

May 20, 2024

Herman Bounds
Director, Accreditation Group
Office of Postsecondary Education
U.S. Department of Education
400 Maryland Avenue, SW, Fifth Floor
Washington, DC, 20202

Re: Request for Written Comment on Agencies Undergoing Review for Continued Recognition
by the U.S. Secretary of Education

Dear Director Bounds:

Thank you for the opportunity to provide comments on the agencies undergoing review at the upcoming Summer 2025 NACIQI meeting.

Consumer protection and student success advocates have long called for heightened transparency and accountability in the accreditation review process. WASC Senior College and University Commission, a large formerly regional accreditor, will undergo review at the summer 2025 NACIQI meeting. Cumulatively, the 170 institutions accredited by WASC receive over \$9 billion in federal student aid, nearly 12% of the total Title IV volume. The receipt of this aid which enables students to cover tuition and other costs at these institutions is only made possible by the institutions' accreditation by the agency.¹ WSCUC will submit a compliance report after having previously failed to demonstrate that they were in compliance with current standards during their last review last cycle in 2023. While some areas of noncompliance are of greater concern than others, all point to a systemic failure of accreditors to properly oversee institutions, and of the Department to provide transparency into the accreditor review process. Below we have outlined our concerns, and suggested policy and process changes that would ensure the Department and accrediting agencies are upholding the standards outlined in the Higher Education Act.

Unfortunately, while the public is called to participate in the NACIQI process through written and oral third party comments, they do so with limited access to the documents/materials accrediting agencies submit to the Department. The public only has access to the final staff report and Senior Department Official letter while drafting third party comments. Without access to the full compliance reports from the accreditor, or the full staff reports, it is very challenging to properly assess whether an accreditor is meeting its requirement to come back into compliance. A truly transparent review process would make compliance and staff reports available to the public and NACIQI members at the same time as the Department puts out its request for written comment. This would provide the public the information needed to contribute to discussions about whether an agency is a reliable authority worthy of gatekeeping our federal student aid dollars.

¹ Author calculations utilizing data from the Institutional Dashboards
<https://sites.ed.gov/naciqi/files/2023/07/InstitutionalDashboards.pdf> (last updated August 2023).

In addition, the fact that public comments must be submitted over a year in advance of the relevant NACIQI meeting means that public comments cannot take into account problems that occur or come to light in the year leading up to the meeting, further lessening the impact of the comments.

If accreditors are to be evaluated based on how well they handle institutional abuses, WSCUC in particular, has demonstrated a severe lack of discernment that suggests it is not providing adequate oversight of institutions it accredits. We hope these issues are addressed in the agency's final compliance report and before review by NACIQI. We also urge NACIQI to probe WSCUC's responses to ensure that the agency is considering how it needs to improve its process, and not just checking off a box to say it completed a compliance report.

- WSCUC's failure to take action to address University of Arizona Global Campus's (UAGC) admissions, recruiting, and marketing practices

Ashford University was a huge online for-profit school with a checkered history of poor student outcomes and egregious deceptive practices. In 2017, the California Attorney General brought an action against the school alleging widespread and egregious abuses, including deceptive recruiting practices. In 2022, that lawsuit resulted in a \$22 million judgment against Ashford.² The court found that Ashford "violated the law by giving students false or misleading information about career outcomes, cost and financial aid, pace of degree programs, and transfer credits."³ Given the accreditor's requirement to review institution's admissions practice, and the marketing efforts that accompany them, WSCUC has a responsibility to ensure that UAGC no longer engaged in the troubling practices that landed Ashford in legal trouble and harmed countless students.

In 2020, The University of Arizona purchased Ashford University and renamed it the University of Arizona Global Campus (UAGC).⁴ As part of the purchase agreement, UAGC entered into a 15-year tuition-sharing agreement with Ashford University's for-profit parent company, Zovio. The agreement provided that Zovio would serve as UAGC's online program manager (OPM), operating the online programs and providing student advising, marketing, and recruiting services.⁵ Concerns about the UAGC purchase prompted Department of Education staff to find WSCUC noncompliant with section 602.16(a)(1)(vii) of the *Higher Education Act*, a standard related to clear expectations for educational and training quality related to recruiting and admissions and advertising among other student success metrics.

² *California v. Ashford University*, Case No. 37-208-46134 (Super. Ct. March 3, 2022), https://oag.ca.gov/system/files/attachments/press-docs/37-2018-00046134-CU-MC-CTL_ROA-696_03-03-22_Statement_of_Declaration_1646669688827.pdf

³ Rob Bonta, "Attorney General Bonta: Ashford University Must Pay \$22 Million in Penalties for Defrauding California Students," State of California Department of Justice, March 7, 2022,

<https://oag.ca.gov/news/press-releases/attorney-general-bonta-ashford-university-must-pay-22-million-penalties>

⁴ Michael Friedrich, "Higher Education Watchdogs Urge Oversight as Schools Push Programs Online," Arnold Ventures, September 17, 2020,

<https://www.arnoldventures.org/stories/higher-education-watchdogs-urge-oversight-as-schools-push-programs-online>.

⁵ Lindsay McKenzie, "University of Arizona's Big Online Push," Inside Higher Ed, August 3, 2020, <https://www.insidehighered.com/news/2020/08/04/university-arizona-acquires-ashford-university#>.

In 2022, UAGC ended its contract with Zovio, citing “fundamental differences between the institutions’ missions”.⁶ However, UAGC retained approximately 75% of Zovio’s employees, who continued to work at UAGC after the contract ended.⁷

WSCUC accredited Ashford University prior to UAGC acquiring Ashford, and continued this role following the University of Arizona’s purchase of Ashford in 2020. In 2022, WSCUC issued UAGC a formal “notice of concern” that included recommendations that the institution revise the school’s contract with Zovio, to mitigate risks to students associated with the Zovio contract and recommending that UAGC revise and improve marketing, application, and enrollment processes that contributed to student misunderstandings about tuition price.⁸ However, in 2023, WSCUC, removed the notice of concern while recommending that UAGC continue to refine messaging about the difference between their multiple brand identities (UAGC, University of Arizona and University of Arizona Online) to reduce confusion and increase clarity.⁹ The 2023 letter commended UAGC for its new Culture of Care and commitment to supporting all students “where they are”.¹⁰ While UAGC may have made strides in the time between site visits, WSCUC’s letter also expressed continued concern about variances in student success measures, including retention and graduation rates, by demographic.

It appears that WSCUC mostly took UAGC’s word for its change in culture, without properly investigating whether there was actual change. We would also urge NACIQI members to consider whether a year was long enough for UAGC to have properly addressed concerns, and WSCUC to have properly assessed if the problems raised in its original notice of concern had been corrected.

Although WSCUC eventually took limited action to address concerns about UAGC’s marketing, WSCUC’s actions in connection UAGC were “too little, too late.” WSCUC failed to take decisive action to address the risks to consumers from the arrangement between the University of Arizona and Zovio and failed to adequately address student outcome disparities..

- WSCUC’s review of Thomas Jefferson School of Law

In 2019, the American Bar Association (ABA) withdrew its approval of Thomas Jefferson School of Law (TJSL), citing failure to comply with financial resource, program rigor, and admissions standards. The ABA first noted these areas of noncompliance when it placed the institution on

⁶ Paul Pastorek, “President Speaks: To put students first, colleges need to rethink the OPM model.” Higher Ed Dive, December 12, 2022,

<https://www.highereddive.com/news/president-speaks-university-arizona-global-campus-uagc-cut-ties-opm/638420/#:~:text=Paul%20Pastorek%20is%20the%20CEO,once%20provided%20services%20to%20UAGC>

⁷ David Halperin, “Department of Education Hits Accreditor On Ashford/UAGC Oversight.” Republic Report, February 3, 2023, <https://www.republicreport.org/2023/department-of-education-hits-accreditor-on-ashford-uagc-oversight/>

⁸ WASC Senior College and University Commission, Commission Action Letter to University of Arizona Global Campus, March 8, 2022 <https://wascsenior.app.box.com/s/rx8n5e193qe3n35qclm48mxgak7cvtp2>

⁹ WASC Senior College and University Commission, Commission Action Letter, Special Visit to University of Arizona Global Campus, July 14, 2023 <https://wascsenior.app.box.com/s/as42biqv7w8gujbpd1fvo3gsc1u8dhsz>

¹⁰ *Ibid.*

probation in 2017.¹¹ The school appealed this decision and lost, resulting in a formal end to their accreditation in summer 2023. While ABA accredited, Thomas Jefferson School of Law had consistently ranked below the national and state averages for first time bar passage. Even now, while the institution meets the California Accredited Law Schools (CALS) requirement that they maintain a minimum, five-year cumulative bar examination pass rate of 40 percent or more, its 64.6 percent pass rate¹² means many students incur debt but cannot work in their intended field of study. At a cost of nearly \$100,000 in tuition to complete the JD degree¹³ students deserve access to a program that will adequately prepare them to pass the exam required for licensure.

California-based law schools that lose their ABA accreditation have the option to become State Bar of California-approved institutions. While graduates from non-ABA accredited law schools may sit for the California Bar, they generally cannot sit for the bar exam in other jurisdictions.

Given the ABA's decision to withdraw accreditation of Thomas Jefferson, it is concerning that WSCUC stepped in to provide accreditation so quickly, and seemingly without asking tough questions about how the institution intended to improve the bar pass rate for its students. Based on the most recent data available, from July 2023, only two of the 48 TJSL students taking the California Bar for the first time passed the exam, for a passage rate of four percent.¹⁴ This troublingly low passage rate makes TJSL an outlier amongst other California Accredited law schools. TJSL's peers have a first time pass rate ranging from 8 percent to 60 percent, with the median for all California accredited sitting at 33 percent based on the most recent data. Given how extreme of an outlier TJSL is, it is hard to see why WSCUC has continued to approve the institution. WSCUC's failure to take action to protect students from investing time and money, including incurring considerable debt, with little chance of bar passage, signals that WSCUC is not fulfilling its responsibility as a federally-recognized accreditor.

We encourage the Department to consider improving transparency by providing access to full compliance and staff reports at the same time as it requests public comment. We also recommend that NACIQI and the Department ensure that accreditors are requiring institutions to prove that they have fixed problematic practices, and not take schools at their word that they are changing or that they only have a plan to change.

Sincerely,

¹¹ American Bar Association, Notice of Probation and Specific Remedial Action, Thomas Jefferson School of Law, November 2017

https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/PublicNoticeAnnouncements/2017_november_%20thomas_jefferson_school_of_law_probation_authcheckdam.pdf

¹² State Bar of California, Office of Admissions, 2023 Minimum Cumulative Five-Year Bar Examination Pass Rates for California Accredited Law Schools, Summer 2023

<https://www.calbar.ca.gov/Portals/0/documents/admissions/Education/MinimumPassRateStandardCumulativePassRates.pdf>

¹³ Thomas Jefferson School of Law, Annual Disclosure, January 2024

https://www.tjisl.edu/wp-content/uploads/2024/01/TJSL_-_January-2024-California-Business-and-Professions-Code-6061.7a-Disclosure-for-Accredited-Schools-to-post.pdf

¹⁴ State Bar of California, Office of Admissions, General Statistics Report: California Bar Examination, July 2023

<https://www.calbar.ca.gov/Portals/0/documents/admissions/Examinations/July-2023-CBX-Statistics.pdf>

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