



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Education Service
Washington, D.C. 20420

Peter Cohen President, University of Phoenix
4025 S. Riverpoint Parkway
Phoenix, AZ 85040

May 26, 2020

Dear Mr. Cohen:

On May 7, 2020, I sent you a letter that provided additional information regarding the adjudicative matter pending decision before the Regional Processing Office Director pursuant to the notice of intent to suspend enrollment of new students dated March 9, 2009, and responded to a number of questions regarding corrective action relative to that matter. I understand there may still be uncertainty around the factors Regional Processing Office Directors are to consider when determining whether a school has taken sufficient corrective action. Therefore, I am writing again to provide additional clarification regarding corrective action.

As I noted in my previous letter, in accordance with 38 U.S.C. § 3696, VA is required to disapprove the enrollment of GI Bill beneficiaries in any school which “utilizes advertising, sales, or enrollment practices of any type which are erroneous, deceptive, or misleading either by actual statement, omission, or intimation.” Further, in accordance with statutes and VA regulations, schools are provided 60 days from the date of notification (which was extended to 90 days in the case of The University of Phoenix due to the current COVID-19 pandemic), to take necessary corrective action. If a school refuses to take corrective action or does not take sufficient corrective action within that timeframe, the appropriate next step would be to suspend the approval of enrollment of new students and refer the matter to the Committee(s) on Educational Allowances.

The purpose of the 60-day period, and the “notice of intent” letter, is to provide the school with the opportunity to respond to allegations that the advertising, sales, or recruiting practices in question were erroneous, deceptive, or misleading, or that sufficient corrective action has been taken in regard to those practices to avoid harm to Veteran students and prospective students going forward. As to the first point, pursuant to 38 U.S.C. § 3696, if a school has not utilized advertising, sales, or enrollment practices of any type which are erroneous, deceptive, or misleading, section 3696 would not be for application, and a school would not need to take corrective action to avoid suspension of enrollments.

My previous letter addressed factors that would be considered in determining whether sufficient corrective action has been taken. There are two factors that are

conditions for a finding that a school has taken corrective action if such action is necessary: (1) whether the school has ceased utilization of prohibited actions; and (2) whether the school has taken appropriate steps to ensure future compliance with statutes and VA regulations. Sub-element factors listed in our previous correspondence of May 7, 2020 are only examples of actions a school might take to establish the adequacy of its corrective action. These are not intended to represent an exclusive or required list of potential corrective actions. If a school has not ceased the prohibited actions and has not taken appropriate steps to ensure future compliance with statutes and VA regulations, we will not find the corrective action to be sufficient. I want to be clear that the University of Phoenix is required only to demonstrate how it has satisfied these two requirements in order to avoid suspension of enrollment of new students.

Given the need for further clarification of the corrective action requirements, The University of Phoenix will be provided a period of 30 days from the date of this letter to provide any additional information or evidence it wishes to submit. I appreciate your cooperation with this process, and I will consider all relevant information and evidence previously submitted by The University of Phoenix, together with any additional information provided within the 30-day extension period, before making a determination.

Please submit any additional information relevant to this matter referenced above to the Muskogee Regional Processing Office DIR.VBAMUS@va.gov. We look forward to continuing to work with you to ensure that our nation's Servicemembers and Veterans receive their earned education benefits.

Sincerely,

Jason McClellan
Director, Muskogee Regional Office