Congress of the United States
Washington, DC 20515

December 21, 2018

Ms. Michelle Edwards
President & CEO
Accrediting Council for Independent Colleges and Schools
750 First Street NE, Suite 980
Washington, D.C. 20002

Dear Ms. Edwards:

We write to request information on due diligence measures the Accrediting Council for Independent Colleges and Schools (ACICS) took, or should have taken, to protect the approximately 18,000 students affected by the recent collapse of for-profit college conglomerate Education Corporation of America (ECA).[1] We are particularly concerned as to why ACICS granted accreditation to ECA schools despite reports of rampant financial instability that ultimately required the Department of Education to place ECA on "Heightened Cash Monitoring." We seek clarity regarding preventative measures ACICS could have taken by requiring or more aggressively pursuing "teach-out agreements" that would have protected ECA students' class credits and educational investments in the event of permanent school closure.

ECA's Collapse and ACICS's Responsibilities as an Accreditor

ACICS is the longtime accreditor of schools operated by ECA, a for-profit college company that operated more than 70 campuses across the country.[2] As of 2016, ACICS oversaw 725 institutions responsible for $3.3 billion in federal financial aid.[3] On December 5, 2018, ECA announced that it would immediately close more than 70 of its campuses across 21 states, including the campuses of Brightwood Career Institute, Brightwood College, Ecotech Institute, Golf Academy of America, and Virginia College.[4] ECA's collapse immediately displaced approximately 18,000 students.[5]

---

[1] Receiver's Initial Report (Dec. 12, 2018), *VC Macon, GA LLC v. Virginia College LLC,* M.D. Ga. (No. 5:18-cv-00388).

[2] *For-Profit College Chain Closes, Shutting Out Nearly 20,000 Students,* New York Times (Dec. 6, 2018) (online at www.nytimes.com/2018/12/06/business/education-corporation-of-america-closing.html).

[3] *Education Department Strips Authority of Largest For-Profit Accreditor,* U.S. News (Sept. 22, 2016) (online at www.usnews.com/news/articles/2016-09-22/education-department-strips-authority-of-acics-the-largest-for-profit-college-accreditor).

[4] *Aurora's For-Profit Ecotech Institute Authority Abruptly Closes, Leaving Students on Their Own,* Colorado Public Radio (Dec. 7, 2018) (online at www.cpr.org/news/story/aurora-for-profit-tech-college-abruptly-closes-leaving-students-on-their-own).

[5] Receiver's Initial Report (Dec. 12, 2018), *VC Macon, GA LLC v. Virginia College LLC,* M.D. Ga. (No. 5:18-cv-00388).

Federal student loans are the primary means by which for-profit colleges sustain themselves.[6] During the 2017-18 school year, ACICS's accreditation allowed ECA to draw down more than $280 million in federal student aid from taxpayers.[7]

In addition, several thousand veterans are among the students harmed by ECA's collapse. According to Veterans Affairs Department data, ECA's closure will impact nearly 4,000 student veterans who had been using their GI Bill funds at ECA campuses.[8]

Federally recognized accrediting agencies must ensure that colleges and universities comply with federal standards designed to protect students and safeguard federal student aid funds.[9] In addition to ensuring that colleges and universities that receive federal student aid funds adequately serve their students, federal regulations require accreditors to ensure that higher education institutions at risk of closure have adequate procedures in place to ensure that students can finish their academic programs in the event of a closure.[10]

Specifically, federal regulations require accrediting agencies to obtain teach-out plans from financially at-risk institutions.[11] Federal regulations define a teach-out plan as "a written plan that provides equitable treatment of students if an institution ceases to operate before all students have completed their program of study." An accrediting agency may also require the institution to enter into a more formal "agreement" with another institution to provide an opportunity for students to complete their program of study at specific, accredited schools if their school closes.[12]

ACICS standards state that the agency "may direct a currently accredited institution to provide a school closure plan or a formal teach-out agreement in response to adverse information, high cohort default rates, low retention and/or placement rates, financial instability, or other concerns that may call into question the institution's ability to continue to serve the educational needs and objectives of its students or to continue as an on-going concern."[13]

---

[6] *For-Profit College Chain Closes, Shutting Out Nearly 20,000 Students*, New York Times (Dec. 6, 2018) (online at www.nytimes.com/2018/12/06/business/education-corporation-of-america-closing.html).

[7] U.S. Department of Education, *Title IV Program Volume Reports* (online at https://studentaid.ed.gov/sa/about/data-center/student/title-iv) (accessed Dec. 17, 2018).

[8] Veterans Education Success, *Could Education Corporation of America's Sudden Closure Have Been Avoided* (Dec. 2018) (online at https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5c17fc43c2241b89460a1977/1545075779356/Issue+Brief+on+ECA.FINAL.pdf).

[9] *For-Profit College Chain Closes, Shutting Out Nearly 20,000 Students*, New York Times (Dec. 6, 2018) (online at www.nytimes.com/2018/12/06/business/education-corporation-of-america-closing.html).

[10] 34 C.F.R. § 602.24(c).

[11] *Id.*

[12] Pub. Law No. 89-329 (Nov. 8, 1965).

[13] Accrediting Council for Independent Colleges and Schools, *Accreditation Criteria: Policies, Procedures, and Standards* (July 1, 2016) (online at www.acics.org/WorkArea/DownloadAsset.aspx?id=5071).

In 2015, the Department of Education placed several ECA institutions on "Heightened Cash Monitoring" status.[14] This would appear to qualify as "adverse information" indicating "financial instability," but weeks before announcing the closure of almost all of its colleges, ECA revealed in court proceedings that it had not finalized teach-out agreements of any nature for its campuses.[15]

Adequate ACICS Oversight Could Have Mitigated ECA's Collapse

This month's collapse of ECA represented the culmination of years of problems that ACICS could have potentially prevented. The earliest indication of ECA's serious problems was the Department of Education's March 2015 "Heightened Cash Monitoring" designation amid concerns about the company's compliance and stability. The designation resulted in additional federal oversight of federal student aid funds.[16]

Despite these warning signs of the company's documented financial instability, ACICS extended the accreditation of ECA schools in 2016.[17]

In October 2017, following a review of ECA's FY 2016 audited financial statements, the Department of Education concluded that ECA failed to meet financial responsibility standards. In February 2018, the Department of Education levied additional financial and operational reporting requirements on ECA arising from the FY 2016 federal review.[18]

In May 2018, Virginia College, ECA's largest institution, failed to obtain recognition by the Accrediting Council for Continuing Education and Training (ACCET) due to poor graduation rates, poor job placement rates, high faculty turnover rates, and lack of student access to proper supplies.[19] In August 2018, ACCET denied ECA's appeal for recognition.[20]

---

[14] U.S. Department of Education, *Heightened Cash Monitoring* (online at https://studentaid.ed.gov/sa/about/data-center/school/hcm) (accessed Dec. 17, 2018).

[15] Complaint (Oct. 16, 2018), *Education Corporation of America, Virginia College, LLC and New England College of Business and Finance, LLC v. United States Department of Education and Betsy DeVos,* N.D. Ala. (No. 2:18-cv-01698).

[16] U.S. Department of Education, *Heightened Cash Monitoring* (online at https://studentaid.ed.gov/sa/about/data-center/school/hcm) (accessed Dec. 17, 2018).

[17] U.S. Department of Education, *The Database of Postsecondary Institutions and Programs* (online at https://ope.ed.gov/dapip/#/home) (accessed Dec. 17, 2018).

[18] Complaint (Oct. 16, 2018), *Education Corporation of America, Virginia College, LLC and New England College of Business and Finance, LLC v. United States Department of Education and Betsey DeVos,* N.D. Ala. (No. 2:18-cv-01698).

[19] *Another Setback for Programs Overseen by Trouble Accreditor,* Inside Higher Ed (May 22, 2018) (online at www.insidehighered.com/news/2018/05/22/profit-chain-falls-short-attempt-get-new-accreditors-approval).

[20] Letter from William Larkin, Executive Director, Accrediting Council for Continuing Education and Training to John Carreon, Senior Vice President, Regulatory Affairs and Associate General Counsel, Virginia College, LLC (Aug. 31, 2018) (online at https://s3.amazonaws.com/docs.accet.org/downloads/adverse/1539.pdf).

Nevertheless, ACICS continued to accredit these institutions, calling only for "additional information for further monitoring of the institution's compliance" with accreditation standards, while failing to mention the campuses' financial instability.[21]

Even after ACCET highlighted the school's critical failures, ACICS still did not protect ECA students by demanding a formal, signed teach-out agreement between ECA campuses and other non-ECA colleges, nor did ACICS demand a teach-out plan ensuring federally mandated equitable treatment of students.

In September 2018, ECA announced that by early 2020, it would close and end new enrollment at 26 campuses, a third of its campuses at that time.[22] By this point, the company was in dire straits. ECA reportedly stopped making on-time payments on its debt obligations and was "fighting eviction from multiple locations as creditors pursued judgments against the company."[23] ECA attempted to overhaul its corporate structure with a court-approved receivership, and attempted to stay afloat by suing the Department of Education in October 2018 in order to maintain access to federal student aid funds while it pursued a receivership plan.[24]

In its October 16, 2018, lawsuit, ECA revealed that unless a Receiver was appointed to oversee and administer teach-out plans, "their students will suffer immediate and irreparable harm."[25] These court proceedings revealed that ACICS did not secure teach-out plans or formal teach-out agreements from all of ECA's campuses—not even during the several years of numerous ECA schools' "Heightened Cash Monitoring" designations or anytime thereafter.

Only after ECA filed this lawsuit did ACICS finally place all remaining ECA campuses on "show cause" status and require all of the campuses to submit teach-out plans.[26] ACICS, however, failed to demand what students needed most—formal and signed teach-out agreements between ECA and other schools to ensure students' class credits and educational investments were not wasted.[27]

---

[21] Letter from Michelle Edwards, President and CEO, Accrediting Council for Independent Colleges and Schools, to Deana Southerland, Interim Campus President, Virginia College, LLC (Sept. 7, 2018) (online at www.acics.org/uploadedFiles/Actions/00010582_VirginiaColl-SCC.pdf).

[22] *For-Profit Chain Will Close Dozens of Campuses*, Inside Higher Ed (Sept. 12, 2018) (online at www.insidehighered.com/news/2018/09/12/profit-chain-will-close-dozens-campuses).

[23] *For-Profit College Chain Sues to Keep U.S. Aid*, Inside Higher Ed (Oct. 19, 2018) (online at www.insidehighered.com/news/2018/10/19/profit-college-chain-sues-feds-keep-federal-aid-amid-restructuring).

[24] *Id.*

[25] Complaint (Oct. 16, 2018), *Education Corporation of America, Virginia College, LLC and New England College of Business and Finance, LLC v. United States Department of Education and Betsey DeVos*, N.D. Ala. (No. 2:18-cv-01698).

[26] Letter from Michelle Edwards, President and CEO, Accrediting Council for Independent Colleges and Schools, to Deana Southerland, Interim Campus President, Virginia College, LLC (Sept. 7, 2018) (www.acics.org/uploadedFiles/Actions/00010582_VirginiaColl-SCC.pdf).

[27] *For-Profit Suit Against Education Department Dismissed*, Inside Higher Ed (Nov. 6, 2018) (online at www.insidehighered.com/quicktakes/2018/11/06/profit-suit-against-education-dept-dismissed).

ACICS possessed the authority to require formal teach-out agreements from ECA before its collapse. Formal teach-out agreements would have best protected students. Despite the years of evidence that ECA institutions were at-risk, ACICS continued to fully accredit ECA—when at least one other agency refused accreditation—until just days before ECA's collapse.[28]

The timeline of the ECA collapse and the company's interactions with ACICS are deeply troubling. ACICS's oversight shortcomings potentially enabled ECA to continue its business as usual enrolling students and receiving federal student aid funds while ECA struggled financially. ECA's own court proceedings reflect ACICS's failure to require the establishment of appropriate contingencies to protect students and taxpayers.

ECA's chaotic collapse demands an explanation. We ask that you provide the following documents and information by January 21, 2019:

1. A full timeline of ACICS's communications with ECA-affiliated schools, beginning with the company's placement on "Heightened Cash Monitoring" and leading up to the company's December 5, 2018 collapse, including any materials documenting ACICS's efforts to ensure ECA campuses' compliance with federal accreditation standards.

2. All communications between ACICS and ECA regarding ECA's financial status, beginning with ECA's 2015 "Heightened Cash Monitoring" designation.

3. A list of all ACICS requests for teach-out plans or formal teach-out agreements from ECA campuses and the responses to these requests from ECA, as well as all communications between ACICS and ECA regarding teach-out plans or formal teach-out agreements.

4. Copies of the teach-out plans ACICS was able to obtain from all ECA-owned schools that ACICS accredits, including Virginia College, LLC.

5. All reports or evaluations related to the renewal of accreditation of any ECA campus since January 1, 2015.

6. When and under what circumstances between January 1, 2015, and the present did ACICS require that ECA campuses submit either a teach-out plan or a signed, formal teach-out agreement?

7. Did ACICS demand teach-out plans or take any other action regarding ECA's financial instability when the Department of Education placed ECA campuses on "Heightened Cash Monitoring"? If not, why? If so, what actions did ACICS take?

---

[28] Center for American Progress, *The 85 Colleges That Only ACICS Would Accredit*, (July 3, 2018) (online at www.americanprogress.org/issues/education-postsecondary/news/2018/07/03/453079/85-colleges-acics-accredit/).

8. Did ACICS demand teach-out plans or take any other action regarding ECA's financial instability after ACCET denied recognition to ECA campuses? If not, why? If so, what actions did ACICS take?

9. When did ACICS require teach-out plans from ECA schools, and did the agency include a requirement for a signed, formal teach-out agreement between ECA campuses and other schools? If not, why? If so, what was the nature of these agreements?

10. Did ACICS provide any warnings to students or demand that ECA provide warnings to students in the months prior to its collapse? If not, why?

11. ECA is providing transfer options to students that include campuses that are themselves on "Heightened Cash Monitoring."[29] Has ACICS reviewed and approved the transfer options posted on ECA's website in the days following the announcement of closure? If so, please provide the criteria ACICS used to approve these options.

12. Has ACICS asked ECA schools to provide students application forms and written disclosures regarding their rights to closed school discharge, as required by federal law?

13. There are at least 98 borrower defense claims filed by former ECA students.[30] Did ACICS review all complaints, including any allegations of unlawful activity in such complaints, related to ECA colleges that were available to the agency? If not, why? If so, what steps did ACICS take in response to this information?

14. Did ACICS find ECA to be in compliance with all standards for accreditation in its 2016 renewal of accreditation? If not, please detail the standards with which ACICS found ECA not to be complying.

---

[29] Education Corporation of America, Transfer Opportunities (online at www.ecacolleges.com/transfers/) (accessed Dec. 17, 2018).

[30] The Century Foundation, *College Fraud Claims Up 29 Percent Since August 2017* (Jan. 18, 2018) (online at https://tcf.org/content/commentary/college-fraud-claims-29-percent-since-august-2017/).

Thank you for your prompt attention to this request.

Sincerely,

Elizabeth Warren
United States Senator

Elijah E. Cummings
Ranking Member
House Committee on Oversight
and Government Reform

Suzanne Bonamici
Vice Ranking Member
House Committee on Education
and the Workforce

cc: Trey Gowdy, Chairman, House Committee on Oversight and Government Reform

Virginia Foxx, Chairwoman, House Committee on Education and the Workforce