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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

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).

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.

- 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

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).

Those changes included some alterations to requirements around student achievement review 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.

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.

2. ACICS appears to have significant difficulties overseeing institutions whose enrollment mostly consists of international students.
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 Institutions, 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://accet.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=18mzuOe5EwQqHXWoGRSIRKbqeZULMc64b>.

²⁷ ACICS, Exhibit AD, available at https://drive.google.com/open?id=11j_bhibM3C8-8GP6GroatDh_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=1ZFKZogh0Zqtk1IRldKp0SiyVj5bJJJ2>.

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_ZKfpn4rYb9IsU.

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=1Fp7ifNTIXxia3bEO1HHoplQ6jegsFJ4D>

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

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

[Adult/College%20and%20Career%20Education/Pages/State-Authority-of-Distance-Education.aspx#tab-1](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=1oJVooV3Md7y7IYj4ktO_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#.ix7Pme87q

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/invreports/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."