AUG 2 2 2014

Mr. Jack Massimino
Chairman & CEO
Corinthian Colleges, Inc.
6 Hutton Centre Drive, Suite 400
Santa Ana, CA 92707

Sent Overnight Via UPS
1Z A87 964 01 9413 7313

Re: Denial of Recertification Application to Participate in the Federal Student Financial Assistance Programs--Everest Institute, 5514 Big Tyler Road, Cross Lanes, WV 25313-1304
OPE-ID: 01035600

Dear Mr. Massimino:

The U.S. Department of Education (Department) has reviewed Everest Institute's application for recertification to continue to participate in the student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* (Title IV, HEA programs). Everest Institute consists of a main location in Cross Lanes, West Virginia, an additional location in Eagan, Minnesota (Everest Eagan), and a former additional location at 2460 Wesley Chapel Road, Decatur, Georgia (Everest Decatur). In the normal course, Everest Institute's Program Participation Agreement (PPA) would have expired on December 31, 2013. Because Everest Institute timely submitted its recertification application, however, the Department extended Everest Institute's previous PPA on a month-to-month basis while the Department reviewed the application and related matters. *See* 34 C.F.R. § 668.13(b)(2).

In addition to the recertification application materials, the Department reviewed, among other things, documentation submitted by Everest Institute's owner, Corinthian Colleges, Inc. (CCI), to the Department and to Everest Institute's accreditor, the Accrediting Commission of Career Schools and Colleges (ACCSC). Pursuant to paragraph VI.E. of the Operating Agreement executed by the Department and CCI, and effective July 8, 2014, the Department also considered materials provided by CCI regarding Everest Institute on July 31, 2014 (Everest Statement). As set forth below, the information the Department obtained and reviewed establishes that Everest Institute breached its fiduciary duty to the Department by failing to comply with Title IV, HEA program requirements. Specifically, Everest Institute submitted false placement data to ACCSC to maintain the accreditation of Everest Decatur and disclosed false placement data to current and prospective students. Everest Institute's misconduct will not be tolerated by the Department, and therefore, its recertification application is denied. As a result of this denial, the institution can no longer participate in the Title IV, HEA programs, as of August 31, 2014. *See* 34 C.F.R. § 668.13(b)(2).[1]

In particular, as of August 31, 2014, Everest Institute will no longer be eligible to participate in the following Title IV, HEA programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), Teacher Education Assistance for College and Higher Education (TEACH) Grant, Federal Work-Study (FWS), Federal Perkins Loan (Perkins Loan), and William D. Ford Federal Direct Loan (Direct Loan). The Direct Loan program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan program, the Federal Direct PLUS Program, and the Federal Direct Consolidation Loan program. The FSEOG, FWS, and Perkins Loan programs are known as campus-based programs.

EVEREST INSTITUTE BREACHED ITS FIDUCIARY DUTY TO THE DEPARTMENT BY FAILING TO COMPLY WITH TITLE IV, HEA PROGRAM REQUIREMENTS

On February 10, 2011, you signed Everest Institute's current provisional PPA with the Department, which stated that Everest Institute would comply with all Title IV, HEA program requirements, as well as any conditions specified by the Department in the PPA. 20 U.S.C. § 1094(a)(1); *see generally* 34 C.F.R. § 668.14. Everest Institute's PPA encompassed Everest Decatur and Everest Eagan. 34 C.F.R. § 668.14(a)(2). By entering into the PPA with the Department, Everest Institute, and its officers, accepted the responsibility to act as fiduciaries in the administration of the Title IV, HEA programs. As fiduciaries, Everest Institute and its officers are subject to the highest standard of care and diligence in administering the Title IV, HEA programs and in accounting to the Secretary for the funds received. 34 C.F.R. §§ 668.82(a) and (b).

If the Department determines that an institution has not met the fiduciary standard of conduct, either through its failure to comply with applicable Title IV, HEA program standards and requirements, or through acts of affirmative misconduct, a denial of the institution's recertification application is warranted.[2] *See* 34 C.F.R. § 668.13. As outlined below, the Department has determined that Everest Institute failed to meet the fiduciary standard of conduct through misrepresentations regarding job placements to its accreditor and to current and

---

[1] To the extent that this letter does not recite each and every finding that the Department previously set forth in its "Fact Sheet" dated July 24, 2014, this should not be viewed, in any way, to suggest that the Department disclaims any of those findings. Rather, for the sole purpose of proceeding with this recertification denial, the Department articulates in this letter findings that form a sufficient basis for the Department's determination.

[2] In its Everest Statement, CCI argued that the Department's investigative findings focus largely on "information from the 2008-2010 cohorts," and stated that such findings from past years do not constitute "a valid basis for denying current recertification for the currently existing Everest Institute." (Everest Statement at 1.) As this recertification denial letter demonstrates, however, the conduct at issue here consists of misrepresentations made by Everest Institute at least into 2012. Furthermore, the Department emphasizes that, as stated in its Fact Sheet, CCI acted in disregard of its fiduciary duty with respect to Everest Institute. (Department's Fact Sheet, dated July 24, 2014, at 1.) As discussed further at page 16, the Title IV regulations require that an institution "must *at all times* act with the competency and integrity necessary to qualify as a fiduciary," 34 C.F.R. § 668.82(a) (*emphasis* added), and a breach of this duty at *any* time, including in past years, is grounds for denial of recertification.

prospective students, in violation of Title IV, HEA statutory and regulatory requirements. Everest Institute's recertification application is therefore denied.[3]

A. Everest Decatur created false placements and misrepresented Everest Decatur's job placement rates to its accreditor in an attempt to maintain its eligibility for Title IV, HEA program funds.

As stated above, Everest Institute, which currently includes its main location in Cross Lanes, West Virginia, and its one remaining additional location in Eagan, Minnesota, is accredited by ACCSC, which is recognized by the Secretary of Education in accordance with the provisions of 34 C.F.R Part 602. Through its ACCSC accreditation, Everest Institute and its additional locations—both current and former—qualify as an eligible proprietary institution of higher education for purposes of the Title IV, HEA programs. *See* 34 C.F.R. §§ 600.5(a)(6), 600.2. To maintain ACCSC accreditation (itself a requirement of eligibility for the Title IV, HEA programs), an institution must meet ACCSC's standards in several substantive areas. And, to meet ACCSC's standard regarding student achievement, an institution must demonstrate that it maintains acceptable rates of graduation and employment in the career fields for which the school provides education.[4]

Therefore, each year, ACCSC requires the institutions it accredits to submit an Annual Report that includes a Graduation and Employment Chart completed for each of its educational programs that discloses the graduation and employment rates for the time period specified, as well as the number of students in each of the categories that are used to calculate the rate. Each chart includes spaces for institutions to enter the number of students classified by the institutions as "Graduates-Available for Employment" and spaces for the institutions to enter the number of students classified by the institutions as "Graduates – Employed in Field." An institution's employment rate, defined by ACCSC as the school's "official rate of graduate job attainment for each cohort and for the program for the reporting period," is then determined by dividing the "Graduates-Employed in Field" number by the 'Graduates-Available for Employment" number. ACCSC's "Guidelines for Employment Classification" define what constitutes an employed

[3] CCI suggested that the denial of Everest Institute's recertification would be inappropriate because the bulk of the abusive conduct that the Department found occurred at Everest Decatur, an additional location of Everest Institute that CCI closed. (*See, e.g.*, Everest Statement at 1, 14.) That is immaterial. Everest Institute and CCI officials engaged in the conduct discussed herein, and their acts and omissions bear directly on the issue of whether Everest Institute should be recertified to participate in the Title IV, HEA programs. In particular, the Department regulates Title IV compliance through the institution that has an assigned OPE-ID number. A main location and branch locations with a single OPE-ID number constitute a single institution. It is pursuant to an OPE-ID number that an institution, including its additional locations, receives Title IV funds, and it is based upon actions attributable to that OPE-ID number that the Department determines the propriety of continued receipt of Title IV funds. The Department promotes integrity in the Title IV programs by holding main locations responsible for the actions of their additional locations. As ACCSC likewise stated in a letter dated December 5, 2012 to Everest Institute, "the main school, Everest Institute (Everest-Cross Lanes) located in Cross Lanes, West Virginia is fully responsible for the operation of the branch campus and the school's compliance with accrediting standards." The Department further notes that it was CCI, not the Department or ACCSC, that chose to associate Everest Cross Lanes, Eagan, and Decatur as an institution.

[4] ACCSC Standards of Accreditation (SOA), at 93 (Apr. 15, 2012).

graduate and how the institution is to justify that classification.[5] Among other things, the employment must be for a reasonable period of time and be considered sustainable. The institution must be able to support its reported rates through student transcripts, verifiable records of initial employment of its graduates, or other verifiable documentation.[6]

ACCSC establishes and publishes *minimum* benchmark graduation and employment rates based on information submitted in the Annual Reports of its accredited schools.[7] On May 10, 2010, ACCSC established a minimum benchmark employment rate of 70% based on Annual Report data from 2006 through 2008.[8] On June 29, 2012, ACCSC reduced the minimum benchmark employment rate to 66% based on data reported for the period 2009 through 2011.[9] ACCSC-accredited schools demonstrate successful student achievement when graduation and employment rates meet or exceed the established minimum benchmarks.[10]

On December 8, 2010, ACCSC's Executive Director, Michale S. McComis, sent a letter to Everest Decatur's then-President, Barbara Holliman, notifying her that ACCSC had voted to direct the school to show cause as to why its accreditation should not be withdrawn. ACCSC explained that the school's efforts over a five-year period had not yielded sustainable improvements, and that it could not disregard Everest Decatur's "long history of poor student achievement rates." ACCSC directed that Everest Decatur submit by March 8, 2011, among other things, a Graduation and Employment Chart for the eight-month Medical Administrative Assistant, the eight-month Medical Assistant, the eight-month Medical Insurance Billing and Coding, the nine-month Massage Therapy, and the 24-month Respiratory Care programs offered by the school, using an April 2011 report date, for ACCSC's review.[11]

Everest Decatur initially submitted a response to meet ACCSC's March 8, 2011 deadline, but on April 22, 2011, Everest Decatur, through CCI's Director of Accreditation and Licensing, Pan Fuchs, submitted a document entitled "Update to the Response to Show Cause Directive Issued on December 8, 2010," that purportedly demonstrated that its employment rates, while still below the minimum benchmark rates, were improving. This April 2011 report listed the following placement rates for Everest Decatur programs:

---

[5] ACCSC Accreditation Alert (Jan. 5, 2011). *See also* ACCSC SOA, Appendix VIII, at 111 (Apr. 15, 2012).

[6] ACCSC SOA, at 93 (Apr. 15, 2012).

[7] *Id.*

[8] ACCSC Alert (June 29, 2012).

[9] *Id.*

[10] ACCSC SOA, at 93-94 (Apr. 15, 2012).

[11] The "report date" specified by ACCSC is the date the institution must use to calculate the cohort of students whose placement percentages are being reported in the required submission. In some cases, as in this circumstance, the "submission date" may precede the "report date."

Program	Employment Rate for 4/11 Report Date
Dialysis Technician	47%
Medical Admin Assistant	48%
Medical Assistant	45%
Med. Insurance Billing/Coding	60%
Massage Therapy	43%
Electrician	54%
HVAC	41%
Respiratory Care	N/A

After reviewing Everest Decatur's responses to the December 8, 2010 show cause letter, ACCSC's Executive Director noted in a letter dated June 8, 2011, that the outcomes reports contained in the responses again showed that employment rates for seven of Everest Decatur's 13 programs, specifically the Dialysis Technician; Electrician; Heating, Ventilations and Air Conditioning; Massage Therapy; Medical Administrative Assistant; Medical Assistant; and Medical Insurance Billing & Coding programs, continued to fall significantly below ACCSC's minimum student achievement benchmark rates during the reporting timeframe. ACCSC therefore continued the show cause directive and provided Everest Decatur with an additional opportunity to present evidence of compliance with ACCSC's accrediting standards. ACCSC directed that Everest Decatur submit by September 8, 2011, among other things, a Graduation and Employment Chart for all of the programs offered at Everest Decatur, using a July 2011 report date, along with supporting summary information for each chart. Everest Decatur submitted its response to the show cause directive on September 8, 2011.

CCI's September 8, 2011 response reported the following placement rates:

Program	Employment Rate for 7/11 Report Date
Dialysis Technician	53%
Medical Admin Assistant	55%
Medical Assistant	66%
Med. Insurance Billing/Coding	71%
Massage Therapy	52%
Electrician	72%
HVAC	73%
Respiratory Care	71%

In a footnote in the response, Everest Decatur also stated it had identified problems with its reporting on the 2008 and 2009 calendar year cohorts. Everest Decatur stated that after receipt of a subpoena dated *April 11, 2011* from the Department's Office of the Inspector General, it had identified approximately 112 "potentially questionable placements" in the 2008 and 2009 cohorts. Everest Decatur also claimed that it would submit corrected Graduation and Employment Charts for any previously-submitted annual reports that may have been affected by the invalid placement data under separate cover.

On October 11, 2011, David Luce, CCI's Assistant Vice President, Accreditation and Licensing, followed up on the footnote with a letter to ACCSC providing revised employment rates for

Everest Decatur's 2009 and 2010 Annual Reports that reflected removal of "potentially inappropriate placements" from the Medical Assistant, Medical Administrative Assistant, and Medical Insurance Billing and Coding programs. According to the letter, these placements had been identified after an internal investigation at the neighboring Everest Institute located in Jonesboro, Georgia disclosed falsification of placement documentation at that school. CCI alleged to ACCSC and the Department that former employees created fictitious employers in order to falsely report that students had been placed at that location. The placement rates were revised as follows:

Program	2009 Original Employment Rate	2009 Revised Employment Rate	2010 Submitted Employment Rate	2010 Revised Employment Rate
Dialysis Technician (8 months)	52%	52%	66%	48%
Massage Therapy (9 months)	78%	83%	46%	46%
Medical Administrative Assistant (8 months)	73%	36%	73%	70%
Medical Assistant (8 months)	77%	54%	73%	67%
Medical Insurance Billing and Coding (8 months)	66%	54%	85%	80%
Respiratory Care (21 months)	57%	64%	67%	67%

In the October 11, 2011 letter, CCI represented that it had "diligently reviewed" the placements submitted in the Show Cause Order response recently submitted to ACCSC as well as placements to be submitted in the upcoming 2011 ACCSC Annual Report. CCI represented that it had "validated the data and was confident that it was accurate as represented, thereby reflecting only graduates who had been placed in sustainable positions in their field of training."

On October 20, 2011, CCI submitted an update to its September 8, 2011 response to ACCSC's show cause order. In this submission, CCI presented adjusted employment information for the two Everest Decatur continuing programs[12]—the Medical Administrative Assistant and Medical Assistant programs—that it had reported as not achieving the required 70% employment in the September 8, 2011 submission. CCI's update indicated that that these programs in fact had surpassed that 70% requirement. Everest Decatur represented that, as a result of the intense activity by the career services staff, and management and regional support, strong partnerships with employers in the community had developed which would help sustain positive placement activity. Everest Decatur provided updated Graduation and Employment Charts for its Medical Administrative Assistant and Medical Assistant programs, along with detailed supporting reports that listed, among other things, the student's employer, job title, and date of the student's placement.

The employment rates disclosed were as follows:

[12] Everest Decatur had previously ceased enrolling new students in the Dialysis Technician and Massage Therapy programs.

Program	Employment Rate for 7/11 Report Date
Dialysis Technician	53%
Medical Admin Assistant	70%
Medical Assistant	71%
Med. Insurance Billing/Coding	71%
Massage Therapy	52%
Electrician	72%
HVAC	73%
Respiratory Care	71%

In November 2011, Everest Decatur submitted its 2011 Annual Report to ACCSC. The placement rates Everest reported were as follows:

Program	Employment Rate for 7/11 Report Date
Dialysis Technician	54%
Medical Admin Assistant	69%
Medical Assistant	70%
Med. Insurance Billing/Coding	%[13]
Massage Therapy	52%
Electrician	71%
HVAC	70%
Respiratory Care	71%

On December 22, 2011, ACCSC's Executive Director notified the school that during ACCSC's November 2011 meeting, it had reviewed, among other things, Everest Decatur's response to its June 8, 2011 show cause order, Everest Decatur's October 11, 2011 notification regarding graduate placement discrepancies, and Everest Decatur's October 20, 2011 updated response to the June 8, 2011 show cause order. ACCSC noted that the supplemental documentation provided in support of the revised reported rates of graduate employment raised questions. For instance, ACCSC noted that the documentation indicated that an inordinately large number of students who had completed the Medical Assistant program during 2009 and 2010 had been placed at their employers during July 2011, many months after they had graduated. On its face, so many placements after such a long time during a one-month period triggered ACCSC's concern.

Because of these questionable placements, ACCSC continued its show cause order and directed Everest to submit an independent third-party review and verification of the school's graduate employment records and rates as reported in the 2011 Annual Report, and a Graduation and Employment Chart for all programs offered at the school, using a January 2012 report date, along with supporting summary information. ACCSC also required Everest Decatur to submit documentation demonstrating the implementation of CCI's policy regarding the placement of ten or more graduates with one employer, pursuant to which CCI's "Placement Verification Team" purportedly contacted both students and employers to verify employment and required local

[13] The placement percentage rate was missing from this report.

campus leadership to visit the employer, inspect the premises, and confirm that students were actually employed.

Everest Decatur's response to ACCSC was due on or before March 23, 2012. On March 1, 2012, CCI provided ACCSC with official notification that CCI intended to close Everest Decatur.

On April 4, 2012, CCI filed its response to the December 22, 2011 continuing show cause order. CCI represented that it had conducted an intensive review of placements. CCI stated that the review included interviews of campus employees, employers, graduates and campus leadership by Human Resources and outside counsel and that CCI fired a number of employees. CCI stated that its review determined in January 2012 that, although the vast majority of the placements at Everest Decatur were "most likely valid," there was an absence of the "necessary, complete verification paperwork for multiple placements and other placements that may not have satisfied CCI's and/or ACCSC's requirements for placements." CCI, however, was apparently relieved of the requirement to provide ACCSC with an independent, third-party, review and verification of Everest Decatur's graduate employment records and rates as reported in the 2011 Annual Report, or any of the rest of the information ACCSC had required in order to substantiate the truthfulness of that Report, because of its closure of the Decatur campus.

CCI's April 4, 2012 response reported the following placement rates:

Program	Employment Rate for 1/12 Report Date
Dialysis Technician	43%
Medical Admin Assistant	63%
Medical Assistant	63%
Med. Insurance Billing/Coding	62%
Massage Therapy	47%
Electrician	77%
HVAC	68%
Respiratory Care	70%

The Department has determined that far more was wrong with Everest Decatur's reported job placement information than the "failure to provide and maintain proper documentation" that CCI reported to ACCSC, as CCI's leadership well knew. Evidence shows that the driving force behind Everest Decatur's spike in reported placements of graduates during the very short period of time between late June and August 2011 (as reflected in its September 8, 2011 and October 20, 2011 reports) were CCI-designed programs through which Everest Decatur paid employers to hire its graduates. Through these programs, variously called the "Cavalry Initiative" or "Everest Stands Behind Its Graduates Initiative," employers were promised $2,000 for each Everest graduate whom the employer hired between June 27 and August 31 with a pledge to retain them for 30 days. However, Everest Decatur was, in fact, knowingly counting placements that consistently offered nowhere near 30 days of employment, and were failing to provide the "sustainable" employment required by Everest Decatur's accreditor.

CCI's corporate office was substantially involved in designing and managing the Cavalry Initiative. That office developed and approved the "Local Employer Affiliation Agreement" in June 2011. Furthermore, on Monday, June 20, 2011, Robert Jehling, CCI's Director of Career Services, Everest South Division, sent an email to, among others, David Whiteford, CCI's President of Everest, South Division, Tony Rios, CCI's Regional Vice President of Operations, Barbara Holliman, CCI's President Everest Decatur, Toni Heuer, CCI's Director of Career Services, Southeast Region, Rose Horton, CCI's Regional Director of Career Services-East, and Wendy Cullen, CCI's Vice-President of Employer Development, with a subject line entitled "Decatur CS [Career Services] Project: Day 1 Recap." This email established cohort/project task teams, among them, Team #6, for local employer development. In the email, Jehling stated that the "Local Employer Development Incentive Defined and Completed."

The next day, Jehling authored an email to the same individuals with the subject line entitled "Decatur CS Project: Day 2 Recap." The email stated among other things that the "Staffing Agency subsidization models and Employer Development Subsidy models finalized and forwarded to CSC [CCI's Corporate Campus Support Center located in Santa Ana, California][14] for agreement drafting." The Department interviewed former Everest Decatur Career Services staff who indicated that over 300 Everest Decatur graduates were temporarily hired through incentivized-placement program.

However, after ACCSC voted to continue the show cause directive in December, 2011, expressing questions about Everest Decatur's reported improvement in its placement rates, CCI's corporate office prepared draft declarations in February 2012 for these staff members to sign. The declarations stated, among other things, that the employee had never been asked by "management or anyone at the School" to "engage in any acts that [the employee] would consider unethical, illegal, or contrary to any law, rule, regulation or School policy." The declarations further stated that the employee was "unaware of any improper conduct by any employee at the School." Former staff members told the Department that they were called individually to meetings with school management and CCI counsel, where they were told that staff who refused to sign a declaration would be terminated, while those who agreed to sign would receive a bonus. Several staff members told the Department that they refused to sign the affidavit because they could not truthfully represent that there had been no illegal or unethical conduct at the school, and that they were terminated because of their refusal.

In its Everest Statement, CCI defended its payments to employers by suggesting that they were a vehicle to secure "bona fide, sustainable position[s]" (Everest Statement at 10), alleging that its activities were similar to what certain law schools have done (see Everest Statement at 10-11), and claiming that they were implemented with the imprimatur of its accrediting agency's Executive Director. (*See* Everest Statement at 11, 12.)

Contrary to CCI's claims, the Department's investigation revealed that what students received through the school's employer-incentivized placement program bore no resemblance to bona

[14]CCI's Campus Support Center (CSC) is located in Santa Ana, California. According to a slide presentation by CCI in 2010, it is the operational base for CCI's Executive Offices, Legal Department, Human Resources, Finance/Accounting, Marketing, Curriculum, IT, Real Estate, Purchasing, Academic Affairs, Call Center, and Audit.

fide, sustainable positions. The Department reviewed "First Day Employment Confirmation" forms from employers taking part in such a program that CCI produced at the Department's request. These forms showed employers stating that Everest Decatur graduates were scheduled for less than half time, and often less than one day per week of employment at wages typically ranging from $8 to $11 per hour, and in many cases, the forms failed to list any hours scheduled per week or any rate of pay at all. (*See* JB00162946-00162958, JB00163173, JB00163197, JB00163230, JB00163241, JB00163263-64, JB00163281, JB00163283, JB00163299, JB00163323-24, JB00163330, JB0016349, JB00163362, JB00163366, JB00163377, JB00163381, JB00163395, JB00163404, JB00163410, JB00163416, JB00163420-21, JB00163423-24, JB00163426, JB00163429, JB00163435, JB00163477, JB00163521.[15]) These forms demonstrate that Everest Decatur knew from the outset that these students were not going to receive sustainable employment and resulted in CCI paying *more* money to the employers than the employers paid to Everest Decatur graduates. Nonetheless, CCI reported these students as properly placed to its accreditor and in its placement rate disclosures to students.

In addition, the Department has taken the testimony of more than 20 students who were allegedly placed in employment during this time. These students affirmed, without exception, that they either received no employment of any kind, or if they did obtain some minimal employment, it was often unpaid, and lasted, if at all, for a matter of days, if not mere hours.[16] (Enclosure A.[17]) Notably, all these students' placements were included by CCI in its final submissions to ACCSC regarding its July 2011 report date cohort or its January 2012 report date cohort.

CCI also claimed that certain law schools have also paid part of their first-year graduates' salary. *See* Everest Statement at 10-11. CCI's source for this argument is an article in the Economist, which criticized that practice to the extent that in some cases it may not have resulted in employment that lasted longer than *one* year. (Everest Statement, Exhibit 4 (from "The Price of Success," *The Economist,* March 15, 2014).) Here, of course, CCI's efforts were purportedly designed to seek employment for a mere 30 days, and, as described above, in actuality secured far less than that. Thus, CCI's employer initiatives compare unfavorably to the law schools' programs, which themselves are the subject of criticism for masking the actual employment challenges law school graduates face.[18]

---

[15] These numbers represent Bates stamp numbers on documents CCI produced in response to a subpoena from the Office of the Inspector General of the Department.

[16] Everest Decatur graduates stated, among other things, that while they may have interviewed for jobs that Everest Decatur's documents represent they obtained, they were not hired; that they sat at a table at a single Health Fair for two days, did no work, and were not paid; that they were sent to one doctor's office for two days but never received another assignment despite their pleas for work; and that they met a contractor who took them to houses to remove siding and carpet, but did not bother to show on the third day. And, yet, although CCI claimed to have carefully scrubbed its placement reports to remove all invalid placements, its reports thus remain replete with students whom Department staff interviewed and for whom no sustainable employment ever occurred.

[17] Enclosure A consists of a summary of the testimony provided by former Everest Decatur students who CCI reported to ACCSC as properly placed compared to the claim offered by CCI regarding their employment status.

[18] *See* "The Price of Success," *id.; see also* "The Law-School Scam," *The Atlantic,* September, 2014, 62, 65 (Regarding the practice of some law schools to pay for short-term jobs for their first-year graduates, "[i]n essence,

Finally, as for ACCSC's alleged support of these initiatives, CCI has produced no proposals that it provided to its accreditor or written approvals that it received. In contrast to CCI's claim that these initiatives were supported by ACCSC's Executive Director, that individual advised the Department that while he may have had a single, brief, verbal exchange with CCI in this regard, at no time did he or ACCSC give its consent to CCI's employer initiatives, and ACCSC never was presented with any such proposals to evaluate. CCI's indication to the contrary is misleading, and its claim that ACCSC's Executive Director "was supportive of the idea and even provided suggestions for improvement, which the institution incorporated" (Everest Statement at 11), is contradicted by ACCSC itself.[19]

Notably, CCI made no mention of these initiatives in its April 4, 2012 response to ACCSC. The explanation CCI offered for its previous falsely reported placements at three schools in the Atlanta area[20] was that: "[i]n December 2009, CCI instituted a company-wide incentive program for Career Services employees." CCI stated that it "believed that such an incentive program could be appropriately implemented and did not anticipate rogue employees circumventing these controls and behaving inappropriately." CCI claimed that "on June 30, 2011, the financial incentive program …ended and by this date other changes were made to CCI's internal controls to prevent the reoccurrence of improper behavior."

Title IV regulations define misrepresentation as, among other things, any false, erroneous or misleading statement an eligible institution makes directly or indirectly to a student, prospective student or any member of the public, or to an accrediting agency, to a State agency, or to the Secretary. A misleading statement includes any statement that has the likelihood or tendency to deceive. 34 C.F.R. § 668.71(c) (definition of "misrepresentation"). A substantial misrepresentation is any misrepresentation on which the person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person's detriment. 34 C.F.R. § 668.71(c) (definition of "substantial misrepresentation.") An eligible institution is deemed to have engaged in substantial misrepresentation when the institution makes a substantial misrepresentation about the nature of its educational program, its financial charges, or the employability of its graduates. 34 C.F.R. § 668.71(b). The Department has determined that CCI's statements made in its responses to ACCSC's show cause orders and in its Annual Reports to ACCSC constituted substantial misrepresentations to its accreditor regarding the employability of its graduates.

---

the schools are requiring current students to fund temporary jobs for new graduates in order to produce deceptive employment rates that will entice potential future students to enroll.").

[19] In a conversation with the Department on August 6, 2014, ACCSC's Executive Director, Michale McComis, stated that when the notion of paying employers to facilitate placements was raised by CCI on one occasion, the idea was "fairly inchoate." He stressed that there was nothing formally presented which he could evaluate, nor was ACCSC ever asked to opine on a specific proposal. Mr. McComis' only advice was that before any such incentive program was adopted, CCI would need to show that the program was "unassailable," "thoroughly documented," and "capable of satisfying any scrutiny." (CCI never provided ACCSC with such documentation.) Mr. McComis also stated that he was unaware of any other institution that ACCSC accredited that had adopted a program to pay employers to place its students.

[20] The third school is the Everest College located in Marietta, GA, along with Decatur and Jonesboro.

B. Everest Institute misrepresented job placement rates to current and prospective students.

Effective July 1, 2010, an institution must make available to any enrolled or prospective students through appropriate publications, mailings, or electronic media, information concerning the placement of, and types of employment obtained by, graduates of the institution's degree or certificate programs. 34 C.F.R. § 668.41(d)(5). The information may be gathered from the institution's placement rate for any program, if it calculates such a rate, or other relevant sources. 34 C.F.R. § 668.41(d)(5)(i). The institution must identify the source of the information, as well as any timeframes and methodology associated with it. 34 C.F.R. § 668.41(d)(5)(ii). The institution must disclose any placement rates it calculates. 34 C.F.R. § 668.41(d)(5)(iii). An institution may satisfy the requirement to disclose the information required under 34 C.F.R. § 668.41(d) to enrolled students by posting the information on an internet website or an intranet website that is reasonably accessible to the individuals to whom the information must be disclosed; and to prospective students by posting the information on an internet website. 34 C.F.R. §§ 668.41(b)(1) and (2).

In addition, beginning July 1, 2011, an institution that offers an educational program that prepares students for gainful employment in a recognized occupation, and that is required by its accrediting agency or State to calculate a placement rate on a program basis, must disclose the rate and identify the accrediting agency or State agency under whose requirements the rate was calculated. 34 C.F.R. § 668.6(b). The institution must include the information required under 34 C.F.R. § 668.6(b)(1) in promotional materials it makes available to prospective students and post this information on its website, prominently provide the information in a simple and meaningful manner on the home page of its program web site, and provide a prominent and direct link on any other Web page containing general, academic, or admissions information about the program to the single Web page that contains all the required information. 34 C.F.R. § 668.6(b)(2). All of Everest Decatur's programs were subject to the provisions of 34 C.F.R. § 668.6(b).

Further, by entering into a PPA with the Department, an institution agrees, among other things, that:

> In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, it will make available to prospective students, at or before the time that those students apply for enrollment…the *most recent* available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements; and…relevant State licensing requirements of the State in which the institution is located for any job for which an educational program offered by the institution is designed to prepare those prospective students.

34 C.F.R. § 668.14(b)(10) (emphasis added).

Everest Institute consistently ignored this essential requirement of its Title IV eligibility. Although it had warranted that it would provide prospective students with the "most recent available [placement] data" in order to become eligible to participate in the Title IV programs, it failed to do so. Everest Institute thus demonstrated that its Title IV eligibility must not continue.

With its Everest Statement, CCI claimed that Everest Institute should not be held responsible for meeting its contractual and regulatory responsibilities because ACCSC mandated that Everest Institute repeatedly update its placement rates, which would have been "unduly burdensome" to share with its students. (Everest Statement at 15.) CCI further stated that the provision of updated information to Everest Institute's students would have been "misleading and confusing" because its placement rates were in such a constant state of flux. (*Id.*) These arguments are without merit.

The language in the regulations and the PPA is without ambiguity. It is undisputable that most institutions need only provide an update to students regarding placement rates on an annual basis because they have not been cited by their accrediting agency or state licensing body for inaccuracies or falsifications regarding such rates, or for rates that fall below the required standards. The fact that Everest Decatur's accreditor required it to do more because of its unacceptable performance does not exempt it from its federal legal requirements. If anything, Everest Decatur's "long history of poor student achievement rates"-- as ACCSC noted in December 2010 -- created a heightened need for Everest Institute to be robust with its student disclosures.

To suggest that students would be confused by changing rates is equally perplexing as long as the applicable reporting period for the rates was accurately identified. Contrary to CCI's suggestion, it can be expected that the more information current, and especially prospective, students received regarding Everest Decatur's placement rates, the better positioned they would have been to evaluate the potential worth of the training and better able to make meaningful determinations concerning whether to enroll, or to continue enrollment, in their program of instruction. Surely, it was much more "misleading and confusing" for students to act in reliance upon placement numbers that CCI acknowledges were incorrect.

In particular, Everest Decatur's 2010 Annual Placement Disclosure provided the following placement rates, and stated that they were the most recent placement statistics submitted to ACCSC.

Programs	Placement
Dialysis Technician (8 months)	52%
Massage Therapy (9 months)	78%
Medical Administrative Assistant (8 months)	73%
Medical Assisting (8 months)	77%
Medical Insurance Billing and Coding (8 months)	66%
Electrical (9 months)	N/A
RHVAC (9 months)	N/A
Respiratory Care (24 months)	N/A

Respiratory Care (21 months)	57% [21]

As set forth above, however, on October 11, 2011, CCI informed ACCSC that it had revised these placement rates as a result of an internal review necessitated by an investigation by the Department's Office of Inspector General that had disclosed "questionable placements of the same nature as discovered at the Jonesboro campus." As previously noted, the Jonesboro campus is another CCI Everest institute in the Atlanta, Georgia area. Although the placement rate for the Everest Decatur Medical Insurance Billing and Coding program decreased from 66% to 54%, the placement rate for the Medical Administrative Assistant program decreased from 73% to 36%, and the placement rate for the Medical Assistant program decreased from 77% to 54%, no indication exists that Everest Decatur disclosed *any* of these revised rates to prospective or enrolled students.

On or about July 1, 2011, CCI published "Program Integrity Rate (PIR) Disclosures" on Everest Decatur's website, as required by 34 C.F.R. § 668.6(b)(iv). These Disclosures reported the following employment rates:

Program	Employment Rate
Dental Assistant	N/A
Medical Admin Assistant	70%
Medical Assistant	67%
Med. Insurance Billing/Coding	80%
Electrician	N/A
HVAC	N/A

The Disclosures on CCI's website for Everest Decatur displayed rates that were inaccurate, inflated, and out of date. Specifically, as of July 1, 2011, the most recent rates that Everest Decatur had calculated and reported to ACCSC for the Medical Assistant, Medical Administrative Assistant, and Medical Insurance Billing and Coding programs were 45%, 48%, and 60%, respectively, which were materially less than those reported in the website Disclosure. These Disclosures also did not reveal the 41% rate already calculated by Everest Decatur for the HVAC program and the 54% rate for the Electrician program. Rather, Everest Decatur put "N/A" for those programs, as if the programs had not been in existence long enough for a rate to be calculated. This was a material misrepresentation.

Furthermore, although Everest Decatur was required to disclose the time frames and methodology used to arrive at its reported rates, it provided only general information in the Disclosures. Specifically, a footnote in the Disclosures stated that ACCSC outcomes are calculated by program length, and by tracking start cohorts from their start date through graduation; and that to determine the cohort date range, the ACCSC calculation counts

[21] In a Deferral Response that CCI submitted through Pan Fuchs to ACCSC, dated March 19, 2010, and using a February 2010 report date, CCI identified placement rates for Everest Decatur's Respiratory Care (21 month), Medical Insurance Billing and Coding, and Massage Therapy programs of 64%, 58%, and 47%, respectively. These percentages were more recent than the 2009 Annual Report placement rates for these programs, which were calculated using a July 2009 report date, and were used in Everest Decatur's 2010 Annual Placement Disclosure.

backwards from the report date as follows: program length times 1.5 plus 3 months for placement activity. However, because, among other things, the report date used in the Everest Decatur Disclosure was not specified, the Disclosure failed to identify the timeframe with sufficient clarity. For instance, using a July 2011 report date for the 8-month Medical Administrative Assistant program, the cohort of students are those who began their educational programs between April 2009 and March 2010. Current students and prospective students could not reasonably determine this fact based only upon the information in the Disclosure.

Everest Decatur also failed to disclose placement rates calculated subsequent to July 1, 2011 to its students. Because Everest Decatur failed to adequately disclose the timeframe for which it calculated the placement rate, the fact that the rates shown in Everest Decatur's July 1, 2011 PIR Disclosure were outdated, and no longer accurate, was not apparent. Everest Decatur should have updated its placement rate disclosures within a reasonable time after the employment rates were calculated and submitted to ACCSC, but it did not. Although CCI has stated that it did not update Everest Decatur's placement rate disclosures because of its decision to close Everest Decatur, as there were no longer any prospective students at the school, Everest Decatur did not cease enrolling students until February 29, 2012. Further, 34 C.F.R. § 668.14(b)(10) and 34 C.F.R. § 668.41(d) require disclosures of the *most recent* placement rates to not only prospective, but also to *current* students.

CCI's failure to update the required PIR Disclosures was not limited to Everest Decatur. The Department's review of the program disclosures for Everest Institute's main location in Cross Lanes and at Everest Eagan, revealed that Everest Institute's PIR Disclosures for July 1, 2013 reported exactly the same placement rates as those reported in its July 1, 2012 PIR Disclosures.

As stated in section A, the Title IV regulations define a substantial misrepresentation as any misrepresentation on which the person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person's detriment. 34 C.F.R. § 668.71(c) (definition of "substantial misrepresentation"). The Department has concluded that current and prospective students of CCI could reasonably be expected to rely to their detriment upon CCI's statements identified here, because those statements overstated the employment prospects for graduates of Everest Institute's programs. Therefore, the Department has determined that these statements constituted substantial misrepresentations by Everest Institute.

*****

If the Secretary determines that an eligible institution has engaged in substantial misrepresentation, the Secretary may, among other things, deny an institution's application for recertification. 34 C.F.R. § 668.71(a)(3). Pursuant to this authority, because of Everest Institute's substantial misrepresentations to its accreditor and to current and prospective students described above, the Department has determined to deny Everest Institute's application for recertification to participate in the Title IV, HEA programs.[22]

[22] In an email dated August 13, 2014, Linda Buchanan, CCI Vice President for SFA Compliance, notified the Department of twelve CCI institutions that failed the requirement that they generate at least 10% of their revenue from non-Title IV student aid sources (the "90/10 requirement") for the fiscal year ended June 30, 2014, including a

Through its misrepresentations to ACCSC and students, Everest Institute has failed in its fiduciary duty to the Department.[23] Everest Institute and CCI also failed to correct CCI's and Everest Institute's placement rate disclosures to students, as described above. This had a direct impact upon the Title IV funds received by Everest Institute, and many students are now without the jobs they were led to believe they would get when they enrolled in Everest Institute.

CCI has argued that the "[u]se of years-old information relating to a branch campus closed eighteen-months ago" is "inappropriate and contrary to the regulations" and does not justify the decertification at issue in this letter. Letter from Jack Massimino, CCI, to Robin Minor, FSA, dated July 31, 2014, and accompanying CCI's Everest Statement. CCI further describes what it claims to be substantial improvements in its placement verification processes that it states it has been making since 2005. However, the Title IV regulations require that an institution "must *at all times* act with the competency and integrity necessary to qualify as a fiduciary." 34 C.F.R. § 668.82(a) (*emphasis* added.) When it fails to do so, even for a discrete period, it forfeits its opportunity to remain a Title IV eligible institution. Thus, the fact that CCI claims that it has improved its behavior, even if true, would not affect the need to deny recertification based upon the violation of the fiduciary standard of conduct at a previous time. Furthermore, given the extensive investigation that is required to reveal deceptive practices of this nature, the Department's findings will always apply to a prior period of time. In this case, that period of time extends at least as recently as 2012. The Department will not look away from such findings merely because the responsible party claims that it has now mended its ways.

Should Everest Institute have factual evidence to dispute the Department's findings, and demonstrate their inaccuracy, Everest Institute may submit that evidence via overnight mail to me at the following address:

> Administrative Actions and Appeals Service Group
> U.S. Department of Education
> Federal Student Aid/Program Compliance
> 830 First Street, NE (UCP-3, Room 84F2)
> Washington, DC 20002-8019

---

report that Everest Institute Cross Lanes failed the 90/10 requirement for the second consecutive year. The consequences of the reported second consecutive 90/10 failure for this institution will be addressed in a separate letter.

[23] The Department notes that Everest Institute and CCI did not voluntarily inform the Department of what happened at Everest Decatur or any other Everest campus with respect to false placements. *See* 34 C.F.R. §§ 668.6(b)(1)(iv), 668.14(b)(10), 668.41(d)(5), and 34 C.F.R. Part 668, Subpart F. Instead the Department has had to piece together events through required document production and subpoenas issued against CCI. Although CCI has continued to assert that it "self-reported" its placement abuses (*see, e.g.*, Everest Statement at 1, 18), CCI has provided no evidence to corroborate its assertion that an initial disclosure was made to the Department's Office of the Inspector General (the "OIG") pursuant to a "presentation" on August 26, 2011. The OIG was unable to locate any records of such a presentation. The closest thing to a "previous disclosure" the Department can identify is a letter from CCI's counsel to the OIG and the U.S. Attorney's Office in Atlanta, Georgia dated March 16, 2012, in response to an OIG subpoena. Even self-reporting would not excuse the multiple misrepresentations detailed in this letter; furthermore, assertions of "self-reporting" ring hollow if the Department was only advised of Everest Decatur's malfeasance after its suspect records were demanded.

This denial of recertification is effective August 31, 2014.[24] If Everest Institute chooses to submit material for the Department's consideration, it must be received within two weeks of the date of this letter. Any such material will be reviewed by the Department, and Everest Institute will be notified whether the recertification denial will be modified, rescinded, or left in place. If the denial of recertification is left in place, the San Francisco/Seattle School Participation Division will then contact you concerning the proper procedures for closing out Everest Institute's Title IV, HEA program accounts.

In the event that Everest Institute submits an application to participate in the Title IV, HEA programs in the future, that application must address the deficiencies noted in this letter. If you have any questions about this letter, you may contact Kathleen Hochhalter at (303) 844-4520.

Sincerely,

Mary E. Gust
Director
Administrative Actions and Appeals Service Group

Enclosure

cc: Michale S. McComis, Executive Director, ACCSC, via mccomis@accsc.org
Larry Pogemiller, Commissioner, Minnesota Office of Higher Education, via larry.pogemiller@state.mn.us
Clarence Pennington, Chair, WV Council for Community and Technical College Education
Bill Crews, Executive Director, Georgia Nonpublic Postsecondary Education Commission, via billc@npec.state.ga.us

[24] Note that, due to Everest Institute's recently admitted failure of the 90/10 requirement for two consecutive fiscal years, the effective date of the institution's loss of eligibility to participate in the Title IV, HEA programs is July 1, 2014. The Department will establish this effective date through a separate letter the Department will send to CCI regarding the consequences of its 90/10 failure.