

# CFPB, “Please”: Judge Rebuffs CFPB’s Attempt to Compel Documents Regarding For-Profit College Accreditation

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April 26, 2016

Last Thursday, a federal district court judge [in D.C. denied](#) the Consumer Financial Protection Bureau’s (CFPB) attempt to compel documents from the Accrediting Council for Independent Colleges and Schools (ACICS). Rejecting the CFPB’s motion to enforce the Civil Investigative Demand (CID) against ACICS, the court held that “the CFPB lacks authority to investigate the process for accrediting for-profit schools” and thus could not compel ACICS to broadly produce policies and procedures related to the accreditation process.

On August 25, 2015, the CFPB issued a CID to ACICS for the stated purpose of “determin[ing] whether any entity or person has engaged or is engaging in unlawful acts and practices in connection with accrediting for-profit colleges.” The CFPB also pointed to previous investigations of the lending practices of for-profit colleges as providing a basis for an investigation into the accreditation process itself. Counsel for ACICS objected to the CID and filed a motion to set aside or modify the CID, but the CFPB declined and ultimately brought a motion to enforce the CID in court.

In its decision on Thursday, the court noted that, in determining whether to enforce a petition, the relevant standard is whether “the information sought is relevant to an investigation for a ‘lawfully authorized purpose.’” The court further explained that under the Dodd-Frank Act, which created and authorized the CFPB, the Bureau was empowered to prevent “a covered person or service provider from committing or engaging in an unfair, deceptive, or abusive act or practice under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service.” Because consumer financial laws do not “even tangentially implicate the accrediting process of for-profit colleges,” the court held that “the CID’s statement of purpose appears to concern a subject matter that is not within the statutory jurisdiction of the CFPB.”

The court addressed and rejected the Bureau’s argument that it could investigate ACICS for potential connections to private student lending practices as a “post-hoc justification” and a “bridge too far,” finding that “the accreditation process simply has no connection to a school’s private student lending practices.” Finally, the court responded with a simple declaratory “Please” to the CFPB’s suggestion that it need not accept ACICS’s generalized description of its activities. According to the court, the CFPB made clear that its inquiry was not limited to private student lending practices but rather concerned the accreditation process generally. While the case is surely a victory for ACICS and a notable setback to the CFPB’s broad assertion of jurisdiction and authority, the court acknowledged that the CFPB may be able to seek information from ACICS related to potential

violations of consumer financial laws by the schools it accredits, but held that the statement of purpose in the current CID was simply too broad.

It remains to be seen whether the CFPB will appeal the decision, narrow the CID consistent with the court's direction, or abandon the matter altogether.