

United States Senate

WASHINGTON, DC 20510

April 3, 2020

The Honorable Mark Esper
Secretary
U.S. Department of Defense
1400 Defense Pentagon
Washington, DC 20301

Dear Secretary Esper:

We write today in the wake of the Department of Veterans Affairs' (VA) decision to suspend new G.I. Bill enrollments at several institutions of higher education—including for-profit University of Phoenix and schools owned by Career Education Corporation—as a result of unfair, deceptive, and abusive practices. We urge you to take action to protect active duty servicemembers who may be considering using Department of Defense (DoD) Tuition Assistance (TA) funds to attend these institutions.

In August, the Federal Trade Commission (FTC) announced a \$30 million settlement with Career Education Corporation. According to DoD's TA Decide Tool, CEC enrolls nearly 1,500 TA recipients at its American Intercontinental and Colorado Technical University brands and took in nearly \$4 million in TA funds in FY18. The FTC found that CEC and its subsidiaries used “an illegal and deceptive telemarketing scheme”—wrongfully obtaining consumer information and “falsely representing that its schools were affiliated with or recommended by the military.”¹

In December, the FTC announced a \$191 million settlement with University of Phoenix over “deceptive advertising.” The FTC found that UOP “falsely touted their relationships and job opportunities with companies such as AT&T, Yahoo!, Microsoft, Twitter, and the American Red Cross” in an effort to attract students. Specifically, FTC found that the deceptive advertising “targeted active duty servicemembers, veterans, and military spouses...”² This follows a pattern of misconduct by the University of Phoenix—including being suspended from enrolling new TA recipients by DoD in 2015. According to DoD, University of Phoenix enrolls more than 2,600 TA recipients and took in nearly \$6 million in TA funds in FY18.

¹ Operator of Colorado Technical University and American InterContinental University Will Pay \$30 Million to Settle FTC Charges it Used Deceptive Lead Generators to Market its Schools. Federal Trade Commission (August 2019) <https://www.ftc.gov/news-events/press-releases/2019/08/operator-colorado-technical-university-american-intercontinental>

² FTC Obtains Record \$191 Million Settlement from University of Phoenix to Resolve FTC Charges it Used Deceptive Advertising to Attract Prospective Students. Federal Trade Commission (December 2019) <https://www.ftc.gov/news-events/press-releases/2019/12/ftc-obtains-record-191-million-settlement-university-phoenix>

Relying on evidence gathered by the FTC in its investigation of CEC³ and University of Phoenix⁴, the VA found “sufficient evidence to support a finding that these schools have utilized advertising, sales, or enrollment practices that are erroneous, deceptive, or misleading...” in violation of 38 U.S.C. § 3696(a).⁵ This provision of federal law states that “the Secretary [of Veterans Affairs] shall not approve the enrollment of an eligible veteran or eligible person in any course offered by an institution” which engages in these practices. The statute provides authority for VA to rely on the FTC’s investigatory expertise and findings in making determinations under this provision.

Now that the VA has taken action to protect new student veterans from being put at risk by enrolling in these schools, what steps will DoD take to protect active duty servicemembers using TA benefits?

We ask for your response no later than April 17. Thank you for your consideration.

Sincerely,



Richard J. Durbin
United States Senator



Elizabeth Warren
United States Senator



Sherrod Brown
United States Senator



Richard Blumenthal
United States Senator

Cc: The Honorable Robert Wilkie, Secretary, Department of Veterans Affairs
The Honorable Betsy DeVos, Secretary, Department of Education
The Honorable Joseph J. Simons, Chair, Federal Trade Commission
The Honorable Noah Joshua Phillips, Commissioner, Federal Trade Commission
The Honorable Rohit Chopra, Commissioner, Federal Trade Commission
The Honorable Rebecca Kelly Slaughter, Commissioner, Federal Trade Commission
The Honorable Christine S. Wilson, Commissioner, Federal Trade Commission

³ Federal Trade Commission v. Career Education Corporation et. al. No. 19-cv-5739 (N.D. Ill. filed Aug. 27, 2019)
https://www.ftc.gov/system/files/documents/cases/career_education_corporation_complaint_8-27-19.pdf

⁴ Federal Trade Commission v. The University of Phoenix et. al (D. Ariz. filed Dec. 10, 2019)
https://www.ftc.gov/system/files/documents/cases/university_of_phoenix_ftc_v_uop_complaint_signed.pdf

⁵ <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5399>