

**Congress of the United States**  
**Washington, DC 20515**

October 23, 2015

Richard Cordray  
Director  
Consumer Finance Protection Bureau  
1700 G Street, NW  
Washington, DC 20552

Dear Director Cordray:

We write to request you immediately rescind the issuance of a civil investigative demand to the Accrediting Council for Independent Colleges and Schools (ACICS) and halt any other planned investigatory actions regarding accreditors or the accreditation of institutions of higher education. This action is an unprecedented overreach by the Consumer Financial Protection Bureau (CFPB) and raises serious concerns regarding jurisdiction given the CFPB's limited enforcement authority<sup>1</sup> that does not in any way include the higher education accreditation process.

Institutions are eligible to participate in federal student aid programs authorized by Title IV of the *Higher Education Act* if they are (1) accredited by an accrediting agency recognized by the Department of Education; (2) authorized to operate by a state; and (3) certified as eligible by the Department of Education.<sup>2</sup> Accreditors review the quality of the education or training provided by institutions to ensure federal funds flow to institutions that meet or exceed the agency's standards of accreditation. These accreditors have no experience, expertise, or purview with regard to any financial product or financial service that may or may not be offered by an institution of higher education. They also do not offer any consumer financial product that would trigger the jurisdiction of the CFPB.

Furthermore, an accreditation review of an institution has no direct and immediate impact on the financial activity of a consumer with an institution. Receiving accreditation by an accreditor recognized by the Department of Education affirms an institution offers education or training that meets a standard of quality sufficient to provide eligible students enrolled at the institution access to federal aid. However, given that a consumer eligible to receive federal student aid has the option of choosing from over 6,000 institutions of higher education, it by no means forces or coerces a consumer toward a particular institution.

Under the *Higher Education Act*, Congress has set up a robust process for the Department of Education to recognize accrediting agencies. Led solely by the Department of Education, this process ensures only those accrediting agencies that act as a reliable authority of educational

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<sup>1</sup> 12 U.S. Code §§ 5531, 5536

<sup>2</sup> 20 U.S. Code § 1002(a)

quality and meet the required criteria laid out in the law are recognized by the Secretary.<sup>3</sup> Federal law is clear about the role and responsibilities of accrediting agencies, as well as the role and responsibilities the Department of Education plays in recognizing accrediting agencies. Nowhere does the law authorize a role or responsibility for the CFPB.

Regardless, in August of 2015, the CFPB issued a civil investigative demand to ACICS. ACICS is an accrediting agency recognized by the Department of Education. In fact, the Department of Education determined as recently as 2013 that ACICS is a reliable authority with respect to the quality of education or training offered by the institutions of higher education they accredit. The CFPB has no legal authority to second-guess the Department of Education's recognition of ACICS.

By undertaking this investigation, the CFPB is holding itself out as an expert in determining the quality of education or training programs at institutions of higher education. Congress clearly stipulated in law this determination is not something the federal government can or should do. Not even the Department of Education is authorized by law to determine the quality of institutions of higher education. This action is an unprecedented intrusion by your agency into higher education and undermines the process Congress created to assess institutional quality. This action will cause confusion and disruption throughout the higher education community and ultimately undermine the ability of students to further their education.

As chairs of the congressional committees with jurisdiction over higher education, we are leading a process to reauthorize the *Higher Education Act*. Determining the role of accreditors for federal purposes is a congressional responsibility, not yours. We intend to review the role of accreditors during the reauthorization process, along with all other aspects of the law. Any changes to the accreditation process must take place through the legislative process. Your efforts in this area are an inappropriate and disruptive intrusion into the work of Congress and our nation's higher education system. For these reasons, we request you immediately cease your misguided investigation.

Sincerely,



LAMAR ALEXANDER  
Chairman  
U.S. Senate Committee on Health,  
Education, Labor, & Pensions



JOHN KLINE  
Chairman  
U.S. House Committee on Education and  
the Workforce

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<sup>3</sup> 20 U.S.C. §1099b