

Congress of the United States
House of Representatives
Washington, DC 20515

April 27, 2015

The Honorable Arnold Duncan
Secretary
U.S. Department of Education
400 Maryland Ave., S.W.
Washington, D.C. 20202

Dear Secretary Duncan:

A recent front-page article in *The New York Times*, “Some Owners of Private Colleges Turn a Tidy Profit by Going Nonprofit,” described how some owners of for-profit colleges have converted their institutions to non-profits in ways that do not appear to be legitimate. For example, in addition to receiving a high salary, the president of one “non-profit” college takes in tens of millions of dollars from the college in rent, loan payments, and even income from private planes and hotels used by college employees, according to the article. The president of another recently-converted non-profit also serves as the college’s major creditor and has the sole power to create and disband the college’s board.

Under the Department’s regulations, the presumption is that an institution that has changed its ownership is not eligible for federal funds unless you determine, affirmatively, that it meets the standards. Where there is evidence that a purported non-profit institution is not operating as a valid charity, it is a clear indication that the entity lacks financial responsibility and therefore cannot be approved by you as eligible to receive federal financial aid funds. We request an explanation of why such payments, if they are occurring, would not be considered violations of the Antideficiency Act.

We write to ask you to carefully examine the recent conversions to determine whether these institutions may legitimately be treated as non-profits for purposes of Department of Education regulations or whether they instead should remain covered by the rules and notifications governing for-profits. In particular, we ask whether the Department reviewed or consulted with the IRS regarding:

- The price paid by the non-profit to acquire the for-profit institution, whether it was arrived at in accordance with state and federal laws, and what documentation the Department has reviewed regarding the sale.
- The role of owners and executives of the for-profit institution in the management of the non-profit institutions, before and after the acquisition, and whether it is in compliance with state and federal rules governing charities.
- Any purported donation of assets by owners in the context of the transaction and the method used to determine the value of the donation.
- The retention of real property by the owners of the for-profit in the context of the acquisition by the non-profit and whether the ongoing payment of rent to trustees and management of the non-profit is appropriate for a charity.

- Other past and ongoing payments to trustees of the non-profit organization and whether those payments are appropriate under IRS and state regulations governing charities.
- Bylaws, conflict of interest guidelines, and other governance documents for the non-profit and whether they reflect the standards expected of charities.

It is critical for the Department of Education to undertake robust reviews of conversions of for-profit institutions to non-profits, including the critically-important conflict-of-interest issues enumerated above. When colleges violate non-profit requirements, the Department of Education cannot be assured of the institution's integrity. We request a report detailing the status of the changes of ownership and the content of your review of all conversions over the last 5 years, including: Keiser University and Everglades University; Herzing University; California College San Diego, Stevens-Henager, CollegeAmerica and the Center for Excellence in Higher Education; Remington College and EducationAmerica.

If you do not have a process for rigorous review of conversions from for-profit to non-profit status, we ask that you impose an immediate moratorium on the approval of new conversions until an appropriate process can be established and urge you to review the previous approvals of conversions. Please also report to us the information that is being provided to consumers about these institutions; in particular, does the Department of Education's College Navigator accurately portray whether an institution is operating as a valid non-profit? Finally, please provide us with details regarding any current request for authorization or guidance from for-profit institutions that are considering converting, including: Grand Canyon University and Career Education Corporation.

As you know, non-profit and public institutions are given greater access to many federal programs because they lack the personal financial motives that can sometimes cause for-profit entities to take advantage of consumers and/or taxpayers. Conversely, for-profit companies are more robustly regulated because they are run by people with a conflict of interest. If we continue to allow for-profit institutions to exist under the guise of a non-profit status, we will be allowing the owners to evade the rules, leaving students and taxpayers highly vulnerable.

We appreciate your prompt attention to this issue, and we look forward to hearing about your current procedures and of your plans for ensuring that taxpayers and consumers are adequately protected.

Sincerely,



ROSA L. DeLAURO
Member of Congress



SUSAN A. DAVIS
Member of Congress



EARL BLUMENAUER
Member of Congress



JANICE HAHN
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