

United States Senate

WASHINGTON, DC 20510

April 3, 2020

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

Dear Secretary DeVos:

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 federal student loan borrowers considering attending these schools.

In August, the Federal Trade Commission (FTC) announced a \$30 million settlement with Career Education Corporation. 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

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

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>

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>

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 the Department of Education take? Specifically, we ask for your response to the following questions.

1. Has the Department of Education asked the FTC to brief Department staff on their findings in the CEC or University of Phoenix cases or requested FTC’s evidence?
2. Has the Department of Education opened its own investigation into either of these cases?
3. Will the Department use evidence collected in these cases by the Federal Trade Commission or State attorneys general to establish findings and groups related to borrower defense?

We ask for your response no later than April 17, 2020. 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 Mark Esper, Secretary, Department of Defense
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