

QUESTIONS SUBMITTED BY SENATOR RICHARD DURBIN

DREAM CENTER EDUCATION HOLDINGS (DCEH)

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 as a preaccredited status. According to the Department's regulations, preaccreditation is an accredited status. The Department believed then, and continues to believe, that these campuses were in accredited status until their date of closure.

Following the June 14th meeting, Ms. Jones expressed to Department staff her concern about DCEH's ability to manage a teach-out of this magnitude and complexity and volunteered to contact each of the involved accreditors, except ACICS, to discuss the teach-out and to see if the accreditors would be willing to work together to review the teach-out plan and share regular updates with the Department about that status of the teach-outs. Ms. Jones did not reach out to ACICS because during this time she was involved in the review of ACICS's Part II submission and did not believe that she should be in communication with ACICS. The other involved accreditors (WASC, Middle States, SACSOC, HLC and Northwest Commission) agreed that it would be best to work together to review and approve a "master" teach-out plan that was satisfactory to everyone. Ms. Jones then notified DCEH that the accreditors would be working together to review teach-out plans and provide guidance as a group. Once the teach-out began, Ms. Jones held bi-weekly calls with the accreditors (excluding ACICS) to share information and hold DCEH accountable for providing information or taking actions requested by accreditors. These calls were not to intervene on DCEH's behalf. Instead, they were to make sure that DCEH was meeting accreditor requirements and to reiterate to DCEH that they needed to follow accreditor instructions.

On July 10, 2017, Ms. Jones became aware of the notification that HLC had posted on its website regarding the accreditation status of these institutions. This was the first time Ms. Jones had seen any reference to CCC-Status being a non-accredited status; however, in its web notification, HLC referred to CCC-status as being "recognized" status and indicated that the institution has met the requirements for candidacy. Candidacy status, also called preaccreditation, 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.

DATES, PURPOSE, AND ATTENDANCE OF DEPARTMENT MEETINGS WITH DCEH^[1]

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.

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)

HIGHER LEARNING COMMISSION ACTIONS AND DCEH CHARACTERIZATION OF ACCREDITATION STATUS^[2]

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.

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.



DCEH Email and
List.pdf

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.