

Congress of the United States
Washington, DC 20510

October 18, 2018

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

Dear Secretary DeVos:

We write amidst a troubling new report that the U.S. Department of Education (“Department”) misrepresented endorsements in support of reinstating the Accrediting Council of Independent Colleges and Schools (ACICS) as a federally-recognized accreditor. We request that the Department immediately provide the full set of documents used as the basis for the Department’s recommendation to restore the federal recognition of ACICS.

The need for transparency around the recognition process has become urgent given recent admissions of substantial errors by the Department. The Department’s Senior Designated Official (SDO), Diane Auer Jones, issued a recommendation to you regarding federal recognition of ACICS on September 28, 2018. New information, however, indicates that in this recommendation, the SDO significantly misrepresented the endorsements of multiple accrediting agencies,¹ in an effort to validate that ACICS meets the requirement that it can demonstrate that its standards, policies, procedures, and decisions are widely accepted.² Although the SDO claimed that a group of nine accrediting agencies endorsed ACICS, all but one of those agencies denied ever sending any endorsement.³ The Department called this “an inadvertent error in the editing process,” but has yet to provide any substantive evidence that ACICS meets this criteria, including Exhibit B-O-11 that apparently provides this evidence.⁴

This glaring misrepresentation throws into question other conclusions the SDO made about ACICS’s compliance with federal standards. Moreover, the Department’s current SDO recently found ACICS out of compliance with two criteria for recognition nearly two years after the Department initially derecognized ACICS, affirming Secretary King’s conclusion that ACICS could not come into full compliance within 12 months.⁵ Given this misrepresentation and

¹ Stratford, Michael. “Education Department overstated endorsements of for-profit college accreditor.” *Politico Pro*. October 4, 2018. <https://subscriber.politicopro.com/education/article/2018/10/education-department-overstated-endorsements-of-for-profit-college-accreditor-830646>

² 34 CFR 602.13

³ Stratford, Michael. “Education Department overstated endorsements of for-profit college accreditor.” *Politico Pro*. October 4, 2018. <https://subscriber.politicopro.com/education/article/2018/10/education-department-overstated-endorsements-of-for-profit-college-accreditor-830646>

⁴ Inside Higher Ed, “Education Department Misstated Support for ACICS” October 8, 2018, <https://www.insidehighered.com/quicktakes/2018/10/08/education-department-misstated-support-acics>

⁵ Letter from Diane Auer Jones, Principal Deputy Under Secretary of Education, to ACICS, September 29, 2018 https://www.insidehighered.com/sites/default/server_files/media/SDO%20Response%20to%20ACICS%209.28.18.pdf

ACICS's appalling track record of failing to meet federal criteria, the Department must provide transparency to this opaque process and release the full set of ACICS documents used by the SDO as a basis for recommending an extension of the accrediting agency's federal recognition. The American people deserve to know why the Department would recommend restoring federal recognition to an organization with such a questionable history.

The Department grants federal recognition to national and regional institutional accrediting agencies when the agencies are found to be "reliable authorities concerning the quality of education or training offered by the institutions of higher education or higher education programs they accredit."⁶ ACICS, however, has long faced concerns about its ability to meet federal standards. In 2015, it facilitated \$4.76 billion in federal aid payments to 245 primarily for-profit career colleges⁷ while facing "pervasive compliance problems" that included allegations of a lack of oversight of predatory and fraudulent for-profit institutions such as the now collapsed Corinthian Colleges, Inc. and ITT Educational Services, Inc. In June of 2016, the Department's staff found ACICS to be out of compliance with 21⁸ criteria for recognition, including the wide acceptance criteria.⁹ A bipartisan federal advisory panel, the National Advisory Committee on Institutional Quality and Integrity (NACIQI), agreed and voted 10-3 to affirm the Department staff's findings and to recommend de-recognition of ACICS.¹⁰ In September 2016, the then-SDO reviewed the record, agreed with the Department and NACIQI's recommendations, and moved to terminate ACICS's federal recommendation.¹¹ ACICS then appealed. In December 2016, then-Secretary of Education John King agreed with the work of his career staff and the federal advisory board recommendation, finding ACICS out of compliance and unable to come into compliance within 12 months.¹²

In early 2018, the Department's staff reviewed ACICS's full petition for recognition, and found ACICS to be still out of compliance with 57 of 93 criteria for recognition—failing more than half

⁶ U.S. Department of Education, "Accreditation in the United States," https://www2.ed.gov/admins/finaid/accred/accreditation_pg6.html

⁷ Inside Higher ED, "New Life for ACICS, Paul Fain, October 1, 2018 <https://www.insidehighered.com/news/2018/10/01/trump-administration-recommends-restoration-acics-accreditor-remains-controversial>

⁸ Under this streamlined "focused review" approach, agencies need to provide narrative responses and supporting documentation for as few as 22 of the more than 90 recognition criteria. For the remaining criteria, agencies attest that they have made no changes to their policies and procedures since their last NACIQI review that would bring them into noncompliance with any of the requirements of those criteria. Agencies seeking initial recognition still need to provide narrative responses and supporting documentation for all criteria. – Office of Inspector General, "U.S. Department of Education's Recognition and Oversight of Accrediting Agencies," June 27, 2018, <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/a09r0003.pdf>

⁹ U.S. Department of Education, Accrediting Council for Independent Colleges and Schools, "Petition for Continued Recognition," June 2016, "<https://opeweb.ed.gov/aslweb/finalStaffReports.cfm?aID=15&mid=68>

¹⁰ National Advisory Committee on Institutional Quality and Integrity, "Report of the Meeting," June 22-24, 2016, <https://sites.ed.gov/naciqi/files/2016/09/NACIQI-Report-of-the-MeetingJUNE2016FINAL-508.pdf>

¹¹ Letter from Emma Vadehra, Chief of Staff to the Secretary of Education, to ACICS Interim President Roger J. Williams, September 22, 2016

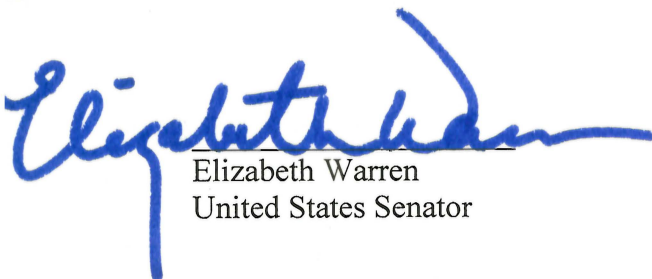
¹² Washington Post, "Education Secretary Ousts One of the Nation's Largest College Accreditors from its Oversight Role," Danielle Douglas-Gabriel, December 12, 2016, https://www.washingtonpost.com/news/grade-point/wp/2016/12/12/education-secretary-ousts-one-of-the-nations-largest-college-accreditors-from-its-oversight-role/?utm_term=.7a9fd33179e7

of such criteria—including the requirement that the agency is widely accepted.¹³ Instead of relying on this staff report, you temporarily restored recognition of ACICS over the objections of Department staff,¹⁴ and announced the Department’s intention to re-review ACICS’s January 2016 petition for recognition, including a “Part II” submission of a 27-page narrative responding to each of the Department’s questions and approximately 36,000 pages worth of additional documents from ACICS.¹⁵ These additional documents have been released neither to the public nor to Congress. Moreover, according to arguments made in court by attorneys representing the Department, these additional documents only refer to three of the criteria, while ACICS was initially found noncompliant with 21 separate criteria in 2016.¹⁶ This raises concerns about the substance of the additional documents and whether their contents support the conclusions in the SDO’s recent recommendation.

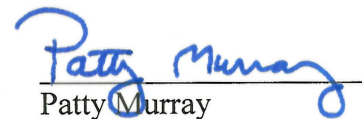
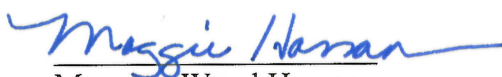
This long history of noncompliance raises additional questions about the evidence used to back up the SDO’s final recommendation and critically undermines its legitimacy. Transparency is urgently needed to verify whether ACICS is in fact compliant with federal standards and will act in the best interests of students. We, therefore, request the Department to provide any and all documents¹⁷ that were submitted by ACICS and considered as part of the SDO’s recommendation to continue ACICS’s federal recognition.

The Department should not hide documents from public view that are relevant to an official agency action. The Department must release the ACICS documents before you issue a final decision on recognition “in the coming weeks.”¹⁸ Please provide these documents to us by October 25, 2018.

Sincerely,



Elizabeth Warren
United States Senator


Suzanne Bonamici
Member of Congress
Patty Murray
United States Senator
Margaret Wood Hassan
United States Senator
Richard J. Durbin
United States Senator

¹³ The Century Foundation, “DeVos Releases Career Staff Report On For-Profit College Accreditor, ACICS, Reveals Continued Noncompliance,” June 8, 2018

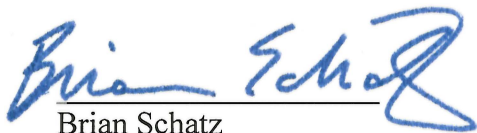
¹⁴ The New York Times, “Betsy DeVos Reinstated College Accreditor Over Staff Objections,” Eric Green, June 11, 2018 <https://www.nytimes.com/2018/06/11/us/politics/betsy-devos-for-profit-higher-education.html>

¹⁵ Order issued by the Secretary of Education, Betsy DeVos, April 3, 2018, <https://www2.ed.gov/documents/press-releases/acics-docketno-16-44-0.pdf>

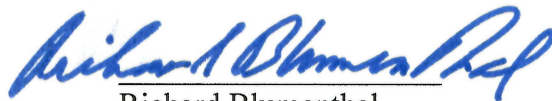
¹⁶ December 2016 ACICS court transcript, page 24

¹⁷ Including the Part II documents and the May 2018 supplement

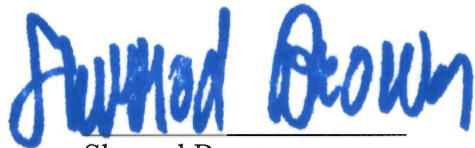
¹⁸ Stratford, Michael. “Trump administration recommends 1-year approval of for-profit college accreditor.” *Politico Pro*. September 29, 2018. <https://subscriber.politicopro.com/education/article/2018/09/embargoed-trump-administration-seeks-full-recognition-of-for-profit-college-accreditor-817998>



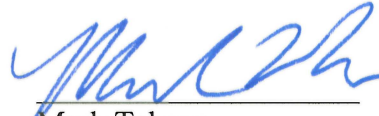
Brian Schatz
United States Senator



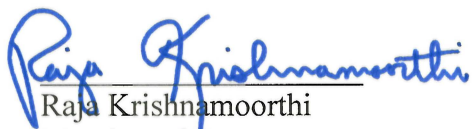
Richard Blumenthal
United States Senator



Sherrod Brown
United States Senator



Mark Takano
Member of Congress



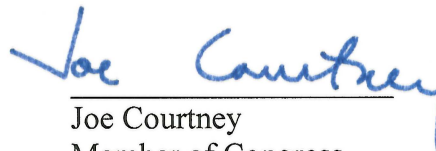
Raja Krishnamoorthi
Member of Congress



Lisa Blunt Rochester
Member of Congress



Mark DeSaulnier
Member of Congress



Joe Courtney
Member of Congress



Carol Shea-Porter
Member of Congress