

# United States Senate

WASHINGTON, DC 20510

October 22, 2015

The Honorable Ashton Carter  
Secretary  
Department of Defense  
1000 Defense Pentagon  
Washington, DC 20301

Dear Secretary Carter,

We write to ask that you review an October 7, 2015, decision by Ms. Dawn Bilodeau, Chief of Voluntary Education for the Department of Defense (“DoD”), to place the University of Phoenix (“the University”) on probationary and potential termination status with respect to its participation in the DoD Tuition Assistance (TA) Program for active duty military personnel. We strongly support efforts to monitor the integrity of colleges and universities serving our nation’s servicemembers. However, based on our review of the relevant documents associated with this decision, we are concerned that the DoD’s decision is unfair, requires additional review, and may warrant reconsideration.

The TA program is an important benefit that enables active duty military personnel to choose a postsecondary education program that best fits their needs to enhance both career and personal goals. The program also serves as an important tool for the DoD to further the recruitment and retention efforts of our nation’s volunteer armed forces. We strongly believe that these earned benefits and educational opportunities for our servicemembers should not be jeopardized because of political or ideological opinions of some Members of Congress regarding the types of institutions that provide postsecondary education to our troops.

As you know, the University of Phoenix participates in the TA program through the DoD’s Voluntary Education Partnership Memorandum of Understanding (MOU), which conveys the commitments and agreements between colleges and universities and DoD and ensures that the TA funds are spent wisely to support servicemembers attending quality educational programs. However, it is our understanding that Ms. Bilodeau’s decision and threats of termination of participation in the TA program rely on overly technical violations of the MOU, fail to acknowledge any of the University’s corrective action or pledged cooperation and are based, in part, on unsubstantiated allegations associated with inquiries not initiated by the DoD.

With respect to the University’s violation of DoD policies on the use of official seals or other trademark insignia with “challenge coins,” Ms. Bilodeau’s letter concedes that “the University of Phoenix has responded to infractions *with appropriate corrective action at this time.*” While the University has remedied this infraction, we are concerned that traditional public or private, non-

profit universities, including Southern Illinois University, utilize similar challenge coins with impunity. (See attached photographs.) We remain skeptical that the DoD is evenly and uniformly enforcing its policies on all institutions of higher education and appears to be unfairly singling out certain institutions of higher education based on a letter from the Vice Chairman of the Defense Subcommittee of the Senate Appropriations Subcommittee. (See Letter to Secretary of Defense, June 30, 2015, attached.) It has also come to our attention that on the evening of October 20<sup>th</sup>, DoD issued additional new guidance on the use of these coins clearly indicating that the regulatory field remained vague and was not settled.

With respect to the University's apparent failure to obtain specific approval for conducting partnership activities at several military installations, it is our understanding that the University obtained approval from the respective base leadership to sponsor, sometimes at their request, partnership events. While the University may have technically violated the MOU's requirement that the University coordinate with the Education Services Officer, those who have served in the military readily understand and respect the chain of command. Approval from the base leadership should be sufficient to meet the requirements of the MOU regardless of the Education Services Officer's involvement and, should not be cited as a basis for probation and possible termination.

More concerning, however, is Ms. Bilodeau's rationale to suspend participation in the TA program based on requests for University documents by two government agencies that are not in fact the DoD. It is worth noting that a request of documents does not indicate a violation or admittance of guilt. In fact, Ms. Bilodeau appears to agree, indicating that the allegations by other entities have not yet been substantiated. However, without fair warning or a sufficient opportunity to be heard, the DoD informed the University of Phoenix that, among other things, "no new or transfer students at your institution will be permitted to receive DoD [tuition assistance]" and it is actively considering terminating its MOU with the University. Ms. Bilodeau's decision to give the University fourteen (14) days to respond to the probation decision effectively puts the University in the position of having to respond to reviews undertaken by agencies other than the DoD. These actions seemingly assume the guilt of the University before they are proven and ignore the remedied infractions identified by and directly within the jurisdiction of the DoD.

The University of Phoenix has a long history of serving working adults and others for whom traditional university schooling is unavailable, including more than 200,000 enrolled civilian and military students spread out across more than 100 locations in 17 states. With almost 20,000 faculty and 8,800 staff in every state and the territories as well as just over 1,400 faculty and 6,300 staff in Arizona alone, the University of Phoenix is a significant member of the Arizona and broader higher education community. Like any organization that chooses to partner with the DoD to serve our servicemembers, the University has a legitimate expectation to be dealt with fairly and reasonably. Given our aforementioned concerns, we believe that the DoD's decision

should be evaluated for considerations of fairness and cooperation and ask that you independently and carefully review this bold decision.

To help us obtain a better understanding of the DoD's actions in this matter, and to help ensure that all institutions of higher education – for-profit, public and private, non-profit colleges and universities – are held to the same standard of conduct relative to DoD rules and regulations, we ask that you provide us with the following information by October 30th before you take any additional action on this matter:

- 1) What are the specific, factual, and evidentiary bases for the DoD's recent decision to place the University of Phoenix on probationary status?
- 2) Did anyone besides Ms. Bilodeau review this decision? Please provide any internal decision memorandum that reflects that decision when it was originally made.
- 3) Please describe why the DoD official who reviewed the decision believes he/she can place the University on probation when, as Ms. Bilodeau stipulates in her October 7<sup>th</sup> letter, the University has already remedied identified infractions of the MOU?
- 4) Please provide all documents, including communications from Members of Congress, or their staff, and any outside party regarding the University of Phoenix and this matter. Also, provide the guidelines relating to the establishment of a probation sanction or imposition of probationary status against the University of Phoenix.
- 5) Please provide a list of all institutions of higher education participating in the DoD's Voluntary Education Partnership and/or Tuition Assistance programs that have been placed on probationary status in connection with a violation of their MOU; the reasons each of those schools were placed on probationary status; and whether each such school was given opportunity to make corrective actions before being placed on probationary status.
- 6) Please provide a list of those schools where the DoD MOU was terminated and the reasons for such termination.
- 7) Is it the DoD's practice to place both for-profit and not-for profit universities on probation when another federal or state agency makes a civil investigative demand for documents? If so, please identify other instances where this has taken place and the reasons for taking such action.
- 8) Please list those schools that currently use or previously used challenge coins with DoD official seals or other trademark insignia; indicate whether such schools obtained prior DoD authorization for such use; describe any sanctions imposed for such use; and provide any documents or correspondence relating to such use or sanction determination.
- 9) Please describe the military chain of command as it relates to the MOU and a decision by the base leadership to permit an institution to sponsor an event on base.

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- 10) If this probationary period is extended or the MOU with the University of Phoenix is terminated, how many active duty military personnel do you estimate will be impacted by this decision?

The TA program is critical to our nation's servicemembers' educational and career opportunities, primarily to prepare them to serve in positions of increased responsibility within the military, but also to prepare them to transition to productive civilian careers. While we support efforts to root out waste, fraud, and abuse, we hope that you will review this situation with great caution and care. The Senate Committee on Health, Education, Labor and Pensions is additionally in the process of reauthorizing the Higher Education Act and exploring ways to ensure quality at all of our colleges and universities is of utmost importance and concern.

We look forward to your timely response and should you have additional questions, please feel free to ask your staff to contact our Chiefs of Staff Pablo E. Carrillo (Senator McCain), at (202) 224-7123; Chandler Morse (Senator Flake), at (202) 224-4521; and David Cleary (Senator Alexander) at (202) 224-8798.

Sincerely,



John McCain  
U.S. Senator



Jeff Flake  
U.S. Senator



Lamar Alexander  
U.S. Senator