



DEPARTMENT OF VETERANS AFFAIRS

Muskogee Regional Office
125 South Main Street
Muskogee, OK 74401-7025

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

July 2, 2020

Dear Mr. Cohen:

In a letter dated March 9, 2020, I informed you of a determination that there was sufficient evidence to support a finding that University of Phoenix (UoP) had 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 UoP programs unless UoP took corrective action within 60 days. On May 7, 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, or to fully describe those already taken. 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 UoP 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 complaint by the Federal Trade Commission (FTC) filed against UoP on

December 10, 2019, with the United States District Court of Arizona, constitutes evidence that UoP may have failed to meet the section 3696(a) requirements. The complaint was filed under Section 13(b) of the Federal Trade Commission ACT (“FTC ACT”), 15 U.S.C. § 53(b), and seeks to obtain temporary, preliminary and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies and other equitable relief for UoP’s acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

The FTC claimed that UoP and its parent company Apollo Education Group had “used deceptive advertisements that falsely touted their relationship and job opportunities with companies such as AT&T, Yahoo, Microsoft, Twitter and The American Red Cross.”

Per the FTC, UoP created deceptive ads featuring major employers including Adobe, Microsoft and Twitter, “giving the false impression that UoP worked with those companies to create job opportunities for its students and tailored curriculum for such jobs, leading students to believe the companies had worked with the university. UoP advertising and marketing materials targeted active-duty military members, veterans and their spouses and families, as well as Hispanic students. UoP launched a campaign called “Let’s Get to Work” focused on job opportunities. The companies reflected in these ads were chosen based on desired brand association and the campaign’s strategy was to focus on large, stable, technology-based, forward-focused companies with great reputations, thereby driving the highest level of prospective student interest.”

Additionally, FTC alleged further deceptive practices, including misleading UoP advertisements were a major part of attracting students to the school. UoP referred to specific advertising companies in their marketing strategy even though these companies were not partnered with the university. Per FTC, UoP also misrepresented that other companies, like The American Red Cross, Avis and AT&T had worked with them to develop courses. The UoP disputed the FTC findings, but entered into an agreement to resolve the issue.

Both FTC and the Department of Veterans Affairs note that UoP has been the largest recipient of Post-9/11 GI Bill benefits since that program began.

In response to these factors, I considered all the evidence UoP submitted by letter on March 20, 2020, the 42 supporting attachments re-sent in PDF format April 3, 2020, the June 5, 2020 letter with 35 exhibits, and the June 23 package which included a cover letter and 35 exhibits respectively, in support of UoP’s assertions that it had not engaged in any deceptive or misleading advertising practices. The discussion content of a conference call, held on June 25, 2020 between UoP Leadership and myself, was also considered. Lastly, I weighed all corrective and compliance oversight actions outlined and taken by UoP to address the FTC noted concerns which are defined below. Even though UoP disputes the FTC allegations, it did enter into an agreement to provide restitution to students who may have been negatively impacted during the

period in question, and the University took many measures to change leadership, oversight and strengthen compliance activities (outlined below).

I also considered the annual VA compliance reviews from 2013 to present, to include specific marketing compliance reviews conducted in 2017 and 2019 by VA which have cited no concerns with the advertising and marketing practices of UoP. Other VA internal reports and data were reviewed where appropriate, to include a 2015 VA Regional Processing Office phone survey conducted and which included UoP students and their experiences.

Efforts to Obtain Corrective Actions Taken

1. On March 9th, I sent UoP notification of my initial determination that there was sufficient evidence to support a finding that UoP likely engaged in prohibited advertising, sales, or enrollment practices.
2. Since March 9th until today, I engaged in several communications and correspondence (by standard mail, electronic mail) with the school to further assess whether UoP has taken sufficient corrective action. These communications would include VA letters dated May 7, 2020, and May 26, 2020.
3. I held a conference call at the request of UoP leadership on June 25, 2020, to further discuss their responses and exhibits for consideration.

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

1. The marketing campaign in question ended in 2014.
2. University Leadership Changes – the executive leadership team in place at the time of the FTC review period have long been replaced by a new team.
3. Marketing Personnel Changes – the marketing personnel responsible for the advertising campaign in question have long been replaced.
4. Marketing Activities No Longer Outsourced – the current marketing functions now fall under the sole direction of UoP and its oversight.
5. Multi-level Review of Marketing Practices – UoP utilizes a review process that requires marketing be approved by multiple University departments including the Ethics and Compliance Department, the Legal Department and at times, faculty experts. The review process also includes review of protocols for communications with prospective students.
6. Renewed Annual Training Emphasis – annual training requirements now include compliance training focused on Consumer Protection requirements.
7. Reinforced Use of Call Monitoring – contacts with prospective students are recorded, analyzed and monitored for key words or phrases that would flag the communications as potentially non-compliant. Corrective actions with prospective students are taken where issues are noted.
8. Communications with Students – In the wake of the FTC allegations and subsequent settlement, UoP conducted outreach to notify students and make them aware of the waiver of tuition debts for students during the period in

question in the amount of \$141 million and a specific \$50 million settlement to be dispersed by FTC for any additional student relief claims (to include any Veterans).

9. Cooperation with VA Compliance Reviews – Since 2013, the VA has conducted 130+ compliance reviews of UoP locations, to include specific marketing reviews in 2017 and 2019. UoP has fully complied with these audits. No findings related to deceptive or misleading advertising or marketing were cited.

In light of all the cited evidence and factors, I have concluded that UoP has taken sufficient corrective action to address any potential concerns under review; therefore, I will not disapprove enrollments for new students. This letter serves as notice the matter has been satisfactorily resolved.

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

Sincerely,

Jason McClellan
Director, Muskogee Regional Office