

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

STRATFORD UNIVERSITY, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:20-cv-240-LO-JFA
	)	
ACCREDITING COUNCIL FOR	)	
INDEPENDENT COLLEGES AND	)	
SCHOOLS,	)	
	)	
Defendant.	)	

**PRELIMINARY INJUNCTION**

Before the Court is plaintiff Stratford University, Inc.’s (“plaintiff” or “Stratford”) Emergency Motion for a Temporary Restraining Order and/or Preliminary Injunction, which defendant the Accrediting Council for Independent Colleges and Schools (“defendant” or “ACICS”) opposes. The motion has been fully briefed by both parties and a hearing was held before Judge Brinkema on March 9, 2020. It was subsequently transferred because of extensive overlap with another case.

**I. Legal Standard**

Federal Rule of Civil Procedure 65 authorizes federal courts to issue temporary restraining orders and preliminary injunctions. To receive a preliminary injunction, a movant “must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest.” *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008). “The purpose of a preliminary injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held.” *United States*

*v. South Carolina*, 720 F.3d 518, 524 (4th Cir. 2013) (quoting *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981)) (internal quotation marks omitted).

## **II. Analysis**

For the reasons stated below, the Court finds that Stratford has established each factor.

### **1. Likelihood of Success on the Merits**

To determine the likelihood of Stratford's success on the merits of its claim, the Court must assess whether the current record reveals a likelihood that Stratford was denied due process in connection with the enrollment cessation directive. Stratford is likely to succeed on the merits here for two distinct but related reasons.

Accrediting agencies have a common law duty "employ fair procedures when making decisions affecting their members." *Profl Massage Training Center, Inc. v. Accreditation Alliance of Career Schs. and Colls.*, 781 F.3d 161, 169 (4th Cir. 2015) (citing *McKeesport Hosp. v. Accreditation Council for Graduate Med. Educ.*, 24 F.3d 519, 534-35 (3d Cir. 1994)). ACICS, an accrediting agency, may "require [an] institution to take appropriate action to bring itself into compliance with the *Accreditation Criteria* within a time frame specified by the Council after the institution has been notified that it is not in compliance." Dkt. 1-12 at 1. ACICS notified Stratford of noncompliance in a show cause directive dated December 19, 2019, and that directive specified that ACICS extended Stratford's "accreditation through May 31, 2020," and that "[Stratford] is directed to show-cause **in person** at the April 2020 meeting." Dkt. 1-4 at 4 (emphasis in original). Thus, Stratford is likely to succeed first because ACICS procedures appear to require Stratford be allowed until April to remedy any noncompliance. Moreover, while the Accreditation Criteria contemplate<sup>1</sup> ACICS' ability to force institutions to cease

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<sup>1</sup> This provision only applies where an institution fails to meet retention and job placement rates, but is the only textual reference to cessation of enrollment as an ACICS-directed activity within the Accreditation Criteria.

enrollments, the provision makes clear that cessation of enrollments is an “adverse action.” Dkt. 1-12 at 12. The Accreditation Criteria explicitly provide that institutions “will be allowed the opportunity for a review **before the Council prior to . . . an adverse action.**” Dkt. 1-12 at 14 (emphasis added). Accordingly, Stratford is likely to succeed for a second reason: the Accreditation Criteria appear to guarantee a hearing before ACICS may validly force an institution to cease enrollment. Stratford has therefore demonstrated a likelihood of success on the merits.

## **2. Irreparable Harm**

Absent preliminary relief, the ACICS directive will require Stratford to cease enrolling students. That cessation directive will cause Stratford to forego its incoming student class, thereby causing a significant financial loss. In addition to financial loss, Stratford is likely to suffer from diminished goodwill when it is forced to deny enrollment to students. Furthermore, the public statements of ACICS and the directive are likely to cause irreparable reputational damage to Stratford. For these three reasons the Court finds that Stratford has established a likelihood of irreparable harm absent a preliminary injunction.

## **3. Balance of the Equities**

This factor requires the Court to assess the harms faced by both parties. *E.I. DuPont de Nemours & Co. v. Kolon Indus., Inc.*, 894 F. Supp. 2d 691, 708 (E.D. Va. 2012). While ACICS faces abstract and nonimmediate harms regarding the value of its accreditation, Stratford faces the irreparable harm previously discussed. The immediate effect of ACICS’ directive would be the tantamount to a loss of accreditation, and with no immediate review or appeal available. Accordingly, the balance of the equities tips in Stratford’s favor.

#### **4. Public Interest**

In this case, the public interest considerations include matters such as the value of accreditation as well as public reliance on administrative procedures. While the public undoubtedly has an interest in accrediting agencies ability to act in a self-regulatory manner, the public also has a significant interest in ensuring such actions occur pursuant to agreed upon procedures. In short, the value of accreditation comes from accrediting agencies' integrity in both the accreditation and compliance processes. These two public interests weigh against one another in this case. Yet, the investment-backed expectations of prospective students are also an important public interest. A number of prospective students have invested time and resources in preparing to enroll in Stratford's next class, and this factor accordingly weighs in Stratford's favor.

#### **III. Conclusion**

Having considered the *Winter* factors, Stratford's Emergency Motion for a Preliminary Injunction, Dkt. 14 and Dkt. 3, are hereby **GRANTED IN PART and DENIED IN PART**, and it is hereby

ORDERED, ADJUDGED, and DECREED that defendant, its officers, agents, servants, representatives, employees, and any other person acting in concert or otherwise participating in its aid, be and are enjoined, restrained, and prevented from ordering a cessation of enrollment at the University until defendant has held the March 31, 2020 hearing and made a final determination as to plaintiff's accreditation status; and it is further

ORDERED, ADJUDGED, and DECREED that defendant remove from its website any statement that plaintiff is required to cease new enrollment. As a result, ACICS must remove the

February 26, 2020 letter from its website. ACICS may prepare, issue, and post a revised letter conforming to the requirements of this Order; and it is further


ORDERED, ADJUDGED, and DECREED that plaintiff immediately provide a copy of the attached NOTICE TO PROSPECTIVE STRATFORD UNIVERSITY STUDENTS to all prospective students by both email and First-Class mail; and it is further

ORDERED, ADJUDGED, and DECREED that this preliminary injunction will expire upon defendant's post-hearing determination of plaintiff's accreditation status if that determination is affirmed on appeal by the Review Board. Plaintiff is required to provide a bond of \$1,500.00 in support of this preliminary injunction.

The Clerk is directed to forward copies of this Order to counsel of record.

It is **SO ORDERED**.

March 11, 2020  
Alexandria, Virginia

  
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Liam O'Grady  
United States District Judge

## NOTICE TO PROSPECTIVE STRATFORD UNIVERSITY STUDENTS

The following is important information you should consider in deciding whether to proceed with the program you planned to enroll in at Stratford University beginning March 16, 2020.

To be able to participate in federal student loan and grant programs, Stratford needs accreditation from the Accrediting Council for Independent Colleges and Schools (“ACICS”). ACICS has a set of Criteria that all accredited schools must follow. These Criteria are important; they help make sure that students do not take out loans or pay tuition to attend schools that do not meet certain standards.

Stratford is currently trying to renew its accreditation. During the renewal process, ACICS identified 107 instances in which Stratford was not in compliance with the ACICS Criteria. As of December 2019, five of these issues had not yet been corrected.

Based in part on those issues, ACICS has placed Stratford on “show-cause” status, which means that the university has to provide additional information to convince ACICS that Stratford’s accreditation should not be taken away. A hearing on these and other issues will be held on March 31, 2020.

If ACICS were to remove Stratford’s accreditation, Stratford would not be able to continue operating. If that happened, you would have some options. New students who are unable to complete their first term will receive a 100% refund of tuition and fees paid. This has been Stratford’s policy for a number of years and it will continue. For example, you may be eligible to discharge any loans you took out to attend Stratford. Stratford has also been ordered to create an institutional “teach-out plan,” which would help current students figure out how to finish their degree at another school; however, there is no guarantee that any other school would give you credit for the hours you spent on your program at Stratford.

You will be notified as soon as ACICS has made its decision on Stratford’s accreditation. Any questions concerning this Notice or the accreditation issue should be directed to the University representative with whom you have been dealing.

Should you have any questions regarding this notice, please contact Dr. Dutchie Reid, Vice President of Academic Affairs at [compliance@stratford.edu](mailto:compliance@stratford.edu) or at (703)897-1982 ext. 2414.