



December 20, 2021

Transmitted via email only

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**Re: University of Arizona Global Campus
OPE ID: 00188100**

Dear Dr. Robbins, Mr. Pastorek and Mr. Rocznik:

I am writing in response to the letter dated December 17, 2021 from the University of Arizona (“UA”) to Under Secretary James Kvaal (“UA December 17th Letter”) and signed by each of you on behalf of UA, the University of Arizona Global Campus’s (“UAGC”) and the University of Arizona Foundation (“UAF”), respectively (UA, UAGC and UAF are herein collectively referred to as the “UA Parties”). The UA December 17th Letter provides a further response¹ to the U.S. Department of Education’s November 29, 2021 letter (“Department November 29th Letter”) regarding the Department’s requirement that UAGC submit either UAF’s audited

¹ Two additional letters from UAGC were submitted to the Department on December 3, 2021. The Department provided a response to those letters on December 6, 2021.

consolidated Same Day Balance Sheet/Statement of Financial Position and consolidated financial statements, or submit a 25% letter of credit (“New Owner LOC”). The Department November 29th Letter required UAGC to either submit an auditor engagement letter, or notify the Department that it would post the 25% New Owner LOC. The deadline for this requirement was December 13, 2021. As requested by UAGC in a letter dated December 3, 2021, the Department provided an extension of the deadline to December 20, 2021. The UA December 17th Letter sets forth three “options” and requests a further extension until January 31, 2022 for UAGC to notify the Department whether the consolidated SDBS/financial statements or the New Owner LOC were feasible.

Department Options

The Department has considered the options identified by the UA Parties in the UA December 17th Letter, and the implications of UA’s indemnification agreement with UAF. The Department has determined that it will (contingent on reaching agreement on the details of Options C and D), allow UAGC to continue participating in Title IV programs upon UAGC’s selection and the UA Parties’ full implementation on the specified timeline of one of the following Department Options:

Option A. UAGC will submit an auditor engagement letter and audited consolidated SDBS and consolidated annual financial statements at the level of UAF, as more fully described in the Department November 29th Letter. As has been acknowledged in discussions between the Department and UAGC and UA, despite the position taken by UAF’s auditor, other auditing firms have expressed the view that a consolidated SDBS and annual financial statements is appropriate.

Option B. UAF will submit a 25% New Owner LOC, as more fully described in the Department November 29th Letter. The New Owner LOC cannot be reduced to 10% as requested in footnote 2 of the UA December 17th Letter because a 25% New Owner LOC is the Department’s standard requirement when a new owner does not have two years of acceptable audited financial statements.

Option C. UA will add its signature to the Department’s Temporary Provisional Program Participation Agreement (“TPPPA”) with UAGC, and if continued participation is approved following the Department’s review of the change in ownership, the Provisional Program Participation Agreement (“PPPA”) and any future full certification Program Participation Agreement (“PPA”). UA thereby will become jointly and severally responsible with UAF and UAGC for any Title IV liabilities. UA will be required to provide an updated statement of public status. Because the November 16, 2020 Indemnification Agreement does not include the Department as a party or a beneficiary, this option provides for UA’s direct assumption of liability by signing the participation agreement, and does not require the Indemnification Agreement to be amended, as is required by Option D.

Option D. UA and UAF will amend the November 16, 2020 Indemnification Agreement to add the Department as a party, and provide the Department with the right to make a direct claim on

UA for any losses resulting from UAGC's participation in Title IV programs. The amendment will also contain a representation from UA that its status as a public institution extends to its indemnification to the Department for any Title IV liabilities. The amendment will also include a default provision (or similar protection) in the event that UA reduces or cancels the agreement as described in Paragraph 9, or the agreement ends. However, before the Department agrees to this alternative, it will need additional information, including a copy of any insurance policy that has been procured in respect of UA's obligations under the Indemnification Agreement. In addition, this option will be available only if the Department, UA and UAF can reach agreement on all terms, including acknowledgement of the amendment by any insurance company that provides coverage. UA will be required to provide an updated statement of public status.

Under Option C or D – either of which provides the direct financial backing of UA for Title IV liabilities -- the Department will accept an audited combined SDBS and combined annual financial statements.

Although the UA Parties' Option 3 ("Alternative Path Forward") may ultimately be a viable path forward for the UA Parties to restructure their relationship, the Department does not consider Option 3 a viable option in the near term to cure UAGC's failure to submit the required UAF consolidated SDBS.

Required Timeline and Conditions

The Department cannot agree to an open-ended extension to January 31, 2022 for the UA Parties to select an option. As a condition of UAGC's continued participation, the UA Parties must notify the Department no later than January 4, 2022 of the Department Option that the UA Parties intend to pursue, and describe in detail steps already taken and how they will execute completion of the selected option no later than January 10, 2022.

In footnote 4 of the UA December 17th Letter, the UA Parties state that they would be "willing to accept heightened cash monitoring Level 1 and periodic enrollment and financial status reporting if the Department believes such measures become necessary next year." To protect borrowers and students during this further extension while the selected option is being fully implemented, UAGC will be subject to the conditions set forth below, which include periodic reporting and Heightened Cash Monitoring Method 1 (HCM1). The conditions will apply until the Department releases UAGC from the conditions, which will be no sooner than when the UA Parties are in full compliance with the selected option.

Financial and Enrollment Reporting Condition

The UA Parties must submit the following reports on a monthly or bi-weekly basis as described below:

1. Bi-weekly cash balance submission that outlines available cash on hand, submitted separately for each of the UA Parties. Please provide details of what is included in the cash balance.

2. Monthly report with the following information contained in a separate report (containing all items) for each of the UA Parties (except as otherwise indicated for UAGC only):
 - i. Actual and projected cash flow statement that breaks-out each anticipated inflow and outflow by line item and amount as indicated on the sample cash flow statement, with business and financial disclosure notes (sample enclosed);
 - ii. Any important financial transaction that has a material effect on that party's financial condition;
 - iii. Explanation of variances as indicated on the enclosed "Cash Receipt & Disbursements Instructions."
 - iv. Any planned mergers, acquisitions, business expansions/contractions, and/or corporate restructuring;
 - v. Any announced or upcoming location expansions and/or closures;
 - vi. Any new programs that UAGC plans to offer within the next 90 days at one or more locations that participate in the federal student aid programs;
 - vii. Any decision by UAGC to cease enrollment in any program(s) and provide the teach out plan/teach out agreement and the schedule for teach out of the program(s); and

3. Monthly Student Roster submission for UAGC in Microsoft Excel (sample format with required information and instructions is enclosed). Documents containing Personally Identifiable Information ("PII") being submitted to the Department via electronic delivery must be password protected. PII is any information about a student, which can be used to distinguish or trace the student's identity.

Please submit Items 1-3 via email to Rhonda.Puffer@ed.gov. Item 1 is due to the Department on alternating Mondays beginning on January 4, 2022, and the monthly submissions (Items 2 and 3 above) are due to the Department by the 20th of each month.

Heightened Cash Monitoring Method 1 (HCM1)² Condition

The Department is immediately placing UAGC on HCM1. As required by 34 C.F.R. § 668.162(d), UAGC must first make disbursements to eligible students and parents and pay any remaining credit balances before it requests or receives funds for the amount of those disbursements from the Department. The funding request may not exceed the amount of the actual disbursements that were made to the students and parents included in the funding request. Providing the student accounts are credited before the funding requests are initiated, UAGC is permitted to draw down funds through the Department's electronic system for grants management and payments, G5, for the amount of disbursements it made to eligible students and

² Please refer to the Federal Register issued on December 11, 2020 for COVID-19 guidance relating to HCM1 for COVID-19 flexibilities.

parents. All credit balances must be paid prior to draw down of funds, even if the student/parent signed a credit balance authorization in the past. The use of credit balance authorization forms is prohibited.

The Records First requirement also means that institutions on HCM1 that are participating in the Direct Loan (“DL”) program will have their Current Funding Level (“CFL”) reduced to the greater of Net Approved and Posted Disbursements (“NAPD”) or Net Draws (processed payments less all refunds, returns, offsets, and drawdown adjustments). In the event of returning to Advanced Funded status, UAGC must continue processing DL awards as Records First until the next DL global funding increase is processed. See <https://ifap.ed.gov/sites/default/files/attachments/2020-08/2021FSAHbkVol4Ch2.pdf> for additional information.

Notification Condition

UAGC is also required to submit the following notifications to Rhonda.Puffer@ed.gov and via the Document Management System found at the Common Origination and Disbursement Web Site: <https://cod.ed.gov/cod/LoginPage> no later than 10 days after any of the oversight or financial events, as described below, occur. UAGC must also include with the information it submits, written notice that details the circumstances surrounding the event(s) and, if necessary, what steps it has taken or plans to take, to resolve the issue. Please upload your response into the *HCM1 Monitoring* folder. (Please refer to the *Presentation Title: Partner Eligibility and Oversight Services Document Center* training podcast posted to the Knowledge Center web site for specific uploading instructions: [Partner Eligibility and Oversight Services Document Center | Knowledge Center](#).)

- Any adverse action against any of the UA Parties, including probation or similar action, taken against the by its accrediting agency, state or other federal agency;
- Any event that causes any of the UA Parties or any related entity as defined in the Statement of Financial Accounting Standards (SFAS) 57, Accounting Standards Codification (ASC) 850, to realize any liability that was noted as a contingent liability in any of the UA Parties’ or related entity’s most recent audited financial statements;
- Any violation by any of the UA Parties of any loan agreement;
- Any failure of the UA Parties to make a payment in accordance with its debt obligations that results in a creditor filing suit to recover funds under those obligations;
- Any withdrawal of owner’s equity/net assets from any of the UA Parties by any means, including by declaring a dividend;
- Any losses that are unusual in nature or infrequently occur or both as defined in accordance with Accounting Standards Update 2015-01 and ASC 225; or
- Any filing of a petition by any of the UA Parties for relief in bankruptcy court or similar proceeding, including a state or federal receivership.

Financial Responsibility Letter of Credit

In footnote 3 of the UA December 17th Letter, the UA Parties ask the Department to relieve UAGC from having to post a separate letter of credit as a result of UAGC's 2019 failing financial statements under its former ownership by Zovio Inc. ("Zovio") ("Financial Responsibility LOC"). If the UA Parties select and fully implement Department Option C or D, the Department will relieve UAGC from the Financial Responsibility LOC requirement. If either Option A or B is selected, the Department is unable to relieve UAGC from the requirement of posting the Financial Responsibility LOC. The Department will provide UAGC with its standard Financial Responsibility Letter shortly. The Financial Responsibility LOC must be posted no later than February 28, 2022. Once the Department accepts, reviews, and approves the required audited financial statements for fiscal year end 2020 and 2021 (consolidated for Option A, combined for Option B), the Department will consider reducing or releasing the Financial Responsibility LOC.

Sincerely,



Michael Frola
Division Chief
Multi-Regional and Foreign Schools Participation Division

Cc: AZ State Board for Private Postsecondary Education (via email at kevin.lamountain@azppse.gov)
CA Bureau for Private Postsecondary Education (via email at deborah.cochrane@dca.ca.gov)
Western Association of Schools and Colleges - Sr. Colleges & Universities (via email at jstudley@wscuc.org)

Enclosures:

Cash Receipts and Disbursements Instructions and Requirement Disclosures
Sample Cash Flows
Sample Student Roster
Student Rosters Instructions