

Yordy, Charles

From: Yordy, Charles
Sent: Tuesday, April 03, 2018 5:20 PM
To: abbaker@venable.com; HSProfita@venable.com; Klingram@wtplaw.com; Morgan, Sally; Mangold, Donna; medwards@acics.org
Bcc: Eitel, Robert
Subject: ACICS Order of the Secretary, Dkt. No. 16-44-O
Attachments: ACICS Dkt No 16-44-O Order of the Secretary 4.3.18.pdf

Good afternoon:

Attached is a courtesy copy of the above referenced decision. A paper copy will follow via U.S. mail.

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Office of Hearings and Appeals

U.S. Department of Education

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THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

In the matter of:

**ACCREDITING COUNCIL FOR
INDEPENDENT COLLEGES AND SCHOOLS**

Docket No. 16-44-O
Accrediting Agency
Recognition Proceeding

Respondent.

ORDER

On March 23, 2018, the U.S. District Court for the District of Columbia issued a Memorandum Opinion remanding to me the December 12, 2016, decision of Secretary King (December 2016 Decision). That decision withdrew the recognition of the Accrediting Council for Independent Colleges and Schools (ACICS).

As a result of the district court's remand, there is no final decision on the recognition petition that ACICS submitted to the Department Accreditation Group staff in January 2016 regarding its recognition period that was set to expire in December 2016. Accordingly, ACICS's status as a federally recognized accrediting agency is restored effective as of December 12, 2016. Pursuant to 34 C.F.R. § 602.37(h), ACICS will remain in that status until such time as I reach a final decision on its January 2016 petition. Therefore, the Department will not conduct any further review of the full petition for recognition submitted by ACICS in December 2017, and ACICS will be removed from the agenda for the May 2018 meeting of the National Advisory Committee on Institutional Quality and Integrity (NACIQI).

Consistent with the court's remand, I will conduct a further review of ACICS's 2016 petition for recognition. If I determine that full recognition is not warranted, I will also consider whether, instead of denial, ACICS should be allowed continued recognition for a period not to exceed 12 months to demonstrate compliance with any criteria for which I find ACICS is not in compliance, as allowed by 34 C.F.R. §§ 602.36(e)(3) and 602.37(d). If a full grant of recognition is awarded, ACICS's period of recognition could expire as late as December 2021. If a compliance report is allowed, any period of recognition following the compliance report would also expire no later than December 2021.¹

The district court has specifically directed me to consider materials submitted by ACICS in May 2016, which were not considered by the Department staff or NACIQI in issuing their recommendations to withdraw recognition, not considered by the Senior Department Official

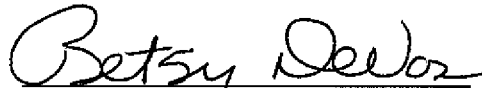
¹ See 20 U.S.C. § 1099b(d) and 34 C.F.R. §§ 602.36(e), 602.37(d) (period of recognition may not exceed five years).

(SDO), and not included in the record reviewed by Secretary King when the December 2016 Decision was issued. Those materials are referred to in the Memorandum Opinion as the "Part II submission." The district court has also directed me to consider evidence of ACICS's procedures for placement verification, as those procedures were not explicitly discussed in the December 2016 Decision.

The process described in 34 C.F.R. § 602.37(f)(2) provides the framework for reaching a recognition decision based on evidence not included in the original record. As stated in the Memorandum Opinion, the Part II submission is relevant and material to the recognition decision but was not included in the record considered by Secretary King in reaching the December 2016 Decision. Accordingly, this order notifies ACICS that I will consider the Part II submission in reaching a recognition decision on remand. Pursuant to 34 C.F.R. § 602.37(f)(2)(ii), ACICS may respond to this information in writing and may include additional relevant evidence. In particular, ACICS should explain whether and to what extent the Part II submission documents are relevant to its compliance with the regulatory criteria or its ability to come into compliance within 12 months. Additionally, ACICS may provide additional evidence that is relevant to these issues. Any additional evidence ACICS includes should relate to the regulatory criteria that the SDO identified as noncompliant prior to the 2016 Decision, and ACICS should provide an explanation of its relevance to particular criteria. ACICS shall file its written submission and exhibits no later than May 30, 2018.

The Senior Department Official may respond in writing to ACICS's submission on or before July 30, 2018.

So ordered this 3rd day of April 2018.


Betsy DeVos

Washington, D.C.

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