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October 22, 2019

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

Dear Secretary DeVos:

This letter is in regards to the Committee's ongoing inquiry into the Department of Education's ("Department's") role in misconduct perpetrated by a predatory for-profit college against students and taxpayers.¹ As outlined in my July 16 letter, executives at Dream Center Education Holdings (Dream Center) misled students for a period of five months, falsely indicating that two of its institutions of higher education (IHEs) were accredited. Documents referenced in that letter suggest that high-ranking Department officials knew that Dream Center misrepresented this key information, failed to immediately act, and instead worked to secure *retroactive accreditation* for the unaccredited Dream Center IHEs, in contravention of Department policy in place at the time.²

The Department has failed to substantively respond to my July 17 letter. In fact, eight weeks after the letter was transmitted, Department staff acknowledged to Committee staff that the Department had not yet begun reviewing the requested documents. To date, the Department has only transmitted a small set of documents, the majority of which are not pertinent to the request made in the July 17 letter. While providing nothing to meaningfully clarify the record, the Department somehow asserts that "Dream Center's management received no special treatment."³

Despite the Department's unresponsiveness, the Committee has uncovered two new documents, enclosed with this letter, which raise questions about whether the Department lawfully released funds to Dream Center. These documents indicate that the Department disbursed federal funds to Dream Center despite federal regulations that prohibit preaccredited for-profit IHEs, like the Dream Center IHEs in question, from being eligible to receive federal student aid funds.⁴ The documents also indicate that after releasing those funds, the Department sought to give *retroactive non-profit status* to the institutions. This raises further questions about the dates of

and extent of the coordination between Department officials and Dream Center executives, across the period of Dream Center's misrepresentations.

As such, I request the Department's immediate and complete compliance with my requests.

I. Newly discovered documents reveal that the Department made improper payments to two Dream Center IHEs while they were unaccredited, despite legal requirements making accreditation a prerequisite for such distribution.

The Higher Education Act (HEA) creates a triad oversight structure for IHEs that wish to receive federal student aid funds.⁵ Generally speaking, in order to be eligible to receive federal financial aid⁶ an IHE must:

- 1) be accredited by a federally-recognized accreditor,
- 2) obtain authorization by a state to do business, and
- 3) come into compliance with various federal requirements monitored by the Department (e.g., financial responsibility composite scores, cohort default rate).⁷

In regards to the accreditation requirement, HEA and its implementing regulations specify that a non-profit IHE can receive federal student aid if it is either fully accredited *or* pre-accredited,⁸ but a for-profit IHE must be *fully accredited* to receive aid. In letters to Dream Center executives, the Department official charged with oversight and compliance of for-profit schools put it simply: "[the HEA] require[s] a proprietary institution of higher education to be fully accredited to qualify as an eligible institution for purposes of the Title IV, HEA programs, and do[es] not allow for preaccredited (or candidacy) status."⁹

From January 20, 2018 through May 3, 2018, every Dream Center campus operated as a for-profit institution, including two that had preaccredited status: Art Institute of Illinois and Colorado Art Institute.¹⁰ Federal law dictated that they were ineligible to receive federal student aid funds during this period, because these institutions lacked full accreditation and were also for-profit institutions. Yet, Department data show that during this period these two campuses disbursed as much as \$10.7 million in improperly obtained federal student aid grants and loans.¹¹

Two newly uncovered documents, enclosed with this letter, raise questions about whether the Department unlawfully released these funds to Dream Center while the schools were not fully accredited.¹² These two letters were sent on May 3, 2018 from Michael Frola, the for-profit oversight director at the Office of Federal Student Aid (FSA), to Dream Center executives. The letters contained almost identical Departmental determinations directed at the same two institutions at the center of the accreditation misrepresentation laid out in my July 17 letter. They reveal four key facts:

- 1) As of January 20, 2018, the Art Institute of Illinois and Colorado Art Institute were "no longer qualifie[d]" to receive federal funds.¹³
- 2) Nonetheless, between January 20 and May 3 the Department improperly distributed millions of dollars in federal student aid to the two schools.

- 3) On or before May 3, 2018 the Department's for-profit oversight director, who reports to Undersecretary Jones¹⁴, knew that the two Dream Center schools were unaccredited at least three months into the five-month period in which Dream Center falsely advertised these schools as accredited.¹⁵
- 4) The Department retroactively approved the conversion of the Art Institute of Colorado and the Illinois Art Institute into non-profit IHEs to circumvent the accreditation requirements applicable to for-profit IHEs.

II. The Department's decision to retroactively deem the Dream Center campuses non-profit IHEs suggests the Department's initial payments were improper.

My July 17 letter presented evidence that Dream Center executives believed, based on communication from Undersecretary Jones, that the Department would work to retroactively accredit the schools at issue.¹⁶ The newly revealed documents attached to this letter show that, beyond the Department's August 2018 retroactive accreditation decision, the Department also had earlier assisted these schools by retroactively approving their conversion from for-profit to non-profit status.

As described above, the Department can legally authorize a preaccredited school to receive federal student aid, but the school must be a non-profit institution. So the payments made to the Dream Center IHEs would be proper if the schools were actually non-profit schools. While the Department's process for determining if a for-profit IHE has successfully converted into a non-profit IHE is not transparent, HEA and its accompanying regulations would require at the least that the Department establish that a school does not exist to serve the interests of its owners, executives or any other private individual.¹⁷ There is no evidence that the Department made this determination¹⁸ regarding the Art Institute of Illinois and Colorado Art Institute before the Department issued its May 3 letter approving the two institutions' non-profit conversion applications. In fact, we now know that no Dream Center-owned IHE would ever successfully complete this process, because, in a February 2019 letter signed by Undersecretary Jones, the Department determined that Dream Center had never met the legal requirements to justify such a conversion.¹⁹

The Department's May 3 determination letters made no attempt to ground this retroactive temporary non-profit conversion of Dream Center in any standard or criteria. Instead, the letters simply stated the "temporary non-profit status" granted by the Department was "[t]o avoid the lapse in eligibility" for federal funding. In actuality, the grant of temporary non-profit status was directed at what had at that time, been a five-month lapse in eligibility, and five months where Dream Center was receiving funds in violation of HEA and accompanying regulations. Instead of conducting rigorous oversight of a complex and risky financial transaction, the Department focused instead on papering over the liability of the two institutions' executives, while these very executives were actively misleading their students.²⁰ Hindsight only magnifies this error, as we now know the retroactive non-profit conversion of these schools allowed Dream Center IHEs to remain eligible recipients of federal student aid longer than they would otherwise have been

eligible. This “special treatment” allowed more students to become entangled in Dream Center, magnifying the abrupt closure of the schools and the displacement of thousands of students.

III. The Department’s response to Congressional investigations has been dilatory, failing to answer any of the key questions raised by my July 17 letter.

Though the Department claimed that it never provided “special treatment” to Dream Center, its disregard of HEA requirements and subsequent non-public retroactive conversion are two new examples to the contrary.²¹ To my knowledge, this is the first and only time the Department has retroactively converted an IHE from for-profit to non-profit status. If this retroactive conversion is common practice, the Department should be able to provide records confirming this.

Additionally, the Department has failed to answer, explicitly or by providing relevant responsive documents, any of the key questions raised by my July 17 letter. Specifically:

- 1) *When did the Department of Education know that two Dream Center schools had lost accreditation status?* The Department certified to Congress that Undersecretary Diane Auer Jones learned on July 11, 2018 that the two Dream Center schools at issue lost accreditation.²² Documents reveal that there were *at least two different instances prior to July 11, 2018*, in which Dream Center executives report speaking with Undersecretary Jones about this accreditation status.²³ Further, on May 3, 2018 one of the offices overseen by the Undersecretary²⁴ took official action showing it was aware of the schools’ accreditation status.²⁵
- 2) *Rather than pushing Dream Center to notify students of its loss of accreditation, did the Department change its policy to help Dream Center get “retroactive accreditation”?* Undersecretary Jones testified under oath that the Department’s shift in policy to allow retroactive accreditation had “nothing to do with the Dream Center.”²⁶ Yet in a meeting with 50 faculty and staff, a Dream Center executive stated: “We have met with the [Department of Education] ... the [Department of Education] is working with HLC (the accreditor) to get this accreditation issue gone. *They went so far as to change a regulation at DoE to make it easy for HLC to help us.*”²⁷ The executive also said that if Dream Center schools regained accreditation, it would be retroactive because “*the [Department of Education] changed their regulation over here to open the door to letting it happen.*”²⁸ Notably, this recording occurred three weeks before the Undersecretary Jones announced this change and the executive names Undersecretary Jones as his point of contact at the Department.
- 3) *Why did the Department of Education continue providing taxpayer funding to Dream Center schools after January 2018, when they were no longer accredited institutions eligible for taxpayer money?* The Department repeatedly told Congress that it believed Dream Center schools remained in accredited status throughout that time period.²⁹ The enclosed documents suggest that between Jan. 20 and May 3, 2018 any taxpayer dollars the Department disbursed to the Dream Center IHEs was unlawful, and only deemed lawful by the Department’s retroactive decision.

IV. The Department has failed to live up to its commitment to provide materials responsive to my request.

The Department sought a staged response to my request for transcribed interviews and documents. While Committee staff accommodated this request, the Department has failed to expediently comply with its own proposal.³⁰ For example, despite numerous requests for production, Department staff informed Committee staff that as of September 6, approximately 8 weeks after my request, the Department had not begun reviewing documents to respond to my request. Further, the Department's first and only production to date did not respond to the Committee's prioritization instructions.

In keeping with the content of the July 17 letter, Committee staff requested the Department first produce all communications to or from Undersecretary Jones relating to Dream Center. Instead, the Department produced one email responsive to that sub-request³¹ and hundreds of pages of unrelated documents. For example, of the 889 pages of "responsive" documents, 532 pages were news clippings circulated to hundreds of Department staff.³² The Department only produced two other emails, but both pre-dated the Undersecretary's tenure at the Department and the Department redacted the majority of the text of those emails without any justification for the redactions.³³

Neither the substance nor the rate of the Department's production indicates that the Department is cooperating with this investigation.

The Department's initial response claims that "Committee staff at once allege Dream Center executives mislead students and mismanaged institutions but also rely on emails from those very same executives." Here, the Department is trying to have it both ways: stonewalling the Committee's document requests to deny the Committee government documents while complaining that the Committee has focused on non-government documents. Indeed, the Department itself could address its stated concerns by cooperating with the Committee's information requests. A fully responsive document production by the Department would inform the Committee's and public's understanding of Undersecretary Jones's conduct, as well as the conduct of those under her supervision. Until the Department produces documentation to the contrary, the Committee is left to rely on the documents it has, ones that suggest that conduct was at the least highly concerning.

The Committee's requests and efforts to accommodate the Department have been made as part of the Committee's efforts to conduct legitimate oversight of Department conduct concerning millions of taxpayer dollars and the lives of thousands of students. If the Department continues to refuse to respond, the Committee will then be forced to conclude that the Department is purposefully frustrating Congressional oversight for reasons that are not in the best interest of the American taxpaying public. Therefore, the Committee is left to consider utilizing the full powers at Congress' disposal to obtain these critical documents.

Accordingly, please provide documents sufficient to show:

- 1) The date Director Frola was made aware that Higher Learning Commission (HLC) moved Art Institute of Colorado and the Illinois Art Institute into candidacy status;
- 2) The date Undersecretary Diane Auer Jones was made aware that HLC moved the Art Institute of Colorado and the Illinois Art Institute into candidacy status;
- 3) All Department officials Director Frola consulted with prior to the Department's decision to retroactively convert the Art Institute of Colorado and the Illinois Art Institute to non-profit institutions on May 3, 2018;
- 4) A complete accounting of how the Department has expended, obligated, or otherwise authorized the use of Dream Center Education Holding's letter of credit funds or proceeds from those letters of credit or those funds for any Dream Center Education Holdings subsidiary institution;
- 5) Every other occasion that the Department has released letter of credit funds or proceeds from letters of credit to pay for the costs associated with teaching campuses out;
- 6) Every occasion that the Department has retroactively converted a proprietary institution into a non-profit institution;
- 7) The amount of Title IV funds disbursed to each institution owned by Education Management Corporation, Dream Center Education Holdings, or Education Principle Foundation, for the prior 5 program years, disaggregated by year and 8-digit OPEID.

For Dream Center Education Holdings, Education Management Corporation, Education Principle Foundation, or any subsidiary institution, please also provide all documentation of its:

- 1) Compliance with the 90-10 Rule³⁴;
- 2) Compliance with Gainful Employment;
- 3) Program Participation Agreements, Provisional Program Participation Agreements, or Temporary Provisional Program Participation agreements.

I request that you agree to produce materials responsive to this, and my prior request, in accordance with a strict production schedule in weekly increments, with a fully responsive production occurring by November 26, 2019. A copy of the Committee's production schedule, which was initially transmitted to Education staff on August 2, 2019, is enclosed with this letter. Further, I request that your production comply with the production instructions enclosed with this letter. If you have any questions, please contact Benjamin Sinoff at Benjamin.Sinoff@mail.house.gov. Please direct all official correspondence to the Committee's Chief Clerk at Tylease.Fitzgerald@mail.house.gov.

Sincerely,



ROBERT C. "BOBBY" SCOTT

Chairman

Attachment

¹ Chairman Robert C. “Bobby” Scott, *Letter to Secretary Betsy DeVos*, re: Dream Center Education Holdings (July 17, 2019) available at <https://edlabor.house.gov/download/chairman-scott-letter-to-secretary-devos-regarding-departments-role-in-dream-center-collapse>.

² “Murphy, Shelly, *Re: DOE Correspondence* (Aug. 3, 2018)”, enclosed as Exhibit 11 with July 17, 2019 Letter from Chairman Scott.

³ Acting General Counsel Reed D. Rubinstein, responding on behalf of Secretary Betsy DeVos, *Letter to Chairman Robert C. “Bobby” Scott* (July 22, 2019).

⁴ In my July 17 letter, I demonstrated that Higher Learning Commission (HLC) had not accredited the Dream Center IHEs in question. The documents released with this letter show that FSA considered these schools as *pre-accredited*. This is not a substantive distinction, but instead reflects differing terms used by FSA and HLC. FSA has no authority to accredit institutions but considers non-profit IHEs that can demonstrate that they are on-track for accreditation as pre-accredited. These non-profit IHEs on track for accreditation can be eligible for federal student aid. HLC, the accreditor involved with the two Dream Center IHEs at issue, determined that the two Dream Center institutions were not accredited. HLC communicated this fact repeatedly to Dream Center, stating that its “courses or degrees are not accredited by HLC.” See “Higher Learning Commission, Public Disclosure Notice (Jan. 12, 2018)” enclosed as Exhibit 3, with July 17, 2019 Letter from Chairman Scott; See also “Higher Learning Commission, *Public Disclosure Notice* (Feb. 7, 2018)” enclosed as Exhibit 4 with July 17, 2019 Letter from Chairman Scott. HLC further clarified this fact in communications with Committee staff, stating that “[a]n institution in candidacy status is not accredited. The two Art Institutes remained in candidacy status at all times after January 2018 until their closure.” See “Higher Learning Commission, *Higher Learning Commission Response to Committee Questions* (June 28, 2019)” enclosed as Exhibit 3 with July 17, 2019 Letter from Chairman Scott.

⁵ 20 U.S.C. §§ 1099a-1099c.

⁶ The Department authorizes institutions of higher education – colleges and universities – to receive federal financial aid if those institutions meet specific statutory and regulatory criteria. This authorization allows students attending those institutions to obtain federal student loans, Pell grants, federal work study grants, and other forms of financial aid. Many schools rely on this access to maintain financial viability.

⁷ 20 U.S.C. § 1099c (“Secretary shall determine the legal authority to operate within a State, the accreditation status, and the administrative capability and financial responsibility of an institution of higher education in accordance with the requirements of this section.”)

⁸ Accreditation “means the status of public recognition that an accrediting agency grants to an educational institution or program that meets the agency’s standards and requirements.” 34 C.F.R. § 602.3. In contrast, preaccreditation signifies that the accrediting “agency has determined that the institution or program is progressing towards accreditation and is likely to attain accreditation before the expiration of that limited period of time.” *Id.* Accreditors may move a school from fully accredited to preaccredited for any number of reasons, including a change in ownership. *Id.*

⁹ See Exhibit 1, Frola, Michael, U.S. Dept. of Education, Office of Federal Student Aid, *RE: Interim Decision on Change of Ownership and Conversion to Nonprofit status OPE ID: 02078900*, (May 3, 2018); Exhibit 2, Frola, Michael, U.S. Dept. of Education, Office of Federal Student Aid, *RE: Interim Decision on Change of Ownership and Conversion to Nonprofit status OPE ID: 01258400*, (May 3, 2018). See also 20 U.S.C. § 1001-02 (defining an eligible institution as either proprietary and fully accredited or non-profit or public and preaccredited or fully accredited); 34 C.F.R. § 600.5(a)(6) (requiring a proprietary institution of higher education to be fully accredited to qualify as an eligible institution for purposes of the Title IV, HEA programs); *but see* 34 C.F.R. 600.4(a)(5)(i) (allowing a private nonprofit institution to qualify as an eligible Title IV institution with preaccredited (candidacy) status.)

¹⁰ See Exhibit 1 and Exhibit 2.

¹¹ Committee Analysis of FSA Data Center Title IV Program Volume Reports for 2017-18 Award Year, available at <https://studentaid.ed.gov/sa/about/data-center/student/title-iv>.

¹² See Exhibit 1 and Exhibit 2.

¹³ *Id.*

¹⁴ Michael Frola is the Director for the Department’s Multi-Regional and Foreign Schools Participation Division, which oversees large for-profit corporations which operate nationally. This division is a component of FSA which is overseen by Undersecretary Jones. See <https://www2.ed.gov/about/offices/or/index.html>.

¹⁵ “U.S. Dept. of Education Responses to Sen. Durbin Questions for the Record (May 28, 2019)”; enclosed as Exhibit 14 with July 17, 2019 Letter from Chairman Scott.

¹⁶ Chairman Robert C. “Bobby” Scott, Letter to Secretary Betsy DeVos, re: Dream Center Education Holdings (July 17, 2019).

¹⁷ Higher Education Act of 1965, § 103 (2012); 34 C.F.R. § 600.2; *see also* Shireman, Robert, *The Covert For-Profit: How College Owners Escape Oversight through a Regulatory Blind Spot* (Sept. 22, 2015).

¹⁸ Auer Jones, Diane U.S. Dept. of Education, Office of Federal Student Aid, *Re: Denial of Change of Ownership Argosy University OPE ID: 02179900*, p. 2 (Feb 27, 2019).

¹⁹ *Id.* at 2. *See also*, Shireman, Robert, *The Covert For-Profit: How College Owners Escape Oversight through a Regulatory Blind Spot* (Sept. 22, 2015).

²⁰ *See* Exhibit 1 and Exhibit 2.

²¹ *See* Acting General Counsel Reed D. Rubinstein, responding on behalf of Secretary Betsy DeVos, *Letter to Chairman Robert C. “Bobby” Scott* (July 22, 2019).

²² “U.S. Dept. of Education Responses to Sen. Durbin Questions for the Record (May 28, 2019)”; enclosed as Exhibit 14 with July 17, 2019 Letter from Chairman Scott.

²³ *See* “Barton, Randall, *Re HLC - Any News?* (July 3, 2018)” enclosed as Exhibit 12 with July 17, 2019 Letter from Chairman Scott and Audio recording: Meeting between John Crowley, Chief Operating Officer, Dream Center, and Faculty of the Illinois Art Institute, at minute 29 (July 11, 2018) [hereinafter Crowley Recording](on file with author).

²⁴ *See* <https://www2.ed.gov/about/offices/or/index.html>

²⁵ *See* Exhibit 1 and Exhibit 2.

²⁶ *See Examining For-Profit College Oversight and Student Debt: Hearing Before the Subcomm. on Economic and Consumer Policy of the H. Comm. On Oversight and Reform, 116th Cong. (2019)* (questioning by Rep. Shalala of Undersec’y Jones) available at <https://oversight.house.gov/legislation/hearings/examining-for-profit-collegeoversight-and-student-debt>). Acting General Counsel Reed D. Rubinstein, responding on behalf of Secretary Betsy DeVos, *Letter to Chairman Robert C. “Bobby” Scott* (July 22, 2019).

²⁷ Crowley Recording (emphasis added).

²⁸ *Id.* at minute 14.

²⁹ “U.S. Dept. of Education Responses to Sen. Durbin Questions for the Record (May 28, 2019)”; enclosed as Exhibit 14 with July 17, 2019 Letter from Chairman Scott. *See also Examining For-Profit College Oversight and Student Debt: Hearing Before the Subcomm. on Economic and Consumer Policy of the H. Comm. On Oversight and Reform, 116th Cong. (2019)* (questioning by Rep. Shalala of Undersec’y Jones) (Undersecretary Jones claiming that “pre accredited is an accredited status”.)

³⁰ *See* Acting General Counsel Reed D. Rubinstein, responding on behalf of Secretary Betsy DeVos, *Letter to Chairman Robert C. “Bobby” Scott* (July 22, 2019).

³¹ The Department’s production is on file with the author.

³² Pages 1-136, 142-437, 466-567.

³³ Pages 136-141

³⁴ 20 U.S.C. § 1094(a)(24).

Enclosure 1:

Exhibits

Exhibit 1

Date Transmitted: May 3, 2018

From: U.S. Department of Education

Subject: *RE: Interim Decision on Change of Ownership and Conversion to Nonprofit status OPE*

ID: 02078900



May 3, 2018

Sent via email and by overnight mail

Mr. Elden R. Monday
Interim President
The Art Institute of Colorado
1200 Lincoln Street
Denver, CO 80203-2172

**RE: Interim Decision on Change of Ownership and Conversion to Nonprofit status
OPE ID: 02078900**

Dear Mr. Monday:

On February 8, 2018, the Multi-Regional and Foreign School Participation Division ("MRFSPD") sent a letter notifying you that the U.S. Department of Education ("Department") had completed its preliminary review of the application of The Art Institute of Colorado ("Art Institute") for approval of a change in ownership resulting in a change of control.

In that letter, the MRFSPD notified you that on the basis of that review, the Department determined that the application was materially complete, and had granted the Art Institute Temporary Provisional Certification for a period ending on the last day of the month following the month in which the change of ownership took place, which was February 28, 2018.

The Department requested the Art Institute to review and sign two copies of the Temporary Program Participation Agreement ("PPA") and return both signed copies. The Art Institute returned the signed Temporary PPAs, after which, on February 20, 2018, the Department signed the Temporary PPAs on behalf of the Secretary of Education and sent one fully executed copy to the institution.

In the February 20, 2018 letter, the Department notified the Art Institute that the temporary PPA would continue on a month-to-month basis until the Department made a determination on the application if, prior to the stated expiration date of February 28, 2018, the institution submitted to the Department the following documents, among other things: an audited "same-day" balance sheet, prepared in accordance with Generally Accepted Accounting Principles ("GAAP") and audited in accordance with Generally Accepted Government Accounting Standards ("GAGAS"), which showed the financial condition of the institution (the resulting entity) as of the date of the change in ownership; approval of the change in ownership by the institution's accrediting agency, the Higher Learning Commission ("HLC"); approval of the change in ownership by the institution's state licensing agency; and a copy of the institution's default management plan.

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION

Multi-Regional & Foreign Schools Participation Division
830 First Street NE • Washington, DC • 20202
StudentAid.gov

The Department notified the Art Institute in the letter that if this documentation was not provided by the expiration date of the Temporary PPA, February 28, 2018, the Temporary PPA would expire on that date without further notice.

The Art Institute timely submitted its "same-day" balance sheet, the Colorado Commission on Higher Education's February 21, 2018 approval of the change in ownership, and its Default Management Plan. With regard to accreditation approval, however, the Department has learned that HLC transitioned the Art Institute from being accredited to being a candidate for accreditation effective January 20, 2018. In particular, HLC imposed "Change of Control-Candidacy" status on the institution as of the January 20, 2018 close of its sale by Education Management Corporation ("EDMC") to the Dream Center Foundation ("DCF") through Dream Center Education Holdings ("DCEH"). According to HLC, the period of Change of Control-Candidacy status can last from a minimum of six months to a maximum of four years. The provisions of 34 C.F.R. 600.5(a)(6) require a proprietary institution of higher education to be fully accredited to qualify as an eligible institution for purposes of the Title IV, HEA programs, and do not allow for pre-accredited (or candidacy) status. The provisions of 34 C.F.R. 600.4(a)(5)(i) do, however, allow a private nonprofit institution to qualify as an eligible Title IV institution with preaccredited (candidacy) status. Due to this accreditation status, the Art Institute no longer qualifies as an eligible institution to participate in the Title IV, HEA programs as a for-profit institution.

To avoid the lapse of eligibility, and given the pending application for the change of ownership that includes a requested conversion to non-profit status, the Department is granting the institution temporary interim non-profit status during the review of the pending change of ownership application, to the Art Institute, effective January 20, 2018. The Department will continue the Temporary PPA on a month to month basis until the Department makes a final determination on the application. Although the Art Institute has not provided approval of the change in ownership by HLC, the Department understands that the matter is proceeding in accordance with HLC's normal process.

The Art Institute is reminded that, as set forth in the Department's September 12, 2017 Preacquisition review letter sent to DCFH, unless and until the conversion to nonprofit institution status is fully and finally approved by the Department, the Art Institute must continue to report its Title IV revenue percentage (90/10 percentage), as well as its gainful employment data for its educational programs.

In the February 20, 2018 letter transmitting the Temporary PPA, the Department notified the Art Institute that the Eligibility and Certification Approval Report ("ECAR") under which the institution had been operating prior to the change in ownership remained in effect with respect to approval of locations, educational programs, and the Title IV, HEA programs. The ECAR identified the institution as a proprietary institution of higher education. The Department will not be issuing a new ECAR reflecting the temporary designation of non-profit status. This letter will serve as evidence of the Art Institute's temporary conditional approval as a private non-profit institution.

If you have any questions, please contact Tara Sikora at Tara.Sikora@ed.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Frola". The signature is fluid and cursive, with the first name "Michael" and last name "Frola" clearly distinguishable.

Michael Frola
Division Director
Multi-Regional and Foreign School Participation Division

cc: Brent Richardson, Chief Executive Officer, Dream Center Education Holdings, LLC
(email: brichardson@dcedh.org)
Shelly Murphy, Chief Officer Regulatory and Government Affairs, Dream Center
Education Holdings, LLC (email: smurphy@dcedh.org)

Exhibit 2

Date Transmitted: May 3, 2018

From: U.S. Department of Education

Subject: *RE: Interim Decision on Change of Ownership and Conversion to Nonprofit status OPE*

ID: 01258400



May 3, 2018

Sent via email and by overnight mail

Mr. David Ray
Interim President
The Illinois Institute of Art
350 North Orleans Street, Suite 136-L
Chicago, IL 60654-1593

**RE: Interim Decision on Change of Ownership and Conversion to Nonprofit status
OPE ID: 01258400**

Dear Mr. Ray:

On February 8, 2018, the Multi-Regional and Foreign School Participation Division ("MRFSPD") sent a letter notifying you that the U.S. Department of Education ("Department") had completed its preliminary review of the application of The Illinois Institute of Art ("Art Institute") for approval of a change in ownership resulting in a change of control.

In that letter, the MRFSPD notified you that on the basis of that review, the Department determined that the application was materially complete, and had granted the Art Institute Temporary Provisional Certification for a period ending on the last day of the month following the month in which the change of ownership took place, which was February 28, 2018.

The Department requested the Art Institute to review and sign two copies of the Temporary Program Participation Agreement ("PPA") and return both signed copies. The Art Institute returned the signed Temporary PPAs, after which, on February 20, 2018, the Department signed the Temporary PPAs on behalf of the Secretary of Education and sent one fully executed copy to the institution.

In the February 20, 2018 letter, the Department notified the Art Institute that the temporary PPA would continue on a month-to-month basis until the Department made a determination on the application if, prior to the stated expiration date of February 28, 2018, the institution submitted to the Department the following documents, among other things: an audited "same-day" balance sheet, prepared in accordance with Generally Accepted Accounting Principles ("GAAP") and audited in accordance with Generally Accepted Government Accounting Standards ("GAGAS"), which showed the financial condition of the institution (the resulting entity) as of the date of the change in ownership; approval of the change in ownership by the institution's accrediting agency, the Higher Learning Commission ("HLC"); approval of the change in ownership by the institution's state licensing agency; and a copy of the institution's default management plan.

Federal Student Aid

An OFFICE of the U.S. DEPARTMENT of EDUCATION

Multi-Regional & Foreign Schools Participation Division

830 First Street NE • Washington, DC • 20202

StudentAid.gov

The Department notified the Art Institute in the letter that if this documentation was not provided by the expiration date of the Temporary PPA, February 28, 2018, the Temporary PPA would expire on that date without further notice.

The Art Institute timely submitted its "same-day" balance sheet, the Illinois Board of Higher Education's March 2, 2018 acknowledgement of the change in ownership, and its Default Management Plan. With regard to accreditation approval, however, the Department has learned that HLC transitioned the Art Institute from being accredited to being a candidate for accreditation effective January 20, 2018. In particular, HLC imposed "Change of Control-Candidacy" status on the institution as of the January 20, 2018 close of its sale by Education Management Corporation ("EDMC") to the Dream Center Foundation ("DCF") through Dream Center Education Holdings ("DCEH"). According to HLC, the period of Change of Control-Candidacy status can last from a minimum of six months to a maximum of four years. The provisions of 34 C.F.R. 600.5(a)(6) require a proprietary institution of higher education to be fully accredited to qualify as an eligible institution for purposes of the Title IV, HEA programs, and do not allow for pre-accredited (or candidacy) status. The provisions of 34 C.F.R. 600.4(a)(5)(i) do, however, allow a private nonprofit institution to qualify as an eligible Title IV institution with preaccredited (candidacy) status. Due to this accreditation status, the Art Institute no longer qualifies as an eligible institution to participate in the Title IV, HEA programs as a for-profit institution.

To avoid the lapse of eligibility, and given the pending application for the change of ownership that includes a requested conversion to non-profit status, the Department is granting the institution temporary interim non-profit status during the review of the pending change of ownership application, to the Art Institute, effective January 20, 2018. The Department will continue the Temporary PPA on a month to month basis until the Department makes a final determination on the application. Although the Art Institute has not provided approval of the change in ownership by HLC, the Department understands that the matter is proceeding in accordance with HLC's normal process.

The Art Institute is reminded that, as set forth in the Department's September 12, 2017 Preacquisition review letter sent to DCFH, unless and until the conversion to nonprofit institution status is fully and finally approved by the Department, the Art Institute must continue to report its Title IV revenue percentage (90/10 percentage), as well as its gainful employment data for its educational programs.

In the February 20, 2018 letter transmitting the Temporary PPA, the Department notified the Art Institute that the Eligibility and Certification Approval Report ("ECAR") under which the institution had been operating prior to the change in ownership remained in effect with respect to approval of locations, educational programs, and the Title IV, HEA programs. The ECAR identified the institution as a proprietary institution of higher education. The Department will not be issuing a new ECAR reflecting the temporary designation of non-profit status. This letter will serve as evidence of the Art Institute's temporary conditional approval as a private non-profit institution.

If you have any questions, please contact Tara Sikora at Tara.Sikora@ed.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael Frola".

Michael Frola
Division Director
Multi-Regional and Foreign School Participation Division

cc: Brent Richardson, Chief Executive Officer, Dream Center Education Holdings, LLC
(email: brichardson@dcedh.org)
Shelly Murphy, Chief Officer Regulatory and Government Affairs, Dream Center
Education Holdings, LLC (email: smurphy@dcedh.org)

Enclosure 2:

Exhibits enclosed in July 17, 2019 Letter from Chairman Scott to Secretary DeVos

Exhibit 3

Date Transmitted: June 28, 2019

From: Higher Learning Commission

Subject: *Response to Committee Questions*

[REDACTED]

From: [REDACTED]
Sent: Friday, June 28, 2019 4:28 PM
To: [REDACTED]
Subject: Response to your questions.

When the two Art Institutes accepted the Commission's November 2017 conditional approval of the change of control request (which the schools accepted in a signed letter dated January 4, 2018), they agreed they would automatically assume "candidacy status" on the date the DCEH transaction closed. An institution in candidacy status is not accredited. The two Art Institutes remained in candidacy status at all times after January 2018 until their closure.

From: [REDACTED]
Sent: Thursday, June 27, 2019 1:51 PM
To: [REDACTED]
Subject: Re: Quick Call

Thank you.

Sent from my iPhone

On Jun 27, 2019, at 1:43 PM, [REDACTED] wrote:

Will respond as promptly as possible, particularly to question 2

From: [REDACTED]
Sent: Thursday, June 27, 2019 1:36 PM
To: [REDACTED]
Subject: RE: Quick Call

My afternoon is rapidly filling up and I think I'll be in meetings for a bit. Can you email me a response instead?

1. Once HLC put the DCEH schools in candidate status they were not accredited by HLC, and *remained* not accredited by HLC through closure, correct?
2. [REDACTED]

Thanks,
[REDACTED]

Exhibit 4

Date Transmitted: Feb. 7, 2018

From: Higher Learning Commission

Subject: *Revised Public Disclosure Notice*



Public Disclosure:
Illinois Institute of Art and
Art Institute of Colorado
From “Accredited” to “Candidate”
Effective: January 20, 2018

The Illinois Institute of Art located in Chicago, Illinois, and the Art Institute of Colorado located in Denver, Colorado, have transitioned to being a candidate for accreditation after previously being accredited. The Higher Learning Commission Board of Trustees voted to impose “Change of Control-Candidacy” on the Institutes as of the January 20 close of their sale by Education Management Corp. to the Dream Center Foundation through Dream Center Education Holdings.

This new status also applies to the Illinois Institute of Art campus in Schaumburg and its Art Institute of Michigan campus in Novi, Michigan.

In spring 2017 EDMC requested approval of a Change of Control seeking the extension of the accreditation of these institutions after their proposed sale to the Dream Center Foundation. During its review process of the Change of Control, HLC evaluated the potential for the institutions to continue to ensure a quality education to students after the change of ownership took place. The period of Change of Control-Candidacy status lasts from a minimum of six months to a maximum of four years. During candidacy status, an institution is not accredited but holds a recognized status with HLC indicating the institution meets the standards for candidacy. The institution remains eligible to become accredited again as noted below under Next Steps.

What This Means for Students

Students taking classes or graduating during the candidacy period should know that their courses or degrees are not accredited by HLC and may not be accepted in transfer to other colleges and universities or recognized by prospective employers. Institute courses completed and degrees earned prior to this January 20, 2018, change of status remain accredited. In most cases, other institutions of higher education will accept those credits in transfer or for admission to a higher degree program as they were earned during an HLC accreditation period.

All colleges and universities define their own transfer and admission policies. Students should contact any institution they plan to attend in the future so they are knowledgeable about the admission and transfer policies for that institution.

Next Steps

HLC requires that the Institutes provide proper advisement and accommodations to students in light of this action, which may include, if necessary, assisting students with financial accommodations or transfer arrangements if requested.

Dream Center Education Holdings and Dream Center Foundation are required to submit a report to HLC every 90 days detailing quarterly financials to assess adequate operating resources at each entity and both Institutes.

The Institutes will undergo a campus visit within six months of the transaction closing, as required by policy and federal regulation, and a second visit by June 2019. If at the time of the visits, the Institutes demonstrate compliance with HLC standards, accreditation may be reinstated by the HLC Board.

About the Higher Learning Commission

The Higher Learning Commission accredits approximately 1,000 colleges and universities that have a home base in one of 19 states that stretch from West Virginia to Arizona. HLC is a private, nonprofit accrediting agency. It is recognized by the U.S. Department of Education and the Council for Higher Education Accreditation. Questions? Contact info@hlcommission.org or call 312.263.0456.

Exhibit 11

Date Transmitted: Aug. 3, 2018

From: Shelly Murphy (Dream Center Education Holdings)

Subject: *Re: DOE Correspondence*

From: [Murphy, Shelly M.](#)
To: [Crowley, John E.](#)
Cc: [Richardson, Brent D.](#)
Subject: Re: DOE Correspondence
Date: Friday, August 3, 2018 9:56:16 PM

Hi JC,

I'm working on an email based on my discussions with the DOE. We need to keep in mind that this communication is confidential, therefore nothing should be attached or sent to any of the accreditation commissions. Also, I don't have an "official" communication from the DOE in regards to the teach outs. Diane is really working behind the scene to help guide us and keep the accreditors aligned. All information and communication is highly sensitive and only for our internal team. I have a document that I'll be attaching that Diane has prepared based off of her private discussions with each of the accreditors. Chris R. will have all of the official DOE communication that we have received as record.

FYI- my laptop was in the my car and due to the heat it would not launch, otherwise I would have the email out. Hold please it will be coming. Thanks -

Shelly Murphy
Chief Officer Regulatory and Government Affairs
Dream Center Education Holdings, LLC
[REDACTED]@dcedh.org
Cell: [REDACTED]

> On Aug 3, 2018, at 2:41 PM, Crowley, John E. [REDACTED]@dcedh.org> wrote:
>
> Shelly,
>
> As we discussed....would you please send all correspondence from DOE to Stacy and Kate. WE need to attach these correspondences when we communicate with the accrediting bodies so we are all in sync. It would be helpful to have records all the way back to October of 2017.
>
> We are particularly interested in any correspondence related to teach out and teach out with regard to Middle States and transfer credit.
>
> Thanks for you help.
>
> jc

Exhibit 12

Date Transmitted: July 3, 2018

From: Randall Barton (Dream Center Foundation/Dream Center Education Holdings)

Subject: *Re: HLC – Any News*

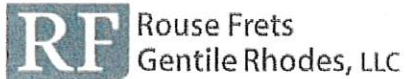
From: [Randall Barton](#)
To: [Ronald L. Holt](#)
Cc: [Crowley, John E.](#); [David Harpool](#); [Garrett, Chad](#); [Richardson, Brent D.](#); [Richardson, Chris C.](#); [Murphy, Shelly M.](#)
Subject: Re: HLC - Any News?
Date: Tuesday, July 3, 2018 5:37:43 PM

We just got off the phone with DOE. It appears HLC is in sync with retro accreditation and teach out plans. Dianne at all 3 accreditors on and they will all agree to one plan with Department blessing and hopefully funding from the LOC.

On Tue, Jul 3, 2018 at 2:27 PM Ronald L. Holt <[REDACTED]@rousefrets.com> wrote:

Hi All, based on the media stories, I am sure you are quite busy dealing with lender issues and other ramifications of moving forward on plans to close 30 campuses. My only purpose in writing is to ask whether we have heard from DOE about its efforts to get HLC to accept our proposal to reinstate accreditation for ILIA and AIC? Ron

Ronald L. Holt, Attorney
[REDACTED]



[1100 Walnut Street, Suite 2900](#)
[Kansas City, Missouri 64106](#)
www.rousefrets.com

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Circular 230 Disclosure: Any advice contained in this email (including any attachments unless expressly stated otherwise) is not intended or written to be used, and cannot be used, for purposes of avoiding tax penalties that may be imposed on any taxpayer.

--
Randall K. Barton

Mobile: [REDACTED]

Exhibit 14

Date Transmitted: May 28, 2019

From: U.S. Department of Education

Subject: Responses to Sen. Durbin Questions for the Record

Question. a. On November 16, 2017, the Higher Learning Commission (HLC) withdrew accreditation from the Illinois Institute of Art and Art Institute of Colorado campuses of Dream Center Education Holdings (DCEH)—transitioning them to “candidates for accreditation”—effective January 20, 2018. DCEH continued to represent these campuses as accredited by HLC to students. On August 2, 2018, David Halperin of the Republic Report published a report that at a meeting at Department headquarters a group of Department staff, led by Diane Auer Jones, told a delegation from DCEH, including CEO Brent Richardson, to publicly represent that the Illinois Institute of Art and Art Institute of Colorado continued to be accredited.

On August 30, 2018, I led a group of Senators in writing to you about these allegations. The Department responded on December 4, 2018 in a letter signed by Assistant Secretary for Legislation and Congressional Affairs Peter Oppenheim. In its response, the Department stated that, prior to the August 2 report, “only two meetings between Department personnel and DCEH representatives occurred in regard to DCEH and the impending closures of many of its campuses”—one on June 14, 2018 and the other on July 18, 2018.

b. Was the topic of DCEH’s HLC accreditation status discussed at either the June 14, 2018, or July 18, 2018, meetings? If so, please describe the nature of those discussions and any requests made by DCEH participants of the Department related to its HLC accreditation status, including any request for guidance or Department intervention with HLC.

Answer. a. On November 16, 2017, the Higher Learning Commission (HLC) decided to put the Illinois Institute of Art and Art Institute of Colorado campuses of Dream Center Education Holdings (DCEH) on Change of Control Candidacy Status” (“CCC-Status”) effective on January 20, 2018. According to HLC’s standards and policies, as well as the letter that HLC sent to the Department in November 2017, the agency views CCC-Status as the equivalent of preaccredited status. Institutions that are in preaccredited status are eligible to participate in Federal student aid programs. HLC knew that the institutions were participating in Federal student aid programs and did not notify the Department that they had taken an adverse action against the institutions, which would have disqualified these institutions from participating in Federal student aid programs. It was only in the case of the Illinois Institute of Art and Art Institute of Colorado that HLC used a novel interpretation of preaccreditation as a non-accredited status, but this interpretation is in violation of HLC’s own policies and Department regulations. Therefore, the Department must emphasize that is not true that the campuses were not accredited during this period.

Nevertheless, the confusion about the Art Institutes’ accreditation status caused the Department to closely review HLC’s policies and procedures about its CCC-Status. During the course of this review, the Department also watched a video of a meeting with HLC site visitors, faculty and students at the Chicago campus. In that video the HLC site visitors referred to CCC-Status as some sort of technical interim phase as a result of the change of ownership, similar to a probation or show cause. Having reviewed HLC’s policies and procedures, its communications with the Art Institutes and the site visit video, the Department is concerned that HLC’s CCC-Status is in violation of HLC’s own policies as well as the Department’s recognition criteria because HLC has used the status to convert two accredited schools to non-accredited status solely as a result of a change in ownership without putting them on probation or show cause, or otherwise affording them the due process protections of an actual adverse action.

While HLC has every right to revoke accreditation, the agency did not follow the appropriate procedures to do so for the Illinois Institute of Art and Art Institute of Colorado. There is no provision in the Department's regulations for an adverse action that would revoke accreditation and at the same time award candidacy status. Indeed, the letter advising the Art Institutes of their CCC-Status refers to the status as a "preaccreditation status." However, there is no adverse action that would automatically transition an accredited institution to a preaccredited institution rather than a non-accredited institution.

b. During the June 14, 2018 meeting, DCEH asked a question about the effective date of full accreditation if HLC made a positive decision following the upcoming site visit. Ms. Jones explained that HLC would determine the effective date, and that DCEH should review the agency's policies regarding retroactive accreditation to determine what that date might be. The Department also instructed DCEH to notify HLC immediately that they had decided to teach-out a number of campuses.

Although a question about the institutions' current accreditation status was not asked during the June 14th meeting, the Department believed that the campuses were in an accredited status at that time, or the Department would not have allowed the institutions to participate in title IV programs in the November 2017 letter from HLC to the Department. CCC status was described

On June 14, 2018, the Department advised the institutions that HLC would determine the effective date of accreditation following the site visit. While the Department instructed DCEH to notify HLC immediately that they had decided to teach-out a number of campuses, the Department also instructed DCEH to review the agency's policies regarding retroactive accreditation to determine what that date might be.

is an accredited status under Department regulations. There is no such thing as a non-accredited, recognized status.

On July 17, 2017, during a call with accreditors, HLC notified Ms. Jones that these institutions had misrepresented their accreditation status on their websites. Several accreditors on that call provided information to Ms. Jones about other issues that DCEH had to address. Ms. Jones typed up that list of action items for DCEH, which included the directive to accurately reflect the accreditation status of the institutions.

On July 18, 2018, during the meeting with DCEH, Ms. Jones told DCEH employees that they needed to update their websites to accurately reflect their accreditation status using the language provided by HLC. Ms. Jones also provided DCEH with a written copy of the list she made based on the accreditor call the previous day. She asked DCEH to provide a response within one week to prove that they had taken corrective action for each item on the list. When Ms. Jones followed up with DCEH to see if they had taken corrective action, DCEH said that the list she had provided was not the bulleted list discussed at the meeting on July 18, 2018. Ms. Jones then forwarded DCEH an electronic copy of the bulleted list. Subsequently, Ms. Jones followed up with HLC to be sure that DCEH had corrected their website to HLC's satisfaction. HLC confirmed that the correction had been made.

Question. The Department's qualification that these meetings were related to the "impending closures" of DCEH campuses, raises additional questions.

a. Please provide the date of all meetings between the Department and DCEH officials which occurred between November 16, 2017 and August 2, 2018. Please provide the stated purpose of any meetings and a list of individuals present.

b. Please provide the date of all meetings between the Department and DCEH officials which occurred between November 16, 2017 and August 2, 2018 at which DCEH's HLC accreditation status was discussed. Please provide a list of individuals present. Please describe the nature of those discussions and any requests made by DCEH participants of the Department related to its HLC accreditation status, including any request for guidance or Department intervention with HLC.

Answer. a. Due to the complexity of the request and competing priorities, and in some instances, inability to analyze and validate data within the requested timeframe, Department officials were unable to draft a response to accommodate the Senate deadline. Thus, the Department was unable to provide a response for insertion into the official hearing record at this time. The Department regrets the inconvenience and commits to providing a response to the Committee as soon as possible. Department staff will regularly provide updates to Congressional staff regarding expected delivery of this response.

b. As stated above, on July 18, 2018 the Department met with DCEH officials to continue ongoing discussions about closing the institutions and to provide instructions to DCEH. Diane Jones also notified DCEH in this meeting that they would be required to change their website to

represent their accreditation status to students, as required by HLC. DCEH did not request that the Department intervene on their behalf to HLC in the meeting.

The following individuals attended the meeting:

- Diane Jones (OUS)
- A. Wayne Johnson (FSA)
- Justin Riemer (OGC)
- Brent Richardson (DCEH)
- Shelly Murphy (DCEH)

COMMUNICATIONS AND DOCUMENTATION REGARDING DCEH

Question. Please provide all documents and communications between DCEH and any Department staff or official, including Ms. Jones, related to the November 16, 2017, HLC decision or DCEH's HLC accreditation status.

Answer. Due to the complexity of the request and competing priorities, and in some instances, inability to analyze and validate data within the requested timeframe, Department officials were unable to draft a response to accommodate the Senate deadline. Thus, the Department was unable to provide a response for insertion into the official hearing record at this time. The Department regrets the inconvenience and commits to providing a response to the Committee as soon as possible. Department staff will regularly provide updates to Congressional staff regarding expected delivery of this response.

HIGHER LEARNING COMMISSION ACTIONS AND DCEH CHARACTERIZATION OF ACCREDITATION STATUS

Question. In the Department's response to Question 1 of the August letter, it states that "it was not until a July 17, 2018, conversation with [the Higher Learning Commission (HLC)] that Ms. Jones learned that DCEH had incorrectly described its accreditation status to students." On June 26, 2018, I sent a letter to HLC President Barbara Gellman-Danley about media reports that DCEH was misrepresenting the accreditation status of its Illinois Institute of Art and Art Institute of Colorado campuses after the schools lost HLC accreditation on January 20, 2018. I sent a copy of that letter to Julian Schmoke, then the Department's Chief Enforcement Officer, through the Office of Legislation and Congressional Affairs (OLCA). Ms. Jones was at the Department at that time.

a. Did OLCA provide a copy of that letter to Mr. Schmoke? If so, please provide the date on which it was provided to Mr. Schmoke.

b. Did OLCA provide a copy of that letter to any other office or Department official, including the Office of the Secretary or Ms. Jones? If so, please provide a list of individuals and the dates on which it was provided.

c. Was Ms. Jones aware of HLC's decision, effective January 20, 2018, to remove the accreditation of the Illinois Institute of Art and Art Institute of Colorado campuses prior to July 17, 2018? If so, when and through what method did Ms. Jones learn of HLC's action?

d. Were other Department officials aware of HLC's decision, effective January 20, 2018, to remove the accreditation of the Illinois Institute of Art and Art Institute of Colorado campuses prior to July 17, 2018? If so, please provide a list of individuals and their positions? When and through what method did these individuals learn of HLC's action?

Answer. a. The letter was forwarded by email by a staff member in OLCA to Julian Schmoke on June 26, 2018.

b. The letter was received by a staff member in OLCA and was forwarded to the following individuals on June 26, 2018 by email:

- Lynn Mahaffie
- Kathleen Smith
- Chris Greene
- Herman Bounds
- Christine Isett
- Todd May
- Peter Oppenheim
- Jenny Prescott
- Molly Peterson

Diane Jones did not receive a copy of the letter.

c. As stated above, the Illinois Institute of Art and the Art Institute of Colorado were in the equivalent of a preaccredited status between January 20, 2019 and the date of closure of the campuses. HLC's CCC-Status is the equivalent of a preaccredited status under the Department's regulations, which is an accredited status.

On July 10, 2017, Shelly Murphy of DCEH sent Ms. Jones an email that included information HLC had posted about the two institutions on the HLC's website. That was the first time Ms. Jones understood that HLC was treating CCC-Status as a non-accredited status rather than as a preaccredited status. Ms. Jones had no knowledge that HLC considered CCC-Status to be a non-accredited status until July 10, 2018, although even then HLC's explanation of CCC-Status was unclear. During a call with accreditors on July 17, 2018, Ms. Jones learned for the first time that the institution's websites inaccurately described their accreditation status. Ms. Jones notified DCEH in a meeting on July 18th that they must correct their website to reflect HLC's language about the institution's accreditation.

d. Due to the complexity of the request and competing priorities, and in some instances, inability to analyze and validate data within the requested timeframe, Department officials were unable to draft a response to accommodate the Senate deadline. Thus, the Department was unable to provide a response for insertion into the official hearing record at this time. The Department regrets the inconvenience and commits to providing a response to the Committee as soon as

possible. Department staff will regularly provide updates to Congressional staff regarding expected delivery of this response.

DEPARTMENT DIRECTION TO DCEH TO ACCURATELY REPRESENT ACCREDITATION STATUS

Question. The Department's response to Question 1 further states that on July 18, 2018, Ms. Jones "advised representatives of DCEH (at the meeting and in writing) that they must provide students with accurate information about their institution's accreditation status...". Please provide a copy of the written direction from Ms. Jones to DCEH to which the Department is referring.

Answer. Enclosed in this response is an email, with an attachment of the list, sent from Diane Jones to Shelly Murphy of DCEH via email on August 2, 2018. Ms. Jones handed a printed copy of the list to Ms. Murphy on July 18, 2018, and later when Ms. Murphy said that she had been given the wrong document, Ms. Jones emailed a copy to her.

<image003.png>

SETTLEMENT ADMINISTRATOR FINDING OF MISREPRESENTATION BY DCEH

Question. Regardless of what role, if any, the Department may have played in the misrepresentation, it has failed to meet its legal responsibility to provide the borrower defense discharges to which Illinois Institute of Art and Colorado Art Institute students are entitled under the Higher Education Act based on DCEH's misrepresentation. In its December 4 response, the Department reported that it has not opened an investigation into the misrepresentation despite acknowledging that it occurred. As apparent justification, the Department noted that a review of online videos from July informational meetings held for students at the closing Illinois Institute of Art campus "clearly show that the students had, at some point prior to the meetings, learned that the school was not in accredited status." In other words, because a video shows that some small number of students eventually learned the truth about their school's accreditation, the Department believes no action against DCEH or relief for students is necessary based on the misrepresentation. By clinging to this outrageous and legally dubious position, the Department is failing to uphold its responsibility to enforce federal Title IV laws and regulations and ignoring the harm done to students by DCEH's misrepresentations.

HLC recognized the harm to students of not knowing that their campuses were no longer accredited. In its public disclosure announcing that its removal of accreditation had taken effect, HLC noted that students should know that "their courses or degrees are not accredited by HLC and it is possible that they will not be accepted in transfer to other colleges and universities or recognized by prospective employers." In other words, students could be taking on debt to attend worthless courses or get a worthless degree.

A 2015 settlement between Education Management Corporation and 39 state attorneys general and the District of Columbia established a Settlement Administrator to enforce the terms of the settlement—which became binding on DCEH as part of its acquisition of EDMC schools. In

February, Settlement Administrator Thomas Perrelli released his Third Annual Report which found that DCEH violated the settlement as a result of its "failure to advise students that certain schools had lost their accreditation." Mr. Perrelli found that "DCEH did not inform Illinois Institute of Art or Art Institute of Colorado students or prospective students that it had lost accreditation" despite being "obligated" by HLC to do so. Instead, Mr. Perrelli found that DCEH "revised the accreditation statement on its website to expressly claim that the schools "remain accredited as a candidate school" which was "inaccurate and misleading."

During the time DCEH failed to disclose its loss of accreditation status to students and made express misrepresentations, "students stayed in the unaccredited schools" and "registered for additional terms and incurred additional debts, for credits that were significantly less likely to transfer to other schools and towards a degree that was to have limited value." Mr. Perrelli found that these problems were "exacerbated dramatically when DCEH announced in July that it would be closing those schools, leaving many of those students dependent on the transferability of their credits to further their education." He concludes that DCEH's eventual correction of its misleading statements "did not resolve" the harm students had experienced.

a. Please respond to Mr. Perrelli's findings related to DCEH's misrepresentation of its accreditation status and failure to disclose its loss of accreditation to students.

b. In the aftermath of Mr. Perrelli's findings and the subsequent misconduct by DCEH related to missing student stipends and the precipitous closure of Argosy and its other institutions, will the Department open an investigation into the accreditation misrepresentation at Illinois Institute of Art and Art Institute of Colorado?

Answer. a. As stated above, the Illinois Institute of Art and the Art Institute of Colorado were in the equivalent of a preaccredited status between January 20, 2019 and the date of closure of the campuses. HLC's CCC-Status is the equivalent of a preaccredited status under the Department's regulations.

b. The Department has asked HLC to review its standards since the Department believes that HLC's standards do not support a determination that these campuses were in non-accredited status. The Department believes HLC was out of compliance with Department regulations in attempting to move an accredited institution to preaccredited status, and then making an accreditation decision based on a focused site visit. Moreover, HLC's policies require that an institution which loses accreditation to sit out for five years. Therefore, it is not possible that CCC-Status is a nonaccredited status.

Enclosure 3:

Document and Response Production Schedule

For all communications, including but not limited to, emails and text messages, internal and external that relate to:

- 1) Dream Center Education Holdings or "DCEH";
- 2) Education Management Corporation or "EDMC";
- 3) Education Corporation of America or "ECA";
- 4) Argosy University;
- 5) Education Principle Foundation or "EPF";
- 6) Studio Enterprise;
- 7) Colbeck Capital Management.

Provide emails to or from the individuals below in a staged production to be transmitted to the Committee in accordance with the enclosed production instructions by the indicated date.

Tranche 1 (10/29/2019): Diane Auer Jones and Michael Frola

Tranche 2 (11/5/2019): Dr. A Wayne Johnson and James Manning

Tranche 3 (11/12/2019): Secretary Betsy DeVos and Robin Minor

Tranche 4 (11/19/2019): Robert Eitel and Lee Simmons

Tranche 5 (11/26/2019): Donna Mangold, Ron Bennett, Barry Bennett

Additionally, by 11/1/2019 provide documents sufficient to show:

- 1) The date Director Frola was made aware that Higher Learning Commission (HLC) moved Art Institute of Colorado and the Illinois Art Institute into candidacy status;
- 2) The date Undersecretary Diane Auer Jones was made aware that HLC moved the Art Institute of Colorado and the Illinois Art Institute into candidacy status;
- 3) All Department officials Director Frola consulted with prior to the Department's decision to retroactively convert the Art Institute of Colorado and the Illinois Art Institute to non-profit institutions on May 3, 2018;
- 4) Every occasion that the Department has released letter of credit funds or proceeds from letters of credit to pay for the costs associated with teaching campuses out;
- 5) Every occasion that the Department has retroactively converted a proprietary institution into a non-profit institution;
- 6) The amount of Title IV funds disbursed to each institution owned by Education Management Corporation, Dream Center Education Holdings, or Education Principle Foundation, for the prior 5 program years, disaggregated by year and 8-digit OPEID.

And by 11/1/2019 for Dream Center Education Holdings, Education Management Corporation, Education Principle Foundation, or any subsidiary institution, please also provide all documentation of its:

- 1) Compliance with the 90-10 Rule¹;
- 2) Compliance with Gainful Employment;
- 3) Program Participation Agreements, Provisional Program Participation Agreements, or Temporary Provisional Program Participation agreements.

¹ 20 U.S.C. § 1094(a)(24).

Enclosure 4:

Document Production Instructions

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND LABOR
PRODUCTION INSTRUCTIONS
FOR RESPONDING TO COMMITTEE REQUESTS

The following instructions govern any response to a production request made by the House Committee on Education and Labor (Committee).

Responding to Committee Document Requests:

1. In complying with a request, please produce all responsive documents that are in your possession, custody, or control, whether held by you or colleagues or employees acting on your behalf, regardless of whether they originated with you, colleagues or employees acting on your behalf, or a third party. This standard obligates you to produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of a colleague, employee acting on your behalf, or any third party.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. Please return attachments provided by the Committee in the specified format (e.g., if an Excel spreadsheet is requested to be filled out, please produce the final product in Excel format).
4. The Committee considers all members of a document "family" to be responsive to a request if any single "member" of that "family" is responsive, regardless of whether the "family member" in question is "parent" or "child."
5. In the event that any person denoted in a request has been, or is known by, any name or alias other than that denoted in the request, the request shall be read to also include that alternative identification.
6. The grounds that any other person also possesses non-identical or identical copies of the same or similar documents shall not be a basis for refusal to provide documents to the Committee.
7. The Committee only recognizes constitutionally granted claims of privilege. If you believe a claim of privilege applies to a specific response to a request, please adhere to the following procedure.
 - a. The Committee, in its sole discretion, will decide matters of privilege.
 - b. Please only withhold that discrete portion of a document over which you assert a claim of privilege.
 - c. In the event that a document is withheld in whole or in part on the basis of a privilege, please contemporaneously provide a privilege log containing the following information concerning each discrete claim of privilege:
 - i. the privilege asserted;
 - ii. the type of document;
 - iii. the date, author, and addressee of the document;
 - iv. the relationship of the author and addressee to each other; and

- v. a general description of the nature of the document that, without revealing information itself claimed to be privileged, will enable the Committee to assess the claim of privilege.
 - d. In an exercise of its discretion, the Committee may deem a failure to strictly comply with these provisions as a waiver of any asserted privilege.
8. Please identify with specifics any documents that you believe to contain confidential or proprietary information and the specific location(s) of the confidential or proprietary information contained therein.
9. Please produce documents as they are kept in the normal course of business.
10. When you produce documents in excess of 100 pages, please reference, by sequential Bates range, the specification in the Committee's request to which the documents respond.
11. If any document responsive to a request was, but no longer is, in your possession, custody, or control, please explain the circumstances under which the document ceased to be in your possession, custody, or control and: (a) identify the document (stating its date, author, subject, and recipients); and (b) explain the circumstances under which the document ceased to be in your possession, custody, or control.
12. If a date or other descriptive detail set forth in a request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, please produce all documents which would be responsive as if the date or other descriptive detail were correct.
13. A request is continuing in nature and applies to any newly-discovered information. Please produce all documents, not originally produced because they have not been located or discovered by the return date, immediately upon subsequent location or discovery. If you discover any portion of your response is incorrect in a material respect, please immediately and contemporaneously file with the Committee an addendum to your production setting forth: (1) how you became aware of the defect in the response; (2) how the defect came about (or how you believe it to have come about); and (3) a detailed description of the steps you took to remedy the defect.
14. Consult with the Committee to determine the appropriate format in which to produce the information. The Committee's preference is to receive documents in electronic form (i.e. memory stick or thumb drive) in lieu of paper productions. Documents produced in electronic format should also be organized, identified, and indexed electronically. Please send only one copy to the Chief Clerk of the Committee.
15. If physical items are submitted, such as CDs, DVDs, or any paper copies (as approved by the Committee), please consult with Committee staff regarding the method of delivery prior to sending any materials.
16. Each document produced should be produced in a form that renders the document capable of being copied.
17. Each paper document produced (as approved by the Committee) should be produced in a form that renders the document capable of being copied. Each folder and box should be numbered,

and a description of the contents of each folder and box, including the paragraph or clause of the request to which the documents are responsive, should be provided in an accompanying index.

Responding to Committee Interrogatories:

1. In complying with a Committee request for answers to questions, please answer truthfully and completely. If you are unable to answer an interrogatory fully and completely, please provide as much information as possible and explain why your answer is incomplete. Any response to a Committee interrogatory should be answered in writing and fully. Please note that your response is subject to 18 U.S.C. § 1001 and 18 U.S.C. § 1505.
2. In the event that any person denoted in a request has been, or is known by, any name or alias other than that denoted in the request, the request shall be read to also include that alternative identification.
3. When responding to interrogatories, please respond to each interrogatory separately. If information is withheld on the basis of a privilege, in addition to filing a privilege log, a separate objection should be stated on the basis of that privilege to each discrete interrogatory implicated. In an exercise of its discretion, the Committee may deem a failure to strictly comply with this provision as a waiver of any asserted privilege.
4. Where information is requested, the request encompasses information in your possession, custody, or control and any other person who has possession, custody, or control of your relevant information.
5. Please do not refuse to provide information on the basis that any other person or entity also possesses the same information.
6. A request is continuing in nature and applies to any newly-discovered information. Please produce any information not produced because it has not been located or discovered by the return date, immediately upon subsequent location or discovery. If you discover any portion of your response is incorrect in a material respect, please immediately and contemporaneously file with the Committee a statement setting forth: (1) how you became aware of the defect in the response; (2) how the defect came about (or how you believe it to have come about); and (3) a detailed description of the steps you took to remedy the defect.
7. The Committee only recognizes constitutionally granted claims of privilege. If you believe a claim of privilege can be asserted to a specific response to a request, please adhere to the following procedure.
 - a. The Committee, in its sole discretion, will decide matters of privilege.
 - b. Please only withhold that discrete portion of information over which you assert a claim of privilege or protection.
 - c. In the event that information is withheld in whole or in part on the basis of a privilege or protection, please contemporaneously provide a privilege log containing the following information concerning each discrete claim of privilege or protection:
 - i. the privilege or protection asserted;

- ii. the general subject matter of the information;
 - iii. the source of the information withheld;
 - iv. the paragraph in the Committee's request to which the information is responsive;
 - v. each individual to whom the information has been disclosed; and
 - vi. a general description of the nature of the information that, without revealing information itself privileged or protected, will enable the Committee to assess your claim of privilege or protection.
 - d. In an exercise of its discretion, the Committee may deem a failure to strictly comply with these provisions as a waiver of any asserted privilege or protection.
8. If a date or other descriptive detail set forth in a request is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the Request, please provide the information that would be responsive as if the date or other descriptive detail was correct.
9. If interrogatory responses are submitted electronically, only one copy should be sent to the Chief Clerk of the Committee. If physical responses are submitted, such as on CDs, DVDs, or any paper copies (as approved by the Committee), you should consult with Committee staff regarding the method of delivery prior to sending any materials.

Definitions

The following definitions apply to terms within a request and these production instructions.

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intraoffice communications, electronic mail (emails), text messages, instant messages, MMS or SMS messages, contracts, cables, telexes, notations of any type of conversation, telephone call, voicemail, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (including all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), electronic, mechanical, and electronic records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term. A "communication" (as that term is defined herein) is also a "document" if the means of communication is any written, recorded, or graphic matter of any sort whatsoever, regardless of how recorded, and whether original or copy.

2. The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries or otherwise), regardless of manner or means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telex, release, or otherwise.
3. "Communication with" means any communication involving a related party or parties, regardless of whether other persons were involved in the communication, and includes, but is not limited to, communications where one party is copied (cc'd) or blind copied (bcc'd), both parties are cc'd or bcc'd, or any combination thereof.
4. The term "employee" means a current or former: officer, director, shareholder, partner, member, consultant, senior manager, manager, senior associate, permanent employee, staff employee, attorney, agent (whether de jure, de facto, or apparent without limitation), advisor, representative, attorney (in law or in fact), lobbyist (registered or unregistered), borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, provisional employee, or subcontractor.
5. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of a request any information that might otherwise be construed to be outside its scope. The terms "all," "any," and "each" shall be construed as encompassing any and all. The singular includes the plural number, and vice versa. The masculine includes the feminine and neutral genders.
6. The term "person" is defined as any natural person or any legal entity, including, without limitation, any business or governmental entity or association, and all subsidiaries, divisions, partnerships, properties, affiliates, branches, groups, special purpose entities, joint ventures, predecessors, successors, or any other entity in which they have or had a controlling interest, any employee, and any other units thereof.
7. The term "representative" means a current or former: officer, director, shareholder, partner, member, consultant, senior manager, manager, senior associate, permanent employee, staff employee, attorney, agent (whether de jure, de facto, or apparent without limitation), advisor, representative, attorney (in law or in fact), lobbyist (registered or unregistered), borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, provisional employee, or subcontractor, or person acting on behalf of the referred to organization.
8. When referring to a person, "to identify" means to give, to the extent known, the person's full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment, the natural person's complete title at their employment, and the individual's business address.
9. When referring to documents, "to identify" means to give, to the extent known, the: (1) type of document; (2) general subject matter; (3) date of the document; and (4) author(s), addressee(s) and recipient(s).

10. The terms "referring," "relating" or "related," or "concerning," with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.