

Federal Judge Denies ACICS Motion for Preliminary Injunction

February 22, 2017

In addition to reviewing filings and hearing arguments from counsel on both sides, Judge Walton heard live testimony from ACICS Interim President Roger Williams and Ronald Bennett from the Department's Office of Federal Student Aid. At the conclusion of the testimony, and consistent with the earlier request for a temporary restraining order (see our prior alert), Judge Walton was unconvinced ACICS had demonstrated "irreparable harm" as a result of the Department's actions and had established that there was a substantial likelihood of success on the merits of the case against ED. Because Judge Walton concluded that ACICS had not carried its burden to demonstrate these elements that are required to justify the issuance of a PI, he denied ACICS's request.

Despite this ruling, the litigation against the Department remains pending and it is unclear at this point how ACICS will proceed. More details will follow regarding the next steps for this dispute, but in the interim ACICS will continue to operate without federal recognition and institutions accredited by the agency planning to retain eligibility for Title IV funds should comply with the interim benchmarks outlined in the recently issued Provisional Program Participation Agreements (PPPAs) and accompanying addenda. The next deadline is scheduled to occur on March 13, 2017 and requires an institution to have an in-process application with a federally recognized accrediting agency (i.e., the agency has notified the institution that its application has been accepted for processing) by that date. In addition to meeting all other terms of the PPPAs, an institution that does not have an in-process application by March 13 also must submit a formal teach-out plan to ED and make certain disclosures to students.

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