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June 24, 2019

The Honorable Betsy DeVos  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Secretary DeVos:

Over the past six months, three major for-profit college chains have closed abruptly, leaving tens of thousands of students with substantial debt and limited options for transferring their credits or completing their degrees. These abrupt closures call into question the adequacy of the Department's oversight of the finances of institutions of higher education (IHEs).

I have questions concerning the Department's enforcement, or lack thereof, of existing financial responsibility regulations which has served to benefit for-profit executives at the expense of students and taxpayers. When the Department fails to both predict institutional closures and insure its federal investment against loss by collecting sufficient letters of credit (LOCs) required by law and regulations, taxpayers are forced to cover the cost of the closure.

To better understand the Department's oversight process, I request the following information by July 5, 2019:

**Costs to Taxpayers**

1. For all Title IV-eligible IHEs that have closed since the beginning of award year 2014-2015, indicate the following:
  - a. The amount of Title IV funds that flowed to the IHE for each of the 5 years prior to the IHE's closure;
  - b. The number of students enrolled for each of the 5 years prior to the IHE's closure;
  - c. The amount of outstanding debt for any students enrolled within 120 days of closure;
  - d. The financial composite scores for the 5 years preceding each IHEs' closure;

- e. The number and amount of any LOCs on file at the time of each closure and an indication of when such LOCs were submitted to the Department; and
  - f. All changes to the amount guaranteed by LOCs on file in the 5 years prior to the IHE's closure.
2. Provide documentation of any risk analysis of the financial condition of IHEs participating in Title IV conducted by the Multi-Regional and Foreign Schools Participation Division or any other office within the Department. Include documentation sufficient to show:
    - a. The Department's process for developing and testing the risk analysis;
    - b. The methodology underlying the risk analysis;
    - c. All IHEs the Department considers to have any risk of closure, indicating the IHE's risk level.

### **Implementation of Financial Responsibility Regulations**

3. For all IHEs owned or operated at any point by ITT Technical Institute (ITT), Corinthian Colleges (Corinthian), Education Corporation of America (ECA), Dream Center Educational Holdings (DCEH), Education Management Corporation (EDMC), or Education Principle Foundation (EPF), provide the following:
  - a. Debt-Equity Ratios, Acid-Test Ratios, Operating Margins, Net-Margin, or any other measures of these IHE's financial health that the Department requested, received, or developed over the prior 10 years; and
  - b. All documents produced by the IHEs or the Department related to financial statements, financial health, or other related financial matters as part of any of these IHEs' application for change in ownership application pursuant to 34 C.F.R. § 600.31.
4. For all IHEs owned or operated at any point by ITT, Corinthian, ECA, DCEH, EDMC, or EPF provide documentation of all Department-imposed conditions, limitations, or sanctions related to participation in Title IV student aid program. This shall include, but not be limited to:
  - a. Copies of all amendments to these IHEs program participation agreements for the 5 years preceding their closure;
  - b. The imposition of and subsequent changes to the heightened cash monitoring status of these IHEs;
  - c. The imposition of reporting requirements or disclosure requirements in addition to those required of all institutions participating in the Title IV student aid program, such as bi-monthly cash flow projections;
  - d. The requirement of a LOC or other form of surety and any subsequent increase in the financial protection amount or release of such funds to the IHE; including the dates and amounts of financial protection requested, received, and/or released and any extensions provided to the IHEs;
  - e. Any requirements that the IHE provide notice to students related to the IHE's financial condition or change in ownership or control;
  - f. Any requirement that the IHE provide either to the Department or the IHE's institutional accreditors with teach out plans or teach-out agreements;

- g. Any prohibitions on the institution or any of its programs from enrolling any new Title IV students, capping enrollment of such students, or limitations on growth in enrollment of such students; and
  - h. Any prohibitions on the payment of any bonuses, severance payments, raises, or retention payments to any of its management or directors.
5. On March 15, 2019 the Department released an electronic announcement notifying all IHEs participating in Title IV of their existing responsibility to report financial responsibility events, actions, and conditions specified in the 2016 Borrower Defense rule.<sup>1</sup> IHEs were instructed to report, by May 14, 2019, all triggering events that occurred after July 1, 2017.
- a. Provide documentation of all triggering events reported under these regulations to the Department as of the date of the Department's response to this letter.
  - b. Provide documentation of any Department action taken based on those triggering events.

#### **Implementation of Inspector General Recommendations (Audit A09Q0001)**

6. Has the Department developed or does the Department plan to add to a future rulemaking agenda a financial stress test as recommended by the ED OIG and as provided for in the 2016 borrower defense rule?<sup>2</sup>

Following the receipt of the above detailed financial responsibility issues I expect that representatives from FSA will brief my staff on the substance of the Department's response.

Sincerely,



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**ROBERT C. "BOBBY" SCOTT**  
Chairman

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<sup>1</sup> <https://ifap.ed.gov/eannouncements/030719GuidConcernProv2016BorrowerDefensetoRypmtRegs.html>

<sup>2</sup> 2016 BD Rule at 76003 (to be codified at 34 CFR § 668.171(g)(3)).