



DEPARTMENT OF VETERANS AFFAIRS
VETERANS BENEFITS ADMINISTRATION
BUFFALO VA REGIONAL OFFICE
BUFFALO, NEW YORK

Richard M. Englert
President, Temple University
Second Floor, Sullivan Hall
1330 Polett Walk
Philadelphia, PA 19122

July 2, 2020

Dear Mr. Englert:

In a letter dated March 9, 2020, I informed you of my determination that there is sufficient evidence to support a finding that Temple University (Temple) has utilized advertising, sales, or enrollment practices which are erroneous, deceptive, or misleading either by actual statement, omission, or intimation in violation of 38 U.S.C. § 3696. Accordingly, the March 9, 2020, letter served as notification that I intended to disapprove the enrollment of all individuals not already enrolled in Temple programs unless Temple took corrective action within 60 days. On May 5, 2020, I provided you a 30-day extension. Lastly, on May 26, 2020, I provided more guidance and afforded you another 30-day extension to take appropriate corrective actions. Our offices have been engaged in dialogue throughout this time to help address your questions and our concerns in the hopes of resolving this matter in a manner consistent with the protective principle embodied in 38 U.S.C. § 3696 for the safeguarding of GI Bill benefits on behalf of our Servicemembers, Veterans, and their dependents.

After reviewing all relevant information and evidence, I have concluded that Temple has taken sufficient corrective action; therefore, I will not disapprove enrollments for new students. This matter has been satisfactorily resolved. I will not be referring this case to my Committee on Educational Allowances.

Nature of the Evidence Relied Upon

My conclusions are based on the following evidence and reasoning:

Pursuant to 38 U.S.C. § 3696(a), VA shall not approve the enrollment of an eligible person in “any course offered by an institution which utilizes advertising, sales, or enrollment practices which are erroneous, deceptive, or misleading either by actual statement, omission, or intimation.” See also 38 C.F.R. § 21.4252(h)(1). Information contained in a class-action complaint filed in the United States District Court for the Eastern District of Pennsylvania under the caption *Smith et al v. Temple University*, No. 18-cv-00590 (E.D. Pa.) (the “Action”), constitutes evidence that Temple may have failed to meet the section 3696(a) requirements. The complaint alleges that from approximately 2014 through 2017, Temple made false, deceptive, and misleading statements to U.S. News and World Report (USNWR) regarding the ranking of its

Online Masters of Business Administration (OMBA) program, directly and adversely affecting students. The complaint specifically alleges that in January 2018, about a week after the program was ranked the #1 online MBA program by USNWR for the fourth consecutive year, Temple revealed that they had submitted incorrect data to USNWR since 2014. As a result of using corrected data, the program went from #1 to “Unranked.” Temple’s President and Vice-President/Provost announced on July 25, 2018, that misreporting similar to that involving the OMBA also occurred with respect to the Executive MBA, Global MBA, Part-Time MBA, Master of Science in Human Resource Management and Master of Science in Digital Innovation in Marketing. These programs all had issues related to the reporting of one or more metrics, including the number of new entrants providing GRE/GMAT scores, student indebtedness, and applicants’ undergraduate GPAs. For the Online Bachelor of Business Administration, misreporting related to student indebtedness was found.

Additionally, in January 2018 Temple brought in law firm Jones Day to conduct a review of the Fox School of Business rankings data. The Jones Day review discovered that the Dean of the Fox School of Business had chosen to disband a longstanding committee charged with ensuring the accuracy of rankings data. The review determined that this absence of checks and balances, together with an undue focus on rankings, enabled such misreporting and misleading information. The Jones Day review found that the Fox School of Business reported inaccurate data to USNWR for multiple years. The review found in some instances, the misreporting was intentional; in other instances, the Fox School of Business misreported information based on incorrect interpretations of survey questions.

Specific deceptive practices determined by Jones Day included the following: Temple reported that all admitted applicants for ranking years 2015 through 2018 had taken the Graduate Management Admission Test, but the actual number was “significantly lower” than the 100 percent figure given; Temple reported undergraduate grade point averages that were “inflated through use of various methods” for ranking years 2015 through 2018; Temple underreported the number of admissions offers, implying that the program was more selective than was the case for ranking years 2017 and 2018; and Temple provided false information about debt. USNWR asked business schools for the average debt among graduates who borrowed for ranking years 2016 through 2018. Temple reported instead the average for all graduates, thus lowering the average debt level. Temple also counted both faculty members and “academic coaches” in a formula to determine student-faculty ratio for ranking years 2016 through 2018.

Efforts to Obtain Corrective Action

1. On March 9th, I sent Temple notification of my initial determination that there is sufficient evidence to support a finding that Temple engaged in prohibited advertising, sales, or enrollment practices.

2. Since March 9th until today, I received several pieces of correspondence via electronic mail from the school and/or legal representatives for the school to assess whether Temple has taken sufficient corrective action.

Actions Taken by the School Which I Have Determined to Be Sufficient Corrective Action

1. As set out in Temple's April 2, 2020 response and in an April 21, 2020 email received from James Schultz, an attorney with Cozen O'Connor that was hired to represent Temple, Temple has provided substantial and comprehensive evidence of its efforts, beginning in January, 2018, to not only stop and correct the misreporting of data by the Fox School of Business to ranking agencies, but has also put in place robust University-wide protocols and safeguards to ensure that it never happens again at Temple. For example, Temple has to date expended more than \$18,000,000 in addressing this issue and continues to engage auditors and consultants to ensure that its data is reported accurately and used appropriately. Temple's corrective actions have been approved and endorsed by the Fox School's accrediting body, the Commonwealth of Pennsylvania's Attorney General ("Attorney General"), the U.S. District Court, as well as the class members affected by the misreporting. Moreover, in a good faith effort to show these efforts are effective going forward, Temple has committed to providing to the Attorney General an annual report of its compliance efforts in this regard through the end of academic year 2022-2023.
2. In correspondence dated April 21, 2020, Temple also informed VA that in addition to the settlement with the Attorney General, there was a class action resolution in *Smith, et al v. Temple University, No. 18-cv-00590 (E.D.Pa.)* that resulted in notice and monetary payments to each class member, including GI Bill recipients. Following issuance of the notice, no class member objected to the settlement, the class action settlement distributed a pool of \$5.475 million among students enrolled in the affected program, including GI Bill recipients, and also provided approximately \$2.8 million in non-monetary commitments to these students. The settlement with the Attorney General included a number of non-monetary components as well as \$250,000 in scholarships for prospective students. GI Bill recipients, like all class members and all states attorneys' generals, received full notice of the proposed class action settlement. Students received notice in accordance with a notice plan approved by the March 11, 2019 order of the United States District Court, Eastern District of Pennsylvania. The Court determined the notice to be the "best notice practicable under the circumstances as well as valid, due and sufficient notice to all Settlement Class Members complying fully with the requirements of Federal Rule of Civil Procedure 23 and due process requirements of the United States Constitution". In addition to the formal notice provided to class members through the litigation process, Temple announced the resolution on its website and the litigation and its resolution were also the subject of numerous articles and news releases by Temple. Moreover, an informational website published information and important

dates about the settlement process. The notice provided options for class members, including GI Bill recipients to either object to the settlement or opt out of the settlement and preserve their personal rights. In fact, of the original twelve named plaintiffs, three service members helped to represent the class and negotiate a resolution. Temple also stated that no class member, GI Bill recipient or state attorney general objected to the settlement. Only one person opted out of the settlement; however, that person has not sought any relief or contacted Temple about this matter. As a result, the \$5.475 million case pool, together with another \$2.8 million of non-monetary commitments, were accepted by all class members (but one), releasing their claims in exchange for payment from that pool of funds and access/benefit from the non-monetary components.

3. Also within the April 21, 2020 correspondence, Temple informed VA that no complaints were received from any students about the results of the class action settlement. On the contrary, as previously explained, three members of the twelve named plaintiffs agreed to help represent the class to negotiate a resolution, and through their counsel, supported the resolution. While some students raised concerns that their claims were denied, Temple worked with plaintiff's counsel to determine whether they were eligible for receiving funds (i.e., whether they were admitted to Temple after the misreported data was given to USNWR and therefore eligible for relief). Apart from the issue of determining eligibility, no complaints or GI Bill specific concerns were received. In January 2018, prior to the start of the class action, Temple did receive a complaint from a student, however, that student ultimately elected to participate in the class action resolution and received more than \$5,000 in settlement funds.
4. In the April 21, 2020 correspondence, Temple informed VA that the class action litigation was brought by highly experienced plaintiff's counsel for the students. These counsels negotiated a substantial settlement for the students. A federal judge found that settlement to be fair, adequate and reasonable, and the students to have been well-represented by their counsel. As a result, Temple fully compensated the class members by providing lump sum payments to class members and non-monetary benefits. Examples of the non-monetary benefits are access to a course video vault, career counseling, and implementation of oversight processes to ensure that misreporting never happens again. All told, as described in public filings provided to the VA in Temple's April 2, 2020 response, Temple provided more than \$8.2 million in value to the class members, including GI Bill recipients. This was after each class member received detailed and court approved notice of the details of the settlement and decided to remain in the class (apart from one individual) to receive those benefits.
5. In correspondence dated April 2, 2020, Temple University informed VA that on July 20, 2018, Temple received notice that the Attorney General was reviewing the business practices of Temple and Fox School of Business because of the data misreporting issues that Temple investigated and disclosed. Temple fully

cooperated with the Attorney General in its inquiry, which was completed in fall 2019. In December 2019, Temple and the Commonwealth entered into a publicly available Assurance of Voluntary Compliance (“AVC”) to resolve the Attorney General’s inquiry. The AVC explicitly recognizes that Temple “provided its full and complete cooperation” to the Commonwealth during its investigation. In announcing the AVC, Pennsylvania Attorney General Josh Shapiro stated that: **“Temple University has accepted responsibility for its role in this conduct and has been proactive and cooperative in addressing it.”** The AVC includes a number of monetary and non-monetary remedies, including scholarships for students as well as measures that were already implemented or underway to further improve data integrity.

6. Also noted in the April 2, 2020 correspondence, Temple cooperated with the U.S. Department of Education’s (Department) inquiry into the misreporting of data by Fox School of Business. Temple submitted its initial and supplemental responses to the Department’s inquiry regarding misreporting of data by the Fox School on May 24, 2018, July 20, 2018 and July 31, 2018. Temple received a supplemental request from the Department by letter dated October 18, 2018. Temple submitted an initial and supplemental responses for that inquiry to the Department on November 2, 2018 and November 16, 2018, respectively. Temple’s responses to the Department have been timely, complete and transparent. As such, Temple has received no further requests for records and information from the Department. Recently, on March 4, 2020, Temple met with senior officials at the Department to discuss the status of the inquiry and followed-up the meeting with a report dated March 27, 2020, containing the information set forth in this Response.
7. The April 2, 2020 correspondence also noted that the Fox School of Business is accredited by the Association to Advance Collegiate Schools and Business (AACSB) and has been continuously accredited since 1934. Following Temple’s disclosure of the data misreporting, AACSB requested a thorough review of all data provided to AACSB to ensure its accuracy. After that review revealed that the inaccurate data reported to USWNR was not reported to AACSB, AACSB subjected Fox School of Business to a “Focused Review” and accelerated its accreditation review process. After conducting that thorough review, AACSB wrote to Temple in February 2020, stating in pertinent part:

I am writing to relay to you that the AACSB Board of Directors met on February 1, 2020 to consider your accreditation status, which has been “Focused Review 1” since September 2018. **Based on Temple’s progress over the past 18 months to remediate the ethical breach related to the rankings scandal, and on Temple’s exemplary cooperation with AACSB at all stages of the inquiry, I am pleased to relay that the AACSB Board of Directors has voted to lift the Focused Review 1 status and allow the peer review team recommendation emanating from the recent**

continuous improvement review to advance through normal channels of peer review.

...

We especially commend Dean Anderson on the **very significant remediation efforts that he has overseen during his time as dean. Dean Anderson has demonstrated an authentic commitment to the continuous improvement ideals and peer review foundation of AACSB. The new strategic plan that has emerged from this situation is clear and focused, and positions Temple for a successful future.**

8. In addition, in the April 2, 2020 correspondence, Temple addressed the steps that it has taken regarding dissemination of information. Temple informed VA that on July 1, 2019, Temple established the Data Verification Unit (DVU) which is housed in the Office of Ethics and Compliance. The DVU reports through Temple's Chief Compliance Officer directly to Temple's Board of Trustees. The DVU manages the data verification function for Temple and serves as a critical safety net designed to prevent the dissemination of inaccurate information about Temple. Any reports, documents, publications, online postings or other materials meeting certain criteria must be submitted to the DVU for review and verification. The submission of materials to the DVU is mandatory. All Temple colleges, schools, and administrative units are **required** to obtain approval by the DVU before publishing, issuing or disseminating materials in any form.
9. Finally, in the April 2, 2020 correspondence, Temple outlined a number of remediation measures based on its review of and in response to the rankings issues. The correspondence noted that Temple continues to deploy these robust systems and procedures to ensure the accuracy of all data and information reported by Temple including the following;
 - a. Assessed relative responsibility of relevant personnel and determine and take appropriate personnel action. The dean of the Fox School of Business was removed in July 2018. The individual who created and submitted inaccurate data was terminated in July 2018. Temple installed a new interim Dean who had no role in the prior administration and then made the interim Dean permanent in July 2019.
 - b. Communicated identified instances of misreporting to USWNR and other constituents. Temple notified USWNR of the misreporting of data for the OMBA and also notified numerous other agencies and news outlets.
 - c. Instituted policy specific to solicitation; compilation; verification, cross-checking; and submission/reporting of data to external constituencies to address key aspects of data reporting process, including supervision and oversight.
 - d. Instituted explicit policy addressing mandatory reporting of suspected/potential inaccurate data reporting. This included hiring the first Chief Compliance Officer (CCO) and publishing a new ethics and compliance webpage.

- e. Provided training for employees about best practices in data collection, verification, and reporting to maximize precision and accuracy.
- f. Developed and implemented revised rankings process for soliciting, compiling, verifying, cross-checking, and submitting rankings data.
- g. Retained all supporting documentation (e.g., Cognos reports, exports from other databases, and other data “snapshots”), working papers (e.g., memorialization of decision-making on interpretive questions, records reflecting data compilation and associated calculations/analysis, etc.), and final submissions for each ranking survey for no less than seven (7) years.
- h. Periodically reviews compliance, via Internal Audits.
- i. Promoted and reinforces institutional commitment to key values in onboarding orientations; training modules specific to data collection, verification, and reporting; and in employee handbook.
- j. Promoted and reinforces key aspects of applicable processes and policies, including all relevant enhancements.

In light of the information provided above and after reviewing all relevant information and evidence, I have concluded that Temple has taken sufficient corrective action; therefore, I will not disapprove enrollments for new students. This matter has been satisfactorily resolved. I will not be referring this case to my Committee on Educational Allowances. Because of this decision, I now consider this issue to be closed.

I appreciate the actions that Temple has taken and your continued cooperation to safeguard GI Bill benefits for our Servicemembers, Veterans, and their dependents.

Sincerely,

Donna Mallia
Director, Buffalo Regional Office