1) The Department of Education's own regulations do not permit ACICS to be considered as a new agency because it cannot demonstrate that it was in compliance with the federal standards for recognition for two years. As a result, we do not believe any consideration of the substance of ACICS's application is appropriate.

¹ U.S. Department of Education, "Report of the Meeting: National Advisory Committee on Institutional Quality and Integrity (NACIQI)" (2016), available at <https://sites.ed.gov/naciqi/files/2016/09/NACIQI-Report-of-the-MeetingJUNE2016FINAL-508.pdf> (last accessed February 2018).

² Ibid.

³ U.S. Department of Education, "Accrediting Agency Recognition Proceeding" (2016), available at <https://www2.ed.gov/documents/acics/final-acics-decision.pdf> (last accessed February 2018).

- 2) Even on substantive grounds, we believe that ACICS does not merit approval for the following reasons:
 - a) ACICS's application does not demonstrate wide acceptance.
 - b) ACICS appears to have significant difficulties overseeing institutions whose enrollment mostly consists of international students.
 - c) There are still instances of ACICS institutions having to settle lawsuits or face fines around allegations of fraud and misuse of federal funds.
 - d) ACICS standards still have core weaknesses that have been unable to prevent fraud, particularly around verifying if students have a high school diploma and student outcomes standards.
 - e) Promised changes from the 2016 NACIQI meeting were never implemented
 - f) ACICS's supposed improvements--including an executive change--have not been in place long enough to demonstrate any meaningful change.
- 3) The Department of Education should demand additional documentation from ACICS that is not currently in the record.

Below, we provide more detail on each of these items.

Federal regulations prohibit a review of ACICS at this point

The Department of Education can only grant two types of recognition: initial or continued. There is no debate that ACICS must apply as an "initial" applicant because it has lost its federal recognition. As a result, ACICS must meet the criteria of both 34 CFR 602.12--Accrediting Experience, as well as other requirements in 34 CFR 602.31--Agency submissions to the Department.

The combination of requirements from the two sections above make ACICS ineligible for consideration by the Department of Education at this point. First, 34 CFR 602.31(a)(2) requires that the application for recognition provide: "Evidence, including documentation, that the agency complies with the criteria for recognition listed in subpart B of this part and effectively applies those criteria."⁴ Subpart B includes 34 CFR 602.12(a)(2), which states that as an initial applicant ACICS must not only demonstrate that it complies with the criteria for recognition but that it also meets the requirements of 34 CFR 602.12(a)(2) that the agency "Conducted accrediting activities, including deciding whether to grant or deny accreditation or preaccreditation, for at **least two years** prior to seeking recognition" (Emphasis added).⁵

⁴ 34 C.F.R. § 602.31, available at <https://www.law.cornell.edu/cfr/text/34/602.31>.

⁵ 34 C.F.R. § 602.12, available at <https://www.law.cornell.edu/cfr/text/34/602.12>.

In layman's terms, these requirements in tandem establish that the burden of proof is on any new agency to demonstrate it was conducting accreditation activities that are in compliance with the standards for at least two years prior to seeking recognition. It is clear from the regulations that the Department of Education believes that relevant accreditation experience is necessary to serve as a gatekeeper to federal student aid. It follows then, that this relevant experience must come while acting in compliance with the federal criteria. This is further buttressed by the point that the statute, at 20 USC 1099b-(a), and the regulations require that an agency must show it is a "reliable authority regarding the quality of education or training" in order to prove its standards are of sufficient rigor.⁶ Reliability is not something that can be demonstrated solely by a single instance of compliance. It requires repeated demonstration. The regulation requires two years of effectively applying the criteria in Subpart B, dealing with the organization's administrative and fiscal responsibility, its establishment of required standards and their consistent application, and its demonstration of required operating policies and procedures, before it can be recognized.

Were the two years of accreditation activities not required to be in compliance with the standards, then the experience requirement would have little meaning. An agency could simply act as a rubber stamp for two years, write seemingly strong standards on paper, then try to sail through a recognition process.

In the case of ACICS, we know definitively that the agency has not been in compliance with the standards for two years. On June 23, 2016, Anthony Bieda, the then executive in charge of ACICS said before NACIQI:

However [sic] the real issue today we believe is the issue of whether we can come into compliance within one year or sooner. We have studied the staff report with great care and with many of our Commissioners who are here today and we sincerely believe we can solve and address the legitimate issues that the Department has flagged.⁷

This is a clear admission that the agency was not currently in full compliance with the federal criteria for recognition at that point in time--a date that is more recent than two years in the past.

The question then becomes, if ACICS has actually come into compliance (a proposition this comment does not agree with), when did that occur? The first updating of ACICS's standards after the NACIQI meeting was announced on January 17, 2017 with an effective date of December 6, 2016--roughly 18 months ago.⁸ However, the agency also finalized another set of changes to its standards with an effective date of August 4, 2017--less than one year ago.⁹ Those changes included some alterations to requirements around student achievement review

⁶ 34 C.F.R. § 602.16, available at <https://www.law.cornell.edu/cfr/text/34/602.16>.

⁷ <https://sites.ed.gov/naciqi/files/2016/08/naciqi-transcripts-062316-508.pdf> page 78.

⁸ U.S. Department of Education, "Transcript of the June 23rd, 2016 Meeting of the National Advisory Committee on Institutional Quality and Integrity," page 78, available at <https://sites.ed.gov/naciqi/files/2016/08/naciqi-transcripts-062316-508.pdf> (last accessed February 2018).

⁹ Accrediting Council for Independent Colleges and Schools, "Memorandum to the Field," September 14, 2017, available at <http://acics.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=7013&libID=7007> (last accessed February 2018).

and how that affects show cause or compliance warnings--issues that were flagged in the ED staff analysis in 2016.

Arguably ACICS was still out of compliance at an even later date. Attorneys General for several states note that Roger Williams, the then executive for ACICS, admitted in February 2017 that the agency was still not in compliance quite yet.¹⁰

Changing standards alone is not enough to demonstrate compliance. The agency must also show that it is making approval or rejection decisions using those criteria that are in compliance. A review of ACICS documents and policies suggests that the earliest a school could have been subject to the new standards--from review through commission meeting--would have been in August 2017. Here is how we reached that conclusion. Standards changes were finalized in December 2016. ACICS's self study guide says that an institution must submit its self study and required documents three months before a visit.¹¹ That means institutions during the January to February 2017 visit cycle would likely have been reviewed under the old standards. The earliest institutions would have been reviewed under the new standards is thus during the late April to June visit window.¹² Those schools would then have gone before the commission no earlier than its August 2017 meeting.

This timeline shows that ACICS submitted its application as a new agency with just a single finished visit cycle under its new standards--the April to June 2017 period. Later visits in the fall of 2017 would have gone before the commission no earlier than December 2017--several months after it already applied for recognition.

Given these regulatory requirements, questions around the sufficiency of ACICS's standards are irrelevant because the agency fails to meet more basic qualification tests to even have its application considered.

Even if it were reviewed, ACICS's changes are insufficient

Even if the Department finds that ACICS had met the requirements of 34 CFR 602.12 and 602.31, the changes made by the agency since it lost recognition in December 2016 are insufficient to demonstrate compliance and merit receiving federal approval again. In particular, there are five shortcomings:

1. ACICS's application does not demonstrate wide acceptance.
2. ACICS appears to have significant difficulties overseeing institutions whose enrollment mostly consists of international students.

¹⁰ http://www.marylandattorneygeneral.gov/news%20documents/Opposing_ACICS_Recognition.pdf page 6.

¹¹ ACICS Exhibit 61, page 2

¹² ACICS Exhibit 61, page 4.

3. There are still instances of ACICS institutions having to settle lawsuits or face fines around allegations of fraud and misuse of federal funds.
4. ACICS standards still have core weaknesses that have created opportunities for fraud, particularly around verifying if students have a high school diploma and student outcomes standards.
5. Promised changes from the 2016 NACIQI meeting were never implemented

ACICS's application does not demonstrate wide acceptance

Federal rules require that accreditation agencies demonstrate their wide acceptance by others in order to meet criteria for recognition.¹³ In particular, 34 CFR 602.13 says the agency must show acceptance by (1) educators and educational institutions and (2) licensing bodies, practitioners, and employers.

ACICS's application attempts to demonstrate compliance with 34 CFR 602.13 by including a number of letters from assorted parties. However, a closer review of these documents shows that the majority of them either come from institutions or individuals already affiliated with ACICS, are not actually related to ACICS, hinge on one organization's acceptance of ACICS, or are unrelated documents that are sloppily miscategorized.

The end takeaway is that the only consistent acceptance ACICS can demonstrate comes from individuals who have a vested financial or personal interest in the continuation of ACICS. The few state agencies who have evidence demonstrating ACICS acceptance give it that status solely because it has recognition from the Council for Higher Education Accreditation. That is a membership organization that receives dues from ACICS schools and has deferred decisions on whether to continue that approval four times since 2016.

By contrast, other documentation purporting to show ACICS acceptance can give a misleading appearance. Many letters of support from employers are testimonials about the general value of a given institution, not the accreditation agency. Letters from public non-member educators are actually from individuals who have served as ACICS reviewers or commissioners. In fact, our review of several hundred pages turned up at best a handful of letters of support from individuals who did not have some sort of relationship with ACICS.

We note that the Department of Education's Accreditation Group has already determined once that ACICS did not demonstrate wide acceptance based upon the state of its application on December 1, 2017.¹⁴

Below we break down the relevant exhibits in greater detail.

¹³ 34 C.F.R. § 602.13, available at <https://www.law.cornell.edu/cfr/text/34/602.13>

¹⁴ Appendix A, page 1.

Letters of support from institutions

The vast majority of support in these exhibits comes from institutions and individuals affiliated with the council, and many examples involve just a few institutions that are likely to not have ACICS approval by the time it goes before NACIQI.

Exhibit 27--letters of support--accredited institutions

This is a 12-page document that starts with a screenshot of a form letter and then has several pages of names indicating signatories. However, the list of supporters frequently lacks information identifying the school where the person works, and there are multiple duplicates. For instance, John Carreon, a senior vice president, regulatory affairs, and associate general counsel at the Education Corporation of America¹⁵ is listed 16 times in the document and his affiliation is not provided. Similarly, Bryce Larson, the director for regulatory approvals at the Education Corporation of America shows up 18 times in the document. The Education Corporation of America owns numerous ACICS-accredited colleges that records show have been deferred from another accrediting agency, including Brightwood Colleges, Brightwood Career Institutes, and Virginia Colleges.¹⁶ That accrediting agency notes that initial applicants are experiencing non-compliance with [job] placement [standards].¹⁷

In other cases, the document contains signatures from multiple individuals at the same campus. For example, there are 12 signatures from individuals at ACICS-accredited Florida Career Colleges and three from individuals at ACICS-accredited Southern States University. One signatory is not even from a school but appears to work at a consulting firm called Qe2 Systems.

The result is this exhibit that supposedly shows 60 signatures actually represents 12 unique campuses and one consulting firm. All the colleges present had or have ACICS accreditation.

Exhibit J--Letters of support--Institutions

This exhibit is only partially named correctly. The first part of the exhibit includes statements of support from institutions that hold ACICS accreditation, with the exception of one school that had applied for but not yet received recognition. The latter part of the document, however, includes over a dozen and a half accreditation withdrawal letters. Voluntarily withdrawing accreditation is not an expression of support.¹⁸

¹⁵ LinkedIn page of John Carreon, available at <https://www.linkedin.com/in/john-carreon-8b59001/>.

¹⁶ Brightwood Colleges, Brightwood Career Institutes, and Virginia Colleges have all been deferred from consideration. See Accrediting Council for Continued Education & Training, Institutions to be considered in December, 2017 and April 2017, http://s3.amazonaws.com/docs.accet.org/downloads/reports/institutions_considered_dec17.pdf and http://s3.amazonaws.com/docs.accet.org/downloads/reports/institutions_considered_aug17.pdf.

¹⁷ Accrediting Council for Continued Education & Training, Executive Director's Blog, February 2018, available at <https://acct.org/>.

¹⁸ ACICS, Exhibit J, available at <https://drive.google.com/open?id=1iFRi0egAoopuJicoCINuSUd2RRYWh5BA>.

Exhibit 28--letters of support--transfer credit

This exhibit consists of several letters showing that various institutions are willing to take transfer credit from Schiller International University.¹⁹ None of these documents speak to widespread support for ACICS. And given that ACICS accredited somewhere on the order of 269 institutions of higher education when it lost federal recognition these documents solely confirm that 0.37 percent of ACICS schools were able to have credits transfer elsewhere.

Exhibit 29--articulation agreements

This document shows articulation agreements between (1) Kaplan University and the Education Corporation of America (ECA), (2) the University of Phoenix, New England College of Business with the San Diego Golf Academy, and (3) the New England College of Business with Virginia College, both of which are owed by ECA.²⁰

The first agreement is not particularly surprising given that Kaplan sold Kaplan College campuses to ECA in 2015.²¹ All the other agreements, meanwhile, are between schools with common ownership. The University of Phoenix agreement, meanwhile, is from 2008 and it is unclear if that agreement is still in effect.

Letters of support from individuals

All of the letters in this category appear to come from individuals affiliated with ACICS in some form. This includes an individual who was an ACICS commissioner at the time he wrote a letter being labeled a non-member educator.

Exhibit 26--letters of support from educators at member institutions

This exhibit consists of two letters from educators at Fortis College and American National University. Both of these institutions held ACICS accreditation at the time they were written.²²

Exhibit 30--letters of support-non-member educators

These letters have a misleading title because both come from individuals who are current or former ACICS commissioners.²³ The first letter comes from a current commissioner.²⁴ The

¹⁹ ACICS, Exhibit 28, available at

<https://drive.google.com/open?id=1b7DhytwNLQ8ikdpBvobVspo2DoZY0td7>

²⁰ ACICS, Exhibit 29, available at <https://drive.google.com/open?id=1144Sul6Ga3OdKDXhVpV-gsu-FQJK0C4z>

²¹ Education Corporation of America, Education Corporation of America Completes Purchase of Kaplan College Campuses Expansion Broadens Campus Locations and ECA's Portfolio of Brands, available at https://www.ecacolleges.com/news-detail.cfm?News_ID=3985.

²² ACICS, Exhibit 26, available at https://drive.google.com/open?id=1JCWD-ikGpTO3nhci_6zUDtKYrEcvBoZH

²³ ACICS, Exhibit 30, available at <https://drive.google.com/open?id=1a3vJ-TFEx-vdYxso1q0rfFnxFGnEUsee>

²⁴ Accrediting Council for Independent Colleges and Schools, "Honorariums," available at <http://www.acics.org/evaluators/content.aspx?id=2432>.

second letter comes from someone who was a commissioner when he wrote the document.²⁵ It would be highly misleading for the Education Department or NACIQI to consider these documents to be evidence of external support.

Exhibit H--letters of support public educators

This includes the two letters from Exhibit 30. It then adds a letter from an individual who has participated in 46 ACICS site visits and a four sentence email from someone who lacks any institutional affiliation. It is unclear if they too have participated in ACICS reviews, though it seems possible given that she writes "The extensive review of nursing programs I have been involved in gives me confidence in the graduates these programs graduate."

Exhibit AC--Collins letter of support and AD--Sullivan letter of support

This letter is from a private individual who states they have conducted more than 450 institutional reviews, including an unspecified number for ACICS.²⁶ The other letter is from someone who is a former teacher at a college accredited by ACICS.²⁷

Exhibit G--Letters of support member educators

Simply looking at the page count of this document and taking it as widespread evidence of support for ACICS would be misleading. Of the 67 letters in this document, 43 percent (29 letters) are generally positive comments about institutions owned by the Education Corporation of America. These do not mention ACICS in any way and appear to have been submitted directly to the council for possibly some other purpose. It is unclear why they have been entered into the record as letters of support from member educators.

Exhibit AE--Practitioner Support Letters

This exhibit also has sloppy characterization. It has four letters in the beginning that include individuals who have conducted, 6, 12, and 120 reviews for ACICS, as well as a former commissioner. Two letters in the middle concern support for Miami Regional University with no mention of ACICS. Then the final letter is from a preceptor working with an ACICS-accredited school.

Letters from higher education organizations

Similar to issues above, most of these letters come from organizations that receive dues from ACICS institutions.

²⁵ Accrediting Council for Independent Colleges and Schools, "Meet our Commissioners," <https://web.archive.org/web/20170630001300/http://acics.org/contact/content.aspx?id=2272>.

²⁶ ACICS, Exhibit AC, available at, <https://drive.google.com/open?id=18mzuOe5EwQqHXWoGRS1rKbqeZULMc64b>.

²⁷ ACICS, Exhibit AD, available at https://drive.google.com/open?id=11j_bhibM3C8-8GP6GroaDh_Rz-HVHBQd

Exhibit 35-- Letters of support--higher education associations (duplicated in Exhibit L-- Higher Education Letters of Support)

This consists of letters of support from four associations of private colleges in one form or another--the California Association of Private Postsecondary Schools (CAPPS), Career Education Colleges and Universities (CECU), the Arizona Private School Association (APSA), and the Pennsylvania Association of Private School Administrators (PAPSA).²⁸

All of these organizations have dues-paying members that are accredited by ACICS. For example:

- CAPPS has the following ACICS schools as members: Bergin University of Canine Studies, Brightwood College locations, California Institute of Advanced Management, Cambridge Junior College, Empire College, Premiere Career College, and Santa Barbara Business College.²⁹
- CECU has several ACICS schools, including but not limited to: Daymar College, Eastwick College, Florida Career College, and National College.³⁰
- APSA has Bryan University as an ACICS member.³¹
- PAPSA has Berks Technical Institute, Bradford School, Brightwood Career Institute, Consolidated School of Business, Douglas Education Center, Fortis Institute, Laurel Business Institute, Laurel Technical Institute, McCann School of Business & Technology, Penn Commercial, Pittsburgh Career Institute, and South Hills School of Business and Technology among its members.³²

The result is that these associations have financial links with these ACICS institutions. If these schools lose access to federal financial aid and then close, these organizations will lose membership dues and revenue. Therefore, they should not be considered a sign of independent support.

Exhibit AF--Practitioner Trade Association Support

This exhibit contains two letters. The first is on the letterhead of the California Court Reporters Association on behalf of South Coast College. The second is from the Deposition Reporters Association of California on behalf of the Radiological Technologies University--VT.

²⁸ ACICS, Exhibit 35, available at, https://drive.google.com/open?id=1iPsnxO_ULicwjg2kaxQALqj7CIYeVegG.

²⁹ California Association of Private Postsecondary Schools, "2017 School Members," available at <https://www.cappsonline.org/capps-membership/2017-school-members/>.

³⁰ Career Education Colleges and Universities, "Education Member Directory," available at <https://www.career.org/education-member-directory.html>.

³¹ Arizona Private School Association, "Current School Member List," available at <http://arizonapsa.org/membership/current-school-member-list/>.

³² Pennsylvania Association of Private School Administrators, "Member Schools," available at <https://papsa.org/member-schools.html>.

Letters of support from employers

Despite two exhibits purporting to show support of employers, almost none of these actually touch on the work of ACICS. The small number that mention ACICS only do so in the context of fear of having schools they like close down. Neither of these exhibits should be interpreted as a sign of employer acceptance of ACICS.³³

Exhibit 43--Letters of support--employers

This document consists of five letters expressing support for hiring graduates of schools owned by Education Corporation of America. There is no clear mention of ACICS or indication of acceptance of the accreditor.

Exhibit AK--Employer Documentation and Letters

Despite being used to demonstrate compliance with 602.13, it is unclear what purpose this document is supposed to achieve. It is a mixture of letters of support about specific schools, only a handful of which even allude to accreditation, and even fewer mention ACICS by name. There are several letters verifying employment, a portion of the Congressional Record from 1988, and ads thanking employers for hiring graduates, among other unrelated documents. One should not walk away from this exhibit with any clear sense of employer support for ACICS.³⁴

Acceptance by the Council for Higher Education Accreditation

ACICS's only path to claiming acceptance of its work is through its recognition from a single membership organization--the Council for Higher Education Accreditation (CHEA). This is an institutional membership organization that counts several ACICS institutions among its dues-paying members, and which has repeatedly deferred ACICS's application for re-recognition.³⁵ For example, the following are a list of ACICS schools that start with "A" or "B" and are CHEA members:

Academy College, Ambria College of Nursing, American University in Bosnia and Herzegovina, Atlantic University College, Beal College, Beckfield College, Bergin University of Canine Studies, Bon Secours Memorial College of Nursing, Brightwood Career College, Broadview University, Brookline College, and Bryan University.

The result is essentially technicalities layered on top of one another--CHEA has not formally ruled on ACICS's status in six years, giving it an essentially temporary status that leads to automatic acceptance by a handful of other agencies. The record shows that lawyers are well aware of this loophole--one failed attempt to get the state of Illinois to send a letter of support was based around CHEA approval.

³³ ACICS, Exhibit 43, available at

<https://drive.google.com/open?id=1ZFKZogh0Zqtk1IRIdKp0SiyVj5bJJJ2>.

³⁴ ACICS, Exhibit AK, available at <https://drive.google.com/open?id=16vTxDFLixWwzObsbmDx-WfEuPqsuvXKJ>.

³⁵ Council for Higher Education Accreditation, "2017-18 Member Institutions," available at <http://www.chea.org/4dcgi/chea-member-directory2.html>.

Exhibit 36--CHEA recognition

This document shows evidence that CHEA recognized ACICS in 2012.³⁶ Seeing a document with this date is curious because CHEA was supposed to consider ACICS's recognition in 2016.³⁷ This is relevant for discussion of Exhibit O.

Exhibit O--CHEA letter

This letter from November 2017 notes that the CHEA board has taken no action on the pending application for ACICS recognition from 2016.³⁸ In fact, CHEA's more detailed summary of ACICS recognition shows that since 2016, the board of directors has considered the ACICS application for re-recognition four times, but has not acted one way or the other.³⁹ That same summary indicates concern about institutional performance at ACICS schools as well as resources and capacity.

The effect of the board of directors not making a decision one way or another on ACICS's application has allowed it to maintain approval while still not having a successful review in six years. This matters because most of ACICS's state-level recognition stems from having CHEA recognition.

Acceptance by other accreditors

ACICS provides five letters from predominantly or entirely programmatic accreditation agencies as evidence of its acceptance. All but one of these approvals seems to stem entirely from CHEA recognition, not an actual review of ACICS standards. The lone exception does not carry federal recognition. These letters are not actual support.

- **Exhibit Q--Accreditation Council for Occupational Therapy Education (ACOTE) letter.** This letter simply notes its policies that lead to accepting ACICS, with no comment on standards quality. The letter says "ACICS is recognized by CHEA, and is accepted by ACOTE as an institutional accrediting agency. Specifically, ACOTE requires an institution sponsoring an occupational therapy or occupational therapy assistant program to be institutionally accredited by a regional and/or national accrediting agency recognized by the USDE and/or CHEA to accredit postsecondary educational institutions."⁴⁰
- **Exhibit R--Commission for Accreditation in Physical Therapy Education (CAPTE) letter.** Similarly, this letter simply states the organization's policy for accepting ACICS schools by writing: The Accrediting Council for Independent Colleges and Schools

³⁶ ACICS, Exhibit 36, available at,

https://drive.google.com/open?id=1DfRtG0WYa5ZoW1Jm_1_ZKfnp4rYb9IsU.

³⁷ Accrediting Council for <http://www.acics.org/news/content.aspx?id=6802>

³⁸ https://drive.google.com/open?id=1IPXgn8J23PSEN2ZEyoB_1asvB8HBv7T2

³⁹ <http://www.chea.org/userfiles/Recognition/ACICS.pdf>

⁴⁰ <https://drive.google.com/open?id=1YLBcNEX6NwM5V9aLSQYQvy4rGe7aVhSk>

(ACICS) is recognized by CHEA. Institutional accreditation by ACICS meets the CAPTE institutional accreditation requirement.⁴¹

- **Exhibit S--Accrediting Bureau of Health Education Schools (ABHES) letter.** Similarly, the letter ties back to the agency's own policies around using CHEA approval: "As a programmatic accreditor, ABHES accredits programs at colleges that are accredited institutionally by accrediting organizations recognized by the U.S. Department of Education and/or the Council on Higher Education Accreditation (CHEA)."⁴²
- **Exhibit T--Accreditation Commission for Education in Nursing (ACEN) letter of support.** Again, reliance on CHEA recognition drives acceptance: "As a CHEA recognized accreditor, ACICS currently meets the institutional accrediting agency criteria for ACEN specialized accreditation."⁴³
- **Exhibit U--American Registry of Radiologic Technology (ARRT) information.** This is the only agency that does not clearly state it relied on CHEA recognition.⁴⁴ This agency, however, does not have federal recognition from the U.S. Department of Education.⁴⁵

ACICS also presents a unique opportunity to get a true picture of how other agencies view the work done by an accreditor. ACICS's loss of recognition left its institutions with 18 months to find another agency to accredit them if they wished to maintain access to federal financial aid after June 12, 2018. Whether other accreditors readily accept ACICS institutions thus provides us some insight into how those agencies viewed the quality of that agency's work as an accreditor.

Records show that several ACICS schools were rejected from other agencies during the application process. For example, ACCET turned away at least eleven institutions.⁴⁶ Public records show that in some instances, they were turned away because they could not meet the more rigorous job placement rates.⁴⁷ An analysis of public records identified 18 institutions that as of January 2018 did not have a path to accreditation at another agency that could be verified.

Acceptance by state agencies or licensing bodies

The application contains documents produced by ACICS trying to show state acceptance of ACICS. Only one of these state-affiliated organizations sent a letter of support.

⁴¹ <https://drive.google.com/open?id=1sIS2LuFuzCe7dblgZKYUGBa5SFzhRfGS>

⁴² <https://drive.google.com/open?id=1Fp7ifNTIXxia3bEO1HHoplQ6jegaFJ4D>

⁴³ https://drive.google.com/open?id=1D_P2QzQNYWBDXsGTaWDfrnvljdcYqys1

⁴⁴ <https://drive.google.com/open?id=1VywQ856kGQ34TuErZQxHqkujDRljKxBk>

⁴⁵ <https://ope.ed.gov/accreditation/agencies.aspx>

⁴⁶ Accrediting Council for Continuing Education & Training, ACCET Newsletter (August 2017), available at <https://mailchi.mp/79a518119d46/accet-newsletter-august-2017> (last accessed February 2018).

⁴⁷ South Carolina Commission on Higher Education, "Consideration of Request for Initial License (Change of Ownership)," December 13, 2017, available at http://www.che.sc.gov/CHE_Docs/academicaaffairs/2017_Dec_13_SpecialCAAL/1.pdf (last accessed February 2018).

Exhibit P--Licensing body approvals master list

This spreadsheet tries to list states that accept ACICS accreditation for specific schools. However, most of these approvals stem from having CHEA recognition and do not reflect any evaluation of ACICS standards. In fact, one of these examples appears to not even require accreditation.⁴⁸

Below is an assessment of how other state agencies in Exhibit P come to accept ACICS. They all rely on CHEA approval in some form. This section does not address accreditors, because they are covered above.

State Agencies

- Illinois Board of Higher Education--requires institutions to have accreditation from an agency recognized by CHEA or the Education Department.⁴⁹
- Joint Review Committee for Education in Radiologic Technology--requires institutions to have accreditation from CHEA or Department of Education recognized agency.⁵⁰
- Missouri Dept. of Higher Education, Proprietary School Certification--requires institutions to have accreditation from CHEA or the Education Department.⁵¹
- National Board for Respiratory Care--will accept credit from any institution with recognition from the Education Department or CHEA.⁵²
- Ohio Department of Higher Education--institutions to have accreditation from a CHEA or Department of Education recognized agency.⁵³
- Pennsylvania Department of Education--requires institution to have CHEA or Education Department recognition for distance education.⁵⁴ Cosmetology schools must have recognition from a nationally recognized agency.⁵⁵ It is not, however, clear how "nationally recognized" is defined.⁵⁶ Exhibit V, which includes a letter from this board

⁴⁸ <http://www.education.pa.gov/Documents/Postsecondary-Adult/College%20and%20Career%20Education/Private%20Licensed%20Schools/Private%20Licensed%20Schools%20Act.pdf>

⁴⁹ [http://www.ibhe.org/Academic%20Affairs/Applications/Independent/materials/23_IIIAdmCode1030\(April%202012\).pdf](http://www.ibhe.org/Academic%20Affairs/Applications/Independent/materials/23_IIIAdmCode1030(April%202012).pdf) page 4.

⁵⁰ <https://www.jrcert.org/resources/governance/accreditation-policies/11-400/>

⁵¹ <https://www.sos.mo.gov/cmsimages/adrules/csr/current/6csr/6c10-5.pdf>

⁵² https://www.nbrc.org/wp-content/uploads/2018/02/NBRC_CandidateHandbook2018_022218.pdf page 5.

⁵³ https://www.ohiohighered.org/sites/ohiohighered.org/files/uploads/program-approval/Academic-Program-Review-Guidelines_070516.pdf page 8.

⁵⁴ <http://www.education.pa.gov/Postsecondary-Adult/College%20and%20Career%20Education/Pages/State-Authority-of-Distance-Education.aspx#tab-1>

⁵⁵ <http://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/Cosmetology/Documents/Applications%20and%20Forms/COSMETOLOGY%20-%20SCHOOL%20LICENSE%20APPLICATION.pdf> page 4.

⁵⁶ <https://www.pacode.com/secure/data/049/chapter7/s7.113a.html>

does not clarify the issue.⁵⁷ Other private licensed schools appear to not need accreditation.⁵⁸

- South Carolina Commission on Higher Education--requires institutions to have accreditation from a CHEA or Department of Education recognized agency.⁵⁹

Moreover, while ACICS cites these states as providing evidence of acceptance, it is noteworthy that none of the above organizations provided a letter of support.

Occupational therapy

In some cases, ACICS cites agency acceptance in a two-step process in which a state board requires a certification handed out by a different organization that requires accreditation from ACOTE, which in turn requires graduates to attend institutions accredited by a CHEA or Education Department recognized organization. In these cases, the link to ACICS is even more tenuous. This applies to:

- Arizona Board of Occupational Therapy Examiners--requires passage of an exam administered by the National Board for Certification in Occupational Therapy.⁶⁰ This exam in turn requires completing a program at an ACOTE accredited institution.⁶¹ And ACOTE requires Education Department or CHEA recognition for approval.
- Missouri Board of Occupational Therapy--same as above.⁶²
- Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers (OTPTAT) Board -- requires completion of an ACOTE accredited program and completion of NBCOT exam.⁶³
- South Carolina Board of Occupational Therapy--same as above.⁶⁴

Exhibit W--CA Court Reporting Board

This letter, dated August 2016, focuses on the worry about court reporting schools accredited by ACICS losing federal financial aid.⁶⁵ In fact, the second sentence of the letter indicates an understanding of the concerns about ACICS. It says, "While we understand the real concern that some private schools have posed to the DOE with **this accreditation**, please consider carefully the impact of totally denying recognition to ACICS and lumping all private schools into

⁵⁷ <https://drive.google.com/open?id=1xeFI4QN-Y6PW4ufui2tGiVbT0HMG-tE9>

⁵⁸ <http://www.education.pa.gov/Documents/Postsecondary-Adult/College%20and%20Career%20Education/Private%20Licensed%20Schools/Private%20Licensed%20Schools%20Act.pdf>

⁵⁹ http://www.che.sc.gov/che_docs/academicaffairs/license/regulations2012.pdf page 3.

⁶⁰ <https://ot.az.gov/therapist-information/forms>

⁶¹ https://www.nbcot.org/-/media/NBCOT/PDFs/Cert_Exam_Handbook.ashx?la=en page 11.

⁶² http://pr.mo.gov/boards/therapy/OTs_FAQs.pdf

⁶³

<http://otptat.ohio.gov/Portals/0/laws/Ohio%20OT%20Practice%20Act%20as%20of%20July%201%202015.pdf>

⁶⁴ <http://www.llr.state.sc.us/POL/OccupationalTherapy/PDFForms/NBCOTCertReq.pdf>

⁶⁵ https://drive.google.com/open?id=1oJVov3Md7y7IYj4ktO_7KXY0KtW67Y5

the troubled few.” [Emphasis added.] The letter does not otherwise speak to the quality of the work ACICS does.

Exhibit W1-- Letter of support Ohio

This letter from the State of Ohio Board of Career Schools and Colleges is the only state-based letter that indicates affirmative support for ACICS standards and does not rely on technical rules that require it to accept the agency.⁶⁶

Exhibit X-- IL Board of Higher Education

This letter is noteworthy for two reasons. First, the Illinois Board of Higher Education notes it will not provide any letter of support. Second, at the bottom of the email is a request from a private law firm asking for the letter of support, in which it acknowledges that it hopes to use the linkage to CHEA approval: “The support of IBHE is of particular interest to ACICS due to Illinois’s validation of accreditors who are recognized by the Council for Higher Education Accreditation.”⁶⁷

Incidents like this blue-ribbon panel raise questions about the extent to which ACICS activities are meaningful attempts at improvement rather than attention-grabbing efforts to create the impression that things have changed.

Moreover, this is not the first time that ACICS has told the Department of Education it as going to do one thing and instead done something else. During the 2016 NACIQI meeting, a Department of Education representative noted ACICS had promised to implement stricter verification standards of job placement rates years ago, then stopped doing it without telling the Department.⁶⁸

ACICS’s ability to oversee institutions primarily enrolling foreign students in graduate programs appear particularly weak

Much of the 2016 discussion around ACICS focused on its inability to properly oversee institutions of higher education that participate in the Department of Education’s federal financial aid programs. However, a review of many of the institutional files provided with its 2017 application reveal even more disturbing shortfalls in overseeing schools that predominantly enroll foreign students in graduate programs. These failures are so stark that it is clear that while we recommend that ACICS should not receive re-recognition, even a more sympathetic view of the agency should not allow it to oversee programs above the bachelor’s degree.

⁶⁶ <https://drive.google.com/open?id=1UVm6Yvhwa23kpF25yx-Nrw9opjoaU2sY>

⁶⁷ https://drive.google.com/open?id=14GfYsWvj237elzbMqt0R02bT_kPxCar0

⁶⁸ Transcript of the June 23rd, 2016 meeting, page 261. <https://sites.ed.gov/naciqi/files/2016/08/naciqi-transcripts-062316-508.pdf>.

Moreover, these findings illustrate that NACIQI and the Department of Education must understand their decisions will not occur in a vacuum. Federal accreditor approval automatically grants recognition for a host of other federal programs at agencies that rely on the Education Department to be an arbiter of quality.

The schools in this record show a recurring issue with ACICS oversight--it approved institutions that appeared to have deep seated problems, some of them known to the agency already. However, it was only the work of other regulators that identified challenges. Though ACICS may attempt to present these files as evidence of tougher activity, they are stronger evidence of how again and again, other regulators must be the ones to first step in and clean up mistakes this agency continues to make.

We also note that the exhibits in this record are not the first time concerns about ACICS's oversight of institutions that primarily enroll foreign students have come up. In 2016, Buzzfeed profiled an institution that changed grades to ensure students did not fail and created a Potemkin college for ACICS to review when it went to visit.⁶⁹

Below we break down the exhibits in the record with regard to these schools

Herguan University

In September 2015, the chief executive officer of Herguan University, a California school that offered exclusively master's degrees, received a one year prison sentence and a \$700,000 fine stemming from allegations of falsifying documents to the federal government so that international students could receive visas to study at the school.⁷⁰ A year later, the Department of Homeland Security announced that the school could no longer participate in the foreign visa program. It gave students at the school until January 2017 to transfer elsewhere.⁷¹

Despite the jail sentence for its former head, Herguan received a five-year accreditation renewal from ACICS in April 2016.⁷² The agency did, however, issue a show cause directive in October 2016 and continued it in December 2016.⁷³ As part of that request, it asked Herguan to explain how it planned to find new enrollment given that 95 percent of its students received F-1 visas.⁷⁴ The agency noted that response was insufficient, writing:

⁶⁹ https://www.buzzfeed.com/mollyhensleyclancy/inside-the-school-that-abolished-the-f-and-raked-in-the-cash?utm_term=.madk3EJLw#.jx7Pme87q

⁷⁰ <http://www.herguanuniversity.edu/academics/> and <http://sanfrancisco.cbslocal.com/2015/09/16/herguan-university-visa-fraud-case-ex-ceo-jerry-wang-prison/> and <http://sanfrancisco.cbslocal.com/2015/09/16/herguan-university-visa-fraud-case-ex-ceo-jerry-wang-prison/>

⁷¹ <https://www.mercurynews.com/2016/10/06/feds-revoke-student-visas-to-silicon-valleys-herguan-university/>

⁷² <http://acics.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=6642&libID=6627>

⁷³ Exhibit 105, page 5.

⁷⁴ Exhibit 105, page 1.

The institution indicated that it planned to target a new market of students, to include those already in the workforce that are looking to enhance their skills or previous Herguan University students that are currently employed under the H1B visa classification. However, no documentation of the implementation of this plan was provided other than a listing of 15 potentially interested students. No evidence of whether these potential students actually enrolled at the institution to support a new class start was provided for the Council's review.⁷⁵

Despite evidence that the institution had lost access to the program that allowed 95 percent of its students to study there and provided vague assurances of how it would find new ones, ACICS simply kept continuing its show cause directive. The first page of Exhibit 105 suggests ACICS did not even follow up on Herguan's response for how it would handle losing 95 percent of its enrollment until April 2017--more than three months after that loss occurred.⁷⁶ It then gave the agency until July 15, 2017 to respond to further requests.

Amazingly, ACICS did not actually visit Herguan until June 10, 2017--five months after it lost access to the visa program that supported the vast majority of its enrollment.⁷⁷ After arriving to a dark, locked school, and several hours of confusion, the team eventually concluded:

In conclusion, the team determined that there have been no students enrolled or attending classes since January 2017, nor is there evidence of enrollments for future classes. There is also no full-time administrative staff assigned exclusively to Herguan, including [REDACTED] who, according to [REDACTED], is now the acting president for the [REDACTED].⁷⁸

Why it took the agency five months to conclude that a school that lost access to the federal program that accounted for 95 percent of its enrollment had shuttered operations is not clear. To its credit, ACICS eventually did withdraw Herguan's accreditation after the school failed to respond to its April 2017 request for additional information and also appeared to have sold the school without warning.⁷⁹ But the inability to properly monitor the school for years should not inspire confidence.

American College of Commerce and Technology

The American College of Commerce and Technology (ACCT) in Falls Church, VA, had an initial accreditation application denied by ACICS in 2014 after the team report found 8 areas of non-

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Exhibit 105, page 5.

⁷⁸ Exhibit 105, page 7.

⁷⁹ Exhibit 105, page 13.

compliance.⁸⁰ The school appears to have reapplied for accreditation and in May 2015, ACICS granted a two-year grant of initial accreditation to ACCT.⁸¹ The school offered associate's, bachelor's and master's degrees, though most enrollment appears to have been at the graduate level.⁸² A 2016 report found that 98 percent of its students are F-1 visa holders.⁸³

Though this school is now closed, how it got there shows a repeated pattern of ACICS being slow to act and giving the school repeated chances to improve, even as significant problems kept manifesting.

Less than a year into ACCT's accreditation approval, the State Council of Higher Education for Virginia (SCHEV) visited the school. The audit report from the February 2016 visit showed an institution with deep deficiencies. The audit found:

The quality of programs at ACCT is suspect. Graduating students who have not met the requirements for the degree; allowing students to enroll in undergraduate and graduate level courses concurrently; and admitting students with sub-par English skills into degree programs requiring English proficiency are practices of an institution that is not meeting even the minimal standards expected of institutions of higher education.⁸⁴

It also found:

In view of the magnitude of ACCT's non-compliance with Virginia regulation; its almost complete population of international students; and its close ties with a troubled institution ordered closed by Council - it is not unwarranted for SCHEV to question the true objective of ACCT's operation in Virginia.⁸⁵

Again, this was an institution supposedly deemed acceptable by ACICS less than 12 months prior.

The same month that SCHEV conducted its visit, ACCT was allowed to open a branch campus in California, a somewhat surprising result given that it was less than a year into approval and had a troubled history.⁸⁶

ACICS did end up conducting a special visit of the institution, but not until June 2016--four months after SCHEV's audit report came out.⁸⁷ Moreover, the team ended up visiting between academic terms, meaning that it had "no opportunity for the team to observe the institution's

⁸⁰ Exhibit 17, page 59.

⁸¹ Ibid.

⁸² Exhibit 17, page 57.

⁸³ Exhibit 17, page 38.

⁸⁴ Ibid.

⁸⁵ Exhibit 17, page 6.

⁸⁶ Exhibit 17, page 142.

⁸⁷ Exhibit 17, page 29.

operations under normal circumstances with a full complement of students and classes.”⁸⁸ The team disagreed with many of the SCHEV findings, though did note the need for improved distance education, among other things. For example, the team found “there was no faculty-student interaction” in online courses.⁸⁹ The team report did not appear to comment on SCHEV’s concerns about ACCT’s links to another troubled school that had closed.

The saga around ACCT continued for more than two years, with ACICS conducting two other rounds of visits while SCHEV’s work to shut down the school was delayed through appeals. In May 2017, SCHEV prevented the school from enrolling new students and later recommended pulling ACCT’s certificate to operate in September 2017.⁹⁰ ACICS eventually denied the school’s reaccreditation.⁹¹ The institution appears to have closed, though it is unclear from the record exactly when.

This whole episode raises serious questions about why ACICS allowed ACCT to gain approval in the first place, and why it approved a branch campus location. There is no mention in the record as submitted by ACICS of concerns raised by SCHEV about this school’s ties to another shuttered Virginia institution. The ACCT story also highlights another instance where were it not for the actions of another regulator, it is unclear when or whether ACICS would have acted against this school.

SOLEX College

In September 2015, the U.S. Department of Education’s Office of the Inspector General issued a final audit report to Illinois-based SOLEX College, a school where 80 percent of its enrollment is international.⁹² It found that the school had issued federal financial aid to students in an Intensive English Program (IEP) and another English as a Second Language program who were not eligible for federal assistance. As a result, it recommended the Department of Education seek repayment of nearly \$1.8 million in Pell funds that had been awarded to over 400 ineligible students--an amount that eventually grew to \$3.8 million after an additional Department of Education audit.⁹³ SOLEX College disputed the findings, noting that ACICS reviewed the IEP program in 2012 and deemed it to be compliant.⁹⁴

The record submitted by ACICS in Exhibit 10 indicates the accreditor did not visit SOLEX until May 2016--more than half a year after the Inspector General’s report. That visit turned up a

⁸⁸ Exhibit 17 page 32.

⁸⁹ Exhibit 17, page 45.

⁹⁰ Exhibit 17, page 201.

⁹¹ Exhibit 17, page 586

⁹² <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2015/a05o0007.pdf>

⁹³ Ibid.

⁹⁴ <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2015/a05o0007.pdf> page 39. And Exhibit 10, page 62.

number of findings, including that an Intensive English Program (IEP) was not being offered as a certificate as ACICS required.⁹⁵ ACICS then issued a show cause letter.

ACICS then conducted a special visit of SOLEX in October 2016 to see if the institution was open and conducting classes as usual. During that visit, SOLEX maintained that ACICS had approved the IEP program, providing the original December 2009 accreditation grant, that note the IEP was created to help students coming to the United States on a F-1 visa.⁹⁶ The team report agreed that SOLEX was administering the program as originally approved by ACICS.⁹⁷ This finding raises serious questions about ACICS's responsibility for the nearly \$4 million in Pell Grants awarded to this ineligible program.⁹⁸

ACICS continued the school's show cause warning in December 2016 and again in April 2017, before denying SOLEX's application for renewed accreditation in August 2017 on the grounds that most of its students were not in programs that lead to a postsecondary credential, making it ineligible.⁹⁹ Yet again, it was ACICS's repeated failures and need to rely on insights from another regulatory body that brought these problems to the forefront.

Northwest Suburban College

(Note: It is not clear what share of this school's enrollment was international, but it had gained access to the F-1 visa program in September 2016).¹⁰⁰

In November 2016, the ACICS executive committee met to consider whether Illinois-based Northwest Suburban College (NWSC) should be approved to offer bachelor's degrees.¹⁰¹ The committee ultimately decided to defer the decision. Yet the agency appeared to not know that the school had actually been offering bachelor's degrees without approval for some time--even before ACICS's initial grant of accreditation in 2014.¹⁰²

In early 2017, the Illinois Board of Higher Education contacted ACICS to inform them that NWSC had been offering bachelor's degrees without the accreditor's approval.¹⁰³ It is a bit unclear how this could have happened. ACICS purportedly receives individual data on all students and their program on the annual Campus Accountability Report. Yet somehow none of its monitoring procedures caught this issue.

⁹⁵ Exhibit 10, Page 45.

⁹⁶ Exhibit 10, page 56.

⁹⁷ Exhibit 10, page 56.

⁹⁸ The Education Department upped the final total to \$3.836 million in its final audit report. Exhibit 10, page 56.

⁹⁹ Exhibit 10, page 76.

¹⁰⁰ Exhibit 208, page 47.

¹⁰¹ Exhibit 163, page 11.

¹⁰² Exhibit 109, page 4.

¹⁰³ Exhibit 109, page 1.

ACICS issued a show cause directive. NWSC indicated it would relinquish its accreditation at the end of its grant, which was December 31, 2017.¹⁰⁴ The accreditor eventually withdrew NWSC's accreditation, but this is another case where a school had slipped under ACICS's radar for years until someone else stepped up.

Other institutions

The above examples are not the only cases where ACICS oversees a school that uses its approval to enroll almost exclusively international students. The record contains documents about Silicon Valley University and California University of Management Sciences, both of which have student bodies that are more than 90 percent international.¹⁰⁵ Both these schools saw enrollment increase by more than 100 percent from 2015 to 2016.¹⁰⁶ The record also includes documents on Nobel University and Columbia College, which also primarily serve international students.¹⁰⁷ While neither of these schools evidenced issues in their reviews on the level of what's described above, they are mentioned here to show that ACICS has many other schools that make heavy use of visa programs.

There are still instances of ACICS institutions facing allegations of fraud and misbehavior

One of the key signs of ACICS's weakness as a gatekeeper was the large number of institutions of higher education that had faced lawsuits or allegations for misleading students in one way or another. These issues were by no means limited to Corinthian Colleges or ITT Technical Institute. Nor were they only present at institutions owned by publicly traded companies. Institutions overseen by ACICS that ended in legal settlements (typically without an admission of wrongdoing) or jail time included smaller schools or regional chains, including American Commercial College, Anamarc College, Computer Systems Institute, Daymar College, FastTrain College, Globe University and Minnesota School of Business, Salter College, and Westwood College.¹⁰⁸

Several of these cases ended in a legal judgment against the school or jail time for executives. For example, a judge ruled against Minnesota School of Business and Globe University, finding that the schools offered illegal private student loans.¹⁰⁹ Executives from FastTrain and American

¹⁰⁴ Exhibit 109, page 108.

¹⁰⁵ Exhibit 154, page 74, and Exhibit 138, page 123.

¹⁰⁶ Exhibit 151, page 6.

¹⁰⁷ Exhibit 139, and Exhibit 164, page 82

¹⁰⁸ <https://cdn.americanprogress.org/wp-content/uploads/2016/06/03145034/ACICS-report.pdf>

¹⁰⁹ Christopher Magan, "Supreme Court says Globe U and MN School of Business made illegal loans," *Twin Cities Pioneer Press*, September 13, 2017, available at <https://www.twincities.com/2017/07/26/supreme-court-says-globe-u-and-mn-school-of-business-made-illegal-loans/>.

Commercial College received prison sentences.¹¹⁰ They, along with executives from other schools, also paid hefty fines.¹¹¹

While most of the institutions named above have closed, there has unfortunately been yet another instance of an ACICS institution facing legal charges that led to a settlement.

Since the June 2016 meeting, four other ACICS institutions have faced legal challenges or federal actions: Career Point College, Florida Technical College, Herguan University and MedTech College. More details on each below.

Career Point College

This institution closed in 2016 after the Department of Education asked for a \$10 million letter of credit, following disclosures that three employees at the school had been allegedly committing fraud in the student aid programs.¹¹² ACICS renewed Career Point's accreditation in April 2016--six months before the Department of Education's actions.¹¹³

Herguan University

As described above, in October 2016, the federal government barred this school from recruiting foreign nationals--18 months after its president pleaded guilty to charges brought by the Department of Homeland Security around giving the the agency false documents.¹¹⁴ Despite the president receiving a jail sentence, ACICS renewed the schools accreditation and only issued a show cause letter after the federal government barred Herguan from enrolling international

¹¹⁰ U.S. Attorney's Office Northern District of Texas, "American Commercial Colleges, Inc. And Its President Sentenced on Federal Charges," Press release, October 2, 2014, available at <https://www.justice.gov/usao-ndtx/pr/american-commercial-colleges-inc-and-its-president-sentenced-federal-charges> and Jay Weaver, "South Florida's FastTrain founder imprisoned for eight years," *Miami Herald*, May 2, 2016, available at <http://www.miamiherald.com/news/local/article75132977.html>.

¹¹¹ Ibid; and Office of Inspector General, U.S. Department of Education, "American Commercial Colleges, Inc. and Its President Plead Guilty to Federal Charges" available at <https://www2.ed.gov/about/offices/list/oig/invtrreports/tx052014.html>.

¹¹² Dallas School Participation Division, "Letter of Credit Request," October 13, 2016, available at https://www.republicreport.org/wp-content/uploads/2016/10/CPCAcknowledgement_Redacted.pdf (last accessed February 2018) and Patrick Danner and Elizabeth Zavala, "Career Point College files for bankruptcy protection," *My San Antonio*, November 1, 2016, available at <https://www.mysanantonio.com/news/local/article/Career-Point-College-files-for-bankruptcy-10429275.php>.

¹¹³ Accrediting Council for Independent Colleges and Schools, "ACICS Council Actions," April 8, 2016, available at <http://acics.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=6642&libID=6627> (last accessed February 2018).

¹¹⁴ Katy Murphy, "Feds revoke student visas to Silicon Valley's Herguan University," *The Mercury News*, October 6, 2016, available at <https://www.mercurynews.com/2016/10/06/feds-revoke-student-visas-to-silicon-valleys-herguan-university/>.

students.¹¹⁵ The accreditor did not conduct a special visit of the school until June 2017, at which point the team found no academic activity had taken place since January 2017.¹¹⁶

Florida Technical College

In March 2016, a former administrative assistant at Florida Technical College filed a lawsuit alleging that employees at the school falsified high school diplomas of students, making them eligible for federal aid they should not have been able to receive.¹¹⁷ In December 2016, ACICS renewed Florida Technical College's accreditation for five years. On January 31, 2018, Florida Technical College settled with the U.S. Department of Justice for \$600,000 without admitting wrongdoing.¹¹⁸

MedTech College

In July 2016, the U.S. Department of Education denied a request by MedTech College to continue to participate in the federal financial aid programs.¹¹⁹ The Department found that MedTech had substantially misrepresented job placement rates. ACICS had given MedTech a six-year accreditation renewal in December 2014--the same year covered by the Department's findings of overstated job placement rates.¹²⁰ ACICS conducted visits and issued a financial show cause letter with an effective date five days before the school closed.¹²¹ Again, this is an instance where it was an action by another regulatory body addressing issues that ACICS should have caught.

¹¹⁵ Accrediting Council for Independent Colleges and Schools, "Summary of ACICS Council Actions," January 9, 2017, available at <http://acics.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=6942&libID=6936> (last accessed February 2018).

¹¹⁶ Accrediting Council for Independent Colleges and Schools, "Withdrawal of Accreditation by Suspension Action," August 9, 2017, available at <http://acics.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=6975&libID=6969> (last accessed February 2018).

¹¹⁷ U.S. Attorney's Office Southern District of Florida, "Florida-Based School Chain To Pay United States Government \$600,000 For Submitting False Claims For Federal Student Financial Aid" Press release, January 31, 2018, available at <https://www.justice.gov/usao-sdfl/pr/florida-based-school-chain-pay-united-states-government-600000-submitting-false-claims> (last accessed February 2018).

¹¹⁸ Ibid.

¹¹⁹ U.S. Department of Education, "Denial of Recertification Application to Participate in the Federal Student Financial Assistance Programs," July 26, 2016, available at <https://studentaid.ed.gov/sa/sites/default/files/medtech-recert-denial.pdf> (last accessed February 2018).

¹²⁰ [1] Accrediting Council for Independent Colleges and Schools, "Summary of ACICS Council Actions," December 12, 2014, available at <http://acics.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=6265&libID=6250> (last accessed February 2018) and *ibid.*

¹²¹ U.S. Department of Education, "Denial of Recertification Application to Participate in the Federal Student Financial Assistance Programs," July 26, 2016, available at <https://studentaid.ed.gov/sa/sites/default/files/medtech-recert-denial.pdf> (last accessed February 2018). <http://www.acics.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=6750&libID=6744>

ACICS standards still have core weaknesses

Under 34 CFR 602.16, an accreditation agency must show that its standards are “sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education or training provided by the institutions or programs it accredits.”¹²² In the past, we’ve seen particular weakness in ACICS standards related to three issues of institutional behavior: (1) allegedly giving federal aid to ineligible students by falsifying high school diplomas, (2) allegedly reporting inaccurate job placement rates, and (3) institutions that do not participate in federal aid but award visas to foreign nationals allegedly not providing meaningful educations. It is worth looking at what ACICS has done to address these challenges.

ACICS high school diploma standards continue to put federal aid at risk

Except in limited circumstances, a student must have a high school diploma or its recognized equivalent in order to receive federal financial aid. Failing to verify this condition is an open invitation to fraud by giving taxpayer money to ineligible students.

ACICS’s weak standards in this area open up taxpayers to a substantial risk of fraud. Here is what a public copy of the agency’s most recent standards requires in this area:

For high school graduates or those with high school equivalency, the institution shall have on file evidence that the student has received a high school diploma or its equivalent. A **signed statement** by the student is acceptable documentation. [Emphasis added.]¹²³

By contrast, here is how the Accrediting Commission of Career Schools and Colleges (ACCSC) addresses this same issue:

Therefore, the Commission **does not consider a self-certification by a student that he or she has a high school diploma or equivalent to be “documentation”** that the student has met this admissions requirement. The standard contemplates that a school will support its admissions decisions with independent documentation such as transcripts and copies of diplomas or other documentation of equivalency. [Emphasis added.]¹²⁴

The continued reliance on a weak documentation standard is particularly troubling because so many of the institutions overseen by ACICS that resulted in lawsuits or settlements were due to

¹²² 34 C.F.R. § 602.16, available at <https://www.law.cornell.edu/cfr/text/34/602.16>.

¹²³ Accrediting Council for Independent Colleges and Schools, “Accreditation Criteria: Policies, Procedures, and Standards” (2017), p. 48, available at <http://acics.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=6844&libID=6838> (last accessed February 2018).

¹²⁴ The Accrediting Commission of Career Schools and Colleges, “Standards of Accreditation” (2017), p. 118, available at <http://www.accsc.org/UploadedDocuments/1971/ACCSC%20Standards%20of%20Accreditation%20and%20Bylaws%20-%20070117%20final.pdf> (last accessed February 2018).

allegations of giving financial aid to ineligible students. That was an issue with FastTrain College as well as the January 2018 settlement with Florida Technical College.¹²⁵

ACICS placement verification reliance on emails presents weaknesses

In 2016, ACICS formally rolled out a new process for verifying job placement rates. It did so through a system called the Placement Verification Program (PVP). To ACICS's credit, it requires all placements to be verified, ensuring that institutions cannot simply claim a stated placement rate without any backup contact information.

Unfortunately, the PVP's methods contain no meaningful form of identity documentation, making it possible for potential manipulation. When an institution uploads a placement to the PVP, it immediately sends an email to the graduate as well as the listed employer. That email asks both parties to confirm that the individual was placed based upon their job title, the skills, or by benefiting within their company from the training. Both parties are contacted three times. If neither responds, the placement can be submitted into the system a second time to attempt additional contacts. ACICS staff will attempt to verify placements for individuals who lacked a response during site visits.¹²⁶

Based upon a webinar conducted in 2016 the system appears to rely almost entirely on emails to verify placements. It is unclear whether ACICS has changed its PVP practices since that webinar, but here is how a staff member described the process in 2016:

The only time essentially we would make phone calls for the upcoming process is if there is some discrepancy or a request for a phone call is made by either the graduate or the employer, you know we will have an individual or ACICS staff to make those phone calls. But we are putting the onus on the institution to ensure that they have correct and updated email information for those graduates and employers.¹²⁷

Relying overwhelmingly on emails means that if an institution willfully enters incorrect emails, the PVP system will likely fail to catch false placements. For instance, an institution could upload email information for an employer and student that goes to a campus employee. That individual could satisfy PVP's confirmation requirements even if the placement is not valid. These errors would then only be caught if ACICS staff happened to review documentation for placements--something that may only occur during a site visit every few years.

¹²⁵ Jay Weaver, "South Florida's FastTrain founder imprisoned for eight years" and Kyra Gurney, "Florida for-profit college chain to pay \$600,000 over false financial aid claims," *Miami Herald*, January 31, 2018, available at <http://www.miamiherald.com/news/local/article75132977.html> and <http://www.miamiherald.com/latest-news/article197664539.html>

¹²⁶ <https://www.youtube.com/watch?v=w5c63xpnzEA&feature=youtu.be>

¹²⁷ Accrediting Council for Independent Colleges and Schools, "ACICS Placement Verification Program PVP Guidelines & Instructions" (40:00), YouTube, August 31, 2016, available at <https://www.youtube.com/watch?v=w5c63xpnzEA&feature=youtu.be> (last accessed February 2018).

Work rules around F-1 visa holders undermine placement rate accountability

Placement rates are one of ACICS's two key measures of institutional performance. But due to work restrictions for international students, it is basically impossible to hold schools accountable for this measure if they enroll large numbers of international students. ACICS allows schools to exclude graduates from a placement rate cohort if they are ineligible to work due to visa restrictions.¹²⁸ The result is that schools with hundreds of students may have at best a handful of graduates. For example, the team report on the American College of Commerce and Technology notes:

Institutional and program placement rates are somewhat deceptive in that the majority of graduates are exempted from placement because of their F1 visa status. For example, there were 216 graduates in 2016. Of that number 209 were visa exempt; therefore, only 7 students were "eligible" to be placed. Of the seven, two were continuing their education, and four of the remaining five were placed and properly documented. The institution correctly reported an 80% placement rate for 4 placements out of a graduating class of 216.¹²⁹

Unfortunately, there is no easy solution to this problem. These visa holders do have restrictions on working. It is also unclear if schools can choose to only report successfully placed international students, excluding those who did not, and making themselves seem successful enough to avoid ACICS scrutiny. This raises overall questions about whether ACICS is equipped to properly evaluate what success looks like at a school where the vast majority of enrollment is international.

Student achievement standards remain weaker than peer agencies

As noted in our prior work on ACICS, the agency set benchmarks for student results that were weaker than their peer accreditors.¹³⁰ Yet despite making a number of changes to other parts of its standards, ACICS did not increase the benchmarks for its student achievement measures. Nor has it fully implemented requirements to look at other arguably more important measures like graduation.

As noted in 2016, ACICS had student outcomes standards that were weaker than their peer agencies.¹³¹ Despite multiple reviews of its standards since the June 2016 NACIQI meeting, ACICS has not increased these required performance levels.

¹²⁸ ACICS, "Campus Accountability Report Guidelines," available at http://www.acics.org/uploadedFiles/Accreditation/Campus_Accountability_Report/2018%20CAR%20Guidelines%20and%20Instructions.pdf page 18.

¹²⁹ Exhibit 17, page 217

¹³⁰ Ben Miller, "ACICS Must Go."

¹³¹ Ibid.

Comparing April 2016 to January 2018 Performance Measures

Measure	Standard April 2016	Standard January 2018
Retention Rate	60%	60%
Placement Rate	60%	60%

Instead of raising performance bars, ACICS standards have simply clarified what happens if a program fails to meet these bars. While it is important to ensure that measures have consequences, ACICS still demands less of its institutions than most peer agencies.

Comparing Student Outcomes Requirements

Agency	Measure Type	Standard	Placement Rate Standard
ABHES ¹³²	Retention	70%	70%
ACCET ¹³³	Completion	66.9% to 53.1%--reporting 53% or below--programmatic probation	69.9% to 56.1%--reporting 56% or below--programmatic probation
ACCSC ¹³⁴	Graduation	84% to 40%	70%
COE ¹³⁵	Completion	60%	70%
DEAC ¹³⁶	Graduation	32% to 73%	
NACCAS ¹³⁷	Graduation	50%	60%
ACICS	Retention	60%	60%

¹³² Accrediting Bureau of Health Education Schools, "Accreditation Manual" (2010), p. 32, available at https://www.abhes.org/assets/uploads/files/18th_Edition_Accreditation_Manual.pdf (last accessed February 2018).

¹³³ Accrediting Council for Continuing Education and Training, "Completion and Job Placement Policy," August 2017, available at <http://docs.accet.org/downloads/docs/doc28.pdf> (last accessed February 2018).

¹³⁴ The Accrediting Commission of Career Schools and Colleges, "Standards of Accreditation," p. 120.

¹³⁵ Council on Occupational Education, "CPL Calculation Worksheet," available at <http://council.org/wp-content/uploads/2017/03/2018-CPL-Calculation-Worksheet.xlsx> (last accessed February 2018).

¹³⁶ Distance Education Accrediting Commission, *Accreditation Handbook: Policies, Procedures, Standards and Guides of the Distance Education Accrediting Commission* (Washington: Distance Education Accrediting Commission, 2017), p. 128, available at <https://www.deac.org/UploadedDocuments/2017-Handbook/2017-DEAC-Accreditation-Handbook.pdf> (last accessed February 2018).

¹³⁷ National Accrediting Commission of Career Arts and Sciences, "NACCAS Handbook," page 7, available at <http://naccas.org/naccas/naccas-handbook> (last accessed February 2018).

In fact, as a further sign of how it has not had enough time to adjust standards, ACICS noted in January 2018 that its initial data collection around graduation rates was insufficient to implement binding graduation rate requirements. It wrote: "The Council, following its analysis of graduation data collected from the 2017 Campus Accountability Report, determined that the data were still preliminary in nature and not reliably sufficient to establish Graduation Rate Standards."¹³⁸

Promised changes from the 2016 NACIQI meeting were never implemented

During the 2016 NACIQI meeting, ACICS representatives touted the founding of a special panel to conduct a top to bottom review of the agency's standards. As Anthony Bieda, then the executive-in-charge of ACICS stated:

More recently and significantly ACICS has established a blue ribbon panel also known as the Special Advisory Committee to the Board that has the authority to methodically assess every aspect of the agency from top to bottom. The independent members of the panel will review and make recommendations regarding governance including the composition of the Council, policy including strength -- the strength and clarify [sic] of all ACICS standards.¹³⁹

Despite a press release announcing the committee, including an indication that the four individuals listed comprised just the "initial" membership, there is no evidence that this committee actually came to fruition or ever conducted the promised review.¹⁴⁰ ACICS never issued another press release or public document mentioning this panel.¹⁴¹ The January 2017 memo to the field announcing some standard changes mentions that the Council reviewed specific portions of the standards, with no mention of the committee. While Roger Williams did end up serving as the interim executive for several months, neither he nor other members of the advisory committee appear to still be involved with ACICS.

¹³⁸ Accrediting Council for Independent Colleges and Schools, "Memorandum to the Field," February 5, 2018, available at <http://www.acics.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=7108&libID=7102> (last accessed February 2018).

¹³⁹ Transcript of the June 23rd, 2016 meeting, page 70, <https://sites.ed.gov/naciqi/files/2016/08/naciqi-transcripts-062316-508.pdf>.

¹⁴⁰ Accrediting Council for Independent Colleges and Schools, "ACICS Establishes Special "Blue Ribbon" Advisory Committee," Press release, June 22, 2016, available at <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwiRvLie5JnZAhWNPN8KHTZiDSUQFghPMAA&url=http%3A%2F%2Fwww.acics.org%2FWorkArea%2FDownloadAsset.aspx%3Fid%3D6679&usq=AOvVaw3F1Z-aDYxd5xouH0uCQXBt> (last accessed February 2018).

¹⁴¹ Accrediting Council for Independent Colleges and Schools, "News," available at <http://acics.org/news/default.aspx?ShowAll=True> (last accessed February 2018).

The Department of Education should demand additional documentation from ACICS

The documentation provided by the Department of Education lack some key items that should be acquired in conducting a full and true staff analysis. These include:

- Applications for accreditation, team report, school response, and any monitoring notes for Florida Technical College.
- Documents relating to the accreditation of the American College of Commerce and Technology from 2013 through 2015.
- Documents relating to monitoring of Herguan University in 2015 and its reaccreditation in April 2016.
- Documents related to any visits or monitoring of Northwestern Polytechnic University.

Conclusion

When the Department of Education withdrew ACICS's federal recognition in December 2016 it did so following substantial concerns about the agency's track record as a reliable arbiter of quality and its inability to come into necessary compliance within one year. ACICS submitted a new application for recognition less than a year after that Department decision and roughly four months after a brand new president started.

The task before ACICS is substantial. It must prove to the Department of Education not only that it is in compliance with all the criteria, but that it has been in compliance with those requirements for sufficient time to demonstrate that it is a reliable authority on institutional quality.

Unfortunately, this review of ACICS shows that the changes made are insufficient as well as too recent to meet the necessary bars for demonstrating the agency meets the federal criteria for recognition. It still has core weaknesses in its standards that have opened the door to practices that resulted in lawsuits and settlements in the past. The bars for student achievement remain below peer agencies. The agency is also under its fourth leader since 2016, and the application for recognition was submitted before she had even overseen the agency for a full cycle of visits and accreditation decisions.

The Department of Education and NACIQI thus have a choice to make. Do they trust that roughly a year is enough time for an agency with a deeply challenged past to truly clean house, up its standards, and implement those changes in a reliable and consistent manner? It is impossible to look at the track record of this agency and conclude the answer to that question is "yes."



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February 16, 2018

The Honorable Elisabeth DeVos
United States Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Herman Bounds
Director, Accreditation Group
Office of Postsecondary Education
United States Department of Education
400 Maryland Avenue, SW, Rm. 270-01
Washington, DC 20202

RE: Opposing the Application for Initial Recognition of the Accrediting Council for
Independent Colleges and Schools

Dear Secretary DeVos and Mr. Bounds:

We, the undersigned Attorneys General of Massachusetts, California, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Iowa, Kentucky, Maine, Maryland, Minnesota, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Virginia, and Washington, and the Executive Director of the Hawaii Office of Consumer Protection, write to express our opposition to the Accrediting Council for Independent Colleges and Schools' ("ACICS") application for initial recognition. We provide this letter in response to the Department's call for written comments regarding ACICS's application, as published in the Federal Register on January 24, 2018. Having carefully reviewed the Criteria for the Recognition of Accrediting Agencies, we believe that ACICS is ineligible for recognition and urge the Department to reject its application.

Accreditors serve a critical role in ensuring that schools provide students with an education that meets minimum standards of quality. In this role, accreditors function as gatekeepers, protecting students from abuse by profit-seeking institutions that offer education of little-to-no value. When accreditors shirk their crucial responsibilities, they enable abusive schools to engage in misconduct with impunity. ACICS's previous stint as a nationally recognized accreditor provides a stark illustration of the damage done to both students and taxpayers when accreditors fail to fulfill their oversight responsibilities. During these years,

ACICS willingly accredited predatory schools that left students across the country mired in debt and without the quality education they were promised. Despite being aware of these schools' misconduct, ACICS continued to accredit the institutions, in some cases up until the day the schools closed and filed for bankruptcy.

On the basis of ACICS's extreme and far-reaching oversight failures, the Department took the extraordinary step of denying ACICS's petition for renewal of its national recognition just over one year ago. Given the gravity of ACICS's recent dereliction and the magnitude of the harm ACICS caused to students and taxpayers, any attempt by ACICS to become nationally recognized once again should be treated with great skepticism by the Department. The Department's own regulations establish as a threshold recognition requirement that an agency demonstrate *effective* compliance with the Department's recognition criteria *for at least two years* prior to seeking initial recognition. Since ACICS was found to be noncompliant with the Department's recognition criteria less than two years ago and, in fact, conceded its continued noncompliance with recognition criteria as recently as February 2017, it is simply impossible for ACICS to currently meet this basic recognition requirement. ACICS's application for initial recognition, therefore, must be denied by the Department.

Furthermore, to date, the Department has not made public ACICS's application for initial recognition, depriving the public of an adequate opportunity to participate in the recognition process. We urge the Department to make public ACICS's application and all accompanying documents and to extend the third party comment period to provide commenters with a meaningful opportunity to offer their input. By withholding ACICS's application, the Department has not fulfilled its requirement to provide an opportunity for public input.

ACICS's Recent Oversight Failures Caused Serious Harm to Students Across the Country

The undersigned Attorneys General are charged with enforcing consumer protection laws in our respective states. We have seen firsthand the damage caused by ACICS's dereliction of its responsibilities as an accreditor. As we described in comments submitted to the Department in 2016, numerous investigations initiated by our offices uncovered a fundamental lack of substantive oversight by ACICS. ACICS's lapses include its utter disregard for student outcomes at ACICS-accredited institutions, its inaction after regulators concluded that multiple ACICS-accredited institutions had reported fabricated job placement rates to ACICS, its failure to verify job placement statistics even after findings of fabricated job placement rates were made public, and its concerning lack of transparency or cooperation with investigations into student outcomes at ACICS-accredited institutions.

Among ACICS's most glaring oversight failures is its decision to extend accreditation to a large number of campuses operated by the now-defunct Corinthian Colleges ("Corinthian"). ACICS continued accrediting Corinthian even after upwards of twenty state and federal agencies initiated investigations into Corinthian's fraud. In fact, ACICS continued to accredit Corinthian up until the day Corinthian declared bankruptcy. Because of ACICS's accreditation, thousands of Corinthian students are mired in onerous student loan debt that they incurred to finance useless educations while Corinthian obtained approximately \$3.5 billion dollars from U.S. taxpayers in the form of student loan revenue.

Career Education Corporation (“CEC”), whose Sanford Brown schools were ACICS-accredited, settled with the New York Attorney General’s Office for \$10.25 million based on findings that CEC fabricated job placement rates. ACICS failed to identify the placement rate inaccuracies and, when CEC’s misconduct came to light, failed to terminate or suspend its accreditation of any Sanford Brown schools. ACICS also failed to identify serious compliance problems at Education Management Company (“EDMC”), which settled with thirty-nine State Attorneys General to resolve allegations that the school misled prospective students about program costs, graduation rates, placement rates, and programmatic accreditation. As part of that settlement, EDMC agreed to forgive over \$100 million in outstanding loan debt.

These are merely examples of ACICS’s egregious oversight failures. In its recent review of ACICS, the Department identified 245 ACICS-accredited campuses that were subjects of state and federal investigations and lawsuits concerning fraud, recruitment abuses, and falsification of job placement rates, all while maintaining their ACICS accreditation. As the Senior Department Official (“SDO”) who denied ACICS’s application for renewed recognition in 2016 explained:

By and large the state and federal actions against these schools had been pending for years, and culminated in large consumer protection settlements, and sometimes closing of the institutions. Nonetheless, according to ACICS, none of these 245 campuses had faced withdrawal of accreditation, and only three had been placed, belatedly, on the public sanction of probation.

Brief on Behalf of Senior Department Official in Opposition to Accrediting Council for Independent Colleges and Schools’ Appeal, and in Support of Decision to Deny Renewal of Recognition (“SDO Brief”) at 13.

Notably, while ignoring glaring misconduct at the schools it accredited, ACICS allowed representatives of these schools to serve on its Board of Directors/Commissioners (the “Board”) and Board committees, calling into question ACICS’s incentive structure and ability to fulfill its gatekeeping function with impartiality. For example, representatives from both Corinthian and ITT Tech served on ACICS’s Board while those schools were committing or being investigated for misconduct.

ACICS’s Pervasive Violations of Departmental Recognition Criteria Cost ACICS Its National Recognition

Following an extensive review of ACICS’s accreditation history and oversight failures, the Department made the rare decision to deny ACICS’s petition for renewed recognition in late 2016. Every stage of the review process resulted in the recommendation that ACICS’s recognition should be terminated. This recommendation was made both by the National Advisory Committee on Institutional Quality and Integrity (“NACIQI”) and Department Staff. Ultimately, the SDO found that ACICS had failed to comply with numerous recognition criteria and denied its application for recognition. The Secretary of Education (“Secretary”) reached the same conclusions as the SDO following a *de novo* review of the record, finding that “ACICS has exhibited a profound lack of compliance with the most basic Title IV responsibilities of a

nationally recognized accreditor.” Decision of the Sec’y at 8. In fact, both the SDO and the Secretary concluded that, not only had ACICS engaged in “pervasive noncompliance” with the Department’s recognition criteria, but ACICS’s failure “to develop and effectively implement a comprehensive scheme necessary to establish, apply, effectively monitor, and enforce the required standards” indicated that ACICS could not come into compliance with these requirements in 12 months. *Id.*

In particular, the SDO and the Secretary found that ACICS was out of compliance with 21 recognition criteria:

- 1) Acceptance of ACICS by Others (34 CFR § 602.13)
- 2) Staffing/Financial Resources (34 CFR § 602.15(a)(1))
- 3) Competency of Representatives (34 CFR § 602.15(a)(2))
- 4) Academic/Administrative Representatives (34 CFR § 602.15(a)(3))
- 5) Public Representatives (34 CFR § 602.15(a)(5))
- 6) Conflicts (34 CFR § 602.15(a)(6))
- 7) Student Achievement Standards (34 CFR § 602.16(a)(1)(i))
- 8) Fiscal/Administrative Capacity (34 CFR § 602.16(a)(1)(v))
- 9) Recruiting and Other Practices (34 CFR § 602.16(a)(1)(vii))
- 10) Student Complaints (34 CFR § 602.16(a)(1)(ix))
- 11) Title IV Responsibilities (34 CFR § 602.16(a)(1)(x))
- 12) Mission and Objectives (34 CFR § 602.17(a))
- 13) On-Site Reviews (34 CFR § 602.17(c))
- 14) Reasonable Assurances of Accurate Information (34 CFR § 602.18(d))
- 15) Monitoring (34 CFR § 602.19(b))
- 16) Enforcement Timelines (34 CFR § 602.20(a))
- 17) Enforcement Action (34 CFR § 602.20(b))
- 18) Systematic Review of Standards (34 CFR § 602.21(a), (b))
- 19) When New Evaluation Required (34 CFR § 602.22(a)(3))
- 20) Teach-out Plan Triggers (34 CFR § 602.24(c)(1))
- 21) Fraud and Abuse (34 CFR § 602.27(a)(6)-(7), (b))

These widespread failures allowed abusive institutions to defraud students across the country while benefiting from billions of taxpayer dollars. The Department’s findings revealed a deeply flawed and inadequate oversight system, and they highlighted ACICS’s willful disregard for the abuses perpetrated by its accredited institutions and the severe consequences for the students subjected to these abuses. As the SDO explained, the Department found that “ACICS avoids taking significant enforcement action even when it is well aware of violations of its standards.” SDO Brief at 14. Notably, the Department Staff, the SDO and the Secretary found that ACICS’s policies “permit[ted] accreditation of non-compliant institutions, and provide[d] multiple opportunities for [ACICS] to continue that status indefinitely, particularly with respect to non-compliance with [ACICS’s] student achievement standards.” SDO Brief at 15. ACICS’s deficiencies not only manifested in its own failure to take action against abusive institutions, but also hindered the Department’s ability to take any such actions itself because ACICS “has a history of failing to apprise the Department of clear evidence it uncovers of consumer and federal student aid fraud occurring at institutions it accredits.” *Id.* at 19.

In addition to laying bare ACICS's grave noncompliance with numerous recognition criteria, the Department also found that ACICS lacked coherent plans to fix its serious deficiencies. For example, with respect to monitoring student achievement, the Secretary found that ACICS's policies were deeply deficient and, moreover, that its "progress in developing and effectively implementing student achievement standards was entirely lacking or incoherent." Decision of the Sec'y at 6. As the SDO explained, even during its attempts to secure renewed recognition, ACICS failed to "accurately describe what its student achievement standards look like [], or what they will look like in the future. The content of the standards, and who decides what that is, appears to fluctuate for convenience" SDO Brief at 17.

Even in those instances when ACICS has identified and promised to implement policy changes, ACICS has repeatedly broken its commitment to do so. Many of the problems identified by the Department during ACICS's previous recognition process were first identified by the Department in 2013. At that time, ACICS represented to the Department that it was initiating new policies and processes—including those related to student achievement and verifying employment data. *See* Final Staff Analysis at 29. Nonetheless, during the 2016 recognition proceeding, the Department discovered that ACICS had not implemented the changes it had promised to make. *Id.*; SDO Brief at 30. ACICS's history of neglecting its commitments to the Department and ignoring its existing policies raises serious concerns about its fitness to serve as a nationally recognized accreditor.

ACICS's renewed bid for recognition is particularly troubling in light of the institutions that ACICS would likely oversee were it to regain recognition. While many of the institutions that ACICS accredited at the time it lost its recognition have either closed, obtained a new accreditor, or are well on their way to obtaining a new accreditor, a number of ACICS-accredited institutions—with combined enrollment in the tens of thousands—have been unable to progress successfully in the search for a new accreditor.¹ If ACICS is successful in obtaining national recognition, it will be responsible for overseeing the very institutions that have been least able to convince other agencies to accredit them. This is deeply problematic given ACICS's history of enabling some of the most abusive and unethical institutions.

ACICS Is Ineligible for Recognition under the Department's Criteria for Initial Recognition

ACICS's recent failures to comply with the Department's recognition criteria disqualify ACICS from obtaining initial recognition at this time and require the Department to deny ACICS's pending application. The Department has articulated requirements that accreditors must meet in order to be eligible for initial recognition. Under the regulations governing the Department's recognition of an accrediting agency, an agency's recognition requires a determination by Department officials that the agency "complies with the [enumerated] criteria for recognition . . . and that the agency is *effective* in its application of those criteria." 34 CFR § 602.3 (emphasis added). The enumerated criteria for initial recognition include the requirement

¹ *See* Center for American Progress, "A Second Status Update on ACICS Colleges" (Feb. 6, 2018), <https://www.americanprogress.org/issues/education-postsecondary/news/2018/02/06/445946/second-status-update-acics-colleges>.

that the agency seeking recognition must demonstrate that it has “[c]onducted accrediting activities, including deciding whether to grant or deny accreditation or preaccreditation, *for at least two years prior to seeking recognition.*” 34 CFR § 602.12(a)(2) (emphasis added). By the terms of these regulations, an accreditor can only be eligible for initial recognition if it can demonstrate that it has been *effective* in conducting accrediting activities in accordance with the Department’s recognition criteria *for at least two years* prior to seeking initial recognition. ACICS cannot meet this threshold requirement.

Based on the unambiguous timeline of ACICS’s prior loss of recognition, ACICS could not possibly demonstrate that it has been an effective accreditor in compliance with the Department’s recognition criteria for two years. On December 12, 2016—less than 15 months ago—the Secretary determined that ACICS was not in compliance with the Department’s recognition criteria and that, “because of the nature and scope of ACICS’s pervasive noncompliance,” it would be impossible for ACICS to become compliant within 12 months. Decision of the Sec’y at 1. In other words, the Department previously concluded, following an extensive review of the record, that ACICS could not enter compliance before December 2017. Given this previous Departmental determination, the earliest ACICS could satisfy the Department’s threshold requirement of demonstrating effective accreditation *for at least two years* is December 2019.

ACICS has repeatedly conceded its noncompliance with recognition criteria and reiterated its noncompliance as recently as February 21, 2017. At ACICS’s previous NACIQI hearing in June 2016, ACICS admitted that it was not in compliance with the Department’s recognition criteria. Tr. of NACIQI Hearing (June 23, 2016), Test. Of Lawrence Leak, Chair of ACICS Bd. Of Dirs. At 71:12-15. Furthermore, in arguing for a temporary restraining order to enjoin the Secretary’s termination decision, ACICS’s attorney conceded that ACICS was not yet in compliance with all of the required recognition criteria, explaining that with respect to “the [] remaining approximately ten or so criteria [ACICS] has indicated it can come into compliance [] over the next 12 months.” *ACICS v. DeVos*, No.16-2448, TRO Hr’g TR. 8:8-15, Dec. 20, 2016.² Among those “ten or so” unmet criteria, ACICS admitted that it had not yet approved a process for auditing job placement rates that it had promised to adopt in 2013. *Id.* at 45:4-8. The absence of such auditing procedures contributed to ACICS’s previous failures to function as an effective accreditor and to its facilitation of the misconduct that destroyed the lives of thousands of students. Less than a year ago, on February 21, 2017, ACICS Interim President Roger Williams again conceded ACICS’s noncompliance, explaining that he “still believe[s]” that “[ACICS] could come into compliance within 12 months.” *ACICS v. DeVos*, No.16-2448, P.I. Hr’g. Tr. 56:11-20, February 21, 2017.

Critically, demonstrating compliance with recognition criteria would require more than simply pointing to new policies. As the Department previously explained, “ACICS would have to provide *evidence* of effective *application and implementation* of [any] new policies, practices, and governance structures.” SDO Brief at 9 (emphasis added). Department staff have already

² On February 22, 2017, the Court denied ACICS’s motion for a preliminary injunction on the grounds that ACICS had failed to make a showing of substantial likelihood of success on the merits or risk of irreparable harm, and that the balance of equities and public interest considerations weighed in favor of denying injunctive relief. *ACICS v. DeVos*, No.16-2448, Order Denying Motion for Preliminary Injunction.

expressed concern about the actual effectiveness of a number of ACICS's proposed changes, noting that "the ultimate utility of at least some of these [proposed reforms], if actually implemented, appears problematic." *Id.* at 26. In any event, ACICS implemented a number of its new accreditation standards as recently as September 14, 2017—less than six months ago. Accordingly, based solely on the timeline of ACICS's policy changes, it would be impossible for ACICS to demonstrate that its new policies are effective any earlier than September 14, 2019. ACICS's current application for initial recognition is, therefore, premature and must be denied.

The Department Has Not Provided an Adequate Opportunity for Public Comment Regarding ACICS's Application for Recognition

Despite soliciting public comments on ACICS's application for initial recognition, the Department has withheld the application itself from the public. As outlined above, ACICS would be incapable of meeting the Department's threshold requirement for recognition at this time under any circumstances. Nonetheless, the Department's failure to make public ACICS's application materials during the public comment window denies the public a meaningful opportunity to comment fully on ACICS's application. Withholding these materials negates the purpose of the public input process that the Department is required to undertake in considering an accreditor's application for recognition under the Higher Education Act, 20 U.S.C. § 1099b(n)(1)(A). We, therefore, urge the Department to make public ACICS's application materials immediately and to provide third parties with a meaningful opportunity to comment on the materials.

ACICS's systemic accreditation failures and refusal to fulfill its obligations to students and taxpayers have enabled predatory schools to ruin the lives of hundreds of thousands of students while enriching themselves at taxpayers' expense. Given the gravity of these failures, the Department should not grant any application for recognition made by ACICS without verifying that ACICS has corrected every deficiency and complied with all Departmental requirements effectively and consistently. ACICS simply could not, under any circumstances, demonstrate effective compliance with the Department's recognition criteria for the requisite minimum two-year time period. Accordingly, we urge the Department to deny ACICS's application for initial recognition, as necessitated by the Department's regulations.

Sincerely,

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