

PROTECT  
STUDENTS AND  
TAXPAYERS

April 5, 2022

Secretary Miguel Cardona  
U.S. Department of Education  
400 Maryland Ave., SW  
Washington, D.C. 20202

Dear Secretary Cardona:

We urge the U.S. Department of Education to promptly address issues raised by the recent California state court decision<sup>1</sup> finding pervasive fraudulent abuse of federal financial aid programs by Zovio, Inc., the current and former operator of Ashford University/University of Arizona Global Campus (“UAGC”). While Zovio is currently structured as an online program manager, it has at all times provided and continues to provide essentially all of the services to operate UAGC. According to the court’s decision, Zovio “violated the law by giving students false or misleading information about career outcomes, cost and financial aid, pace of degree programs, and transfer credits, in order to entice them to enroll at Ashford.”<sup>2</sup> As a result, we ask that you immediately restrict UAGC’s access to federal student aid, provide student loan discharge to all students who attended Ashford University via Borrower Defense to Repayment, and initiate an action against UAGC to recover costs associated with student loan discharges. We further ask that the Department investigate and take all other appropriate action against Zovio and UAGC, as well as its current and former officials.

**University of Arizona Global Campus Should Not Continue to Receive Title IV Aid**

Pursuant to 20 U.S.C. § 1002(a)(4)(B), an institution becomes statutorily ineligible to participate in the Title IV programs if the institution itself, the institution’s owner, or the institution’s CEO

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<sup>1</sup> *People of the State of California v. Ashford University, et.al.*, 37-2018-00046134-CU-MC-CTL, Statement of Decision (hereinafter, “Order”), filed March 3, 2022, available at [https://oag.ca.gov/system/files/attachments/press-docs/37-2018-00046134-CU-MC-CTL\\_ROA-696\\_03-03-22\\_Statement\\_of\\_Decision\\_1646669688827.pdf](https://oag.ca.gov/system/files/attachments/press-docs/37-2018-00046134-CU-MC-CTL_ROA-696_03-03-22_Statement_of_Decision_1646669688827.pdf).

<sup>2</sup> *Id.* p. 8.

“has been judicially determined to have committed fraud [involving Title IV funds].”<sup>3</sup> Furthermore, no Title IV institution may employ or enter into contracts with an organization that has been “judicially determined to have committed fraud.”<sup>4</sup> Regulations interpret the phrase “judicially determined to have committed fraud” to include both civil fraud and “any other material violation of law involving Federal, State, or local government funds.”<sup>5</sup>

The Department previously relied on this authority in 2016 to stop federal funds flowing to the Minnesota School of Business (MSB) and its related school, Globe University. The Department took this action immediately following a state trial court’s determination that MSB and Globe violated Minnesota’s consumer protection law by using false advertising that misrepresented employment outcomes, credit transferability, and program quality.<sup>6</sup> Notably, the Department stopped MSB’s and Globe’s access to Title IV funds during the pendency of a lengthy appeals process, which ultimately proved unsuccessful in overturning the judgments based on the schools’ fraud.<sup>7</sup>

Like the MSB / Globe decision, the California court order in the Zovio case provides a clear judicial determination that Zovio committed multiple material acts of fraud when enrolling students—acts that render UAGC ineligible for Title IV aid. The list below provides a non-exhaustive sample of Zovio’s numerous deceptive trade practices that the court found to violate the California Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.) (“UCL”) and the California False Advertising Law (Bus. & Prof. Code, § 17500 et seq.) (“FAL”), which prohibit “any unlawful, unfair, or fraudulent business act or practice” and are recognized as anti-fraud statutes.”<sup>8</sup>

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<sup>3</sup> 34 C.F.R. § 600.7(a)(3)(ii) restates that an educational institution does not qualify as an “eligible institution” for Title IV purposes if “[t]he institution, its owner, or its chief executive officer . . . [h]as been judicially determined to have committed fraud involving title IV, HEA program funds.”

<sup>4</sup> 20 U.S.C. § 1094(a)(16)(B)(ii).

<sup>5</sup> 34 C.F.R. 668.14(b)(18)(iii)(B).

<sup>6</sup> U.S. Department of Education, Dec. 6, 2016 Letter to Mr. Jeffrey Myhre, President, Minnesota School of Business, “Re: [Denial of Recertification Application](#) to Participate in the Federal Student Financial Assistance Programs”; U.S. Department of Education, Dec. 6, 2016 Letter to Mr. Jeffrey Myhre, President, Globe University, “Re: [Denial of Recertification Application](#) to Participate in the Federal Student Financial Assistance Programs.”

<sup>7</sup> See *Minnesota v. Minnesota School of Business, Inc. d/b/a Minnesota School of Business and Globe University, Inc. d/b/a Globe University*, A17-1740, Decision filed Nov. 6, 2019, available at <https://law.justia.com/cases/minnesota/supreme-court/2019/a17-1740.html>.

<sup>8</sup> See *id.* pp. 13, 38 (explaining that the “fraudulent prong” is a part of the UCL and determining that civil penalties were needed to “deter fraudulent businesses”). See also *Com. on Children's Television, Inc. v. Gen. Foods Corp.*, 35 Cal.3d 197, 209 (1983) (“Thus, section 17200 [of the California UCL] is not confined to anticompetitive business practice but is equally directed toward the right of the public to protection from fraud and deceit.”) (internal quotations omitted); *Kasky v. Nike, Inc.*, 45 P. 3d 243 (2002) (“California's unfair competition law (UCL) (§ 17200 et seq.) defines “unfair competition” to mean and include “any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by [the false advertising law (§ 17500 et seq.)].”).

- Zovio lied to students about their ability to obtain careers that require licensure after graduating from Ashford, such as teaching, nursing, and social work. For instance, Zovio falsely promised students that their degree would allow them to become teachers; in fact, Ashford degrees do not qualify its graduates to obtain the necessary license for most teaching positions.<sup>9</sup>
- Zovio misled students about the cost of its degrees and the true amount of financial aid available to pay for the tuition, and it downplayed the amount of debt students would be taking out.<sup>10</sup>
- Zovio deceived students about the true pace and time commitment of Ashford's degrees compared to other colleges. Zovio's admissions staff routinely described the programs as "accelerated," which the school admitted was inaccurate.<sup>11</sup>
- Zovio misrepresented the ability to transfer credits into and out of Ashford. For example, admissions counselors routinely made inaccurate promises that students' prior credits or life experience would transfer before the student received an accurate evaluation from the school.<sup>12</sup>

The court also found that the school "did not take serious action to prevent or remedy the extensive deception their compliance program identified"<sup>13</sup> and "created a high-pressure admissions department whose north star was enrollment numbers."<sup>14</sup> The school expected its admissions counselors (the same employees now working for UAGC) "to call hundreds of leads a day"<sup>15</sup> and "closing the sale was prioritized above providing students with accurate information."<sup>16</sup> The testimony at trial made clear that "the pressure to meet their enrollment numbers, the instructions of their managers, and guidance from high performers on their teams all led [employees] to deceive students to overcome objections and promote enrollment."<sup>17</sup>

Although the illegal conduct in the California Attorney General's lawsuit occurred before Zovio subsumed Ashford University into UAGC, the schools are one and the same; UAGC is providing an Ashford education under a different packaging. For instance:

- UAGC willingly took over Ashford University's OPEID number, existing students, incoming tuition revenue, technological infrastructure, marketing team, and existing

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<sup>9</sup> Order pp. 17-20.

<sup>10</sup> *Id.* pp. 20-24.

<sup>11</sup> *Id.* pp. 24-25.

<sup>12</sup> *Id.* pp. 25-26.

<sup>13</sup> *Id.* p. 37.

<sup>14</sup> *Id.* p. 10.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* p. 11.

<sup>17</sup> *Id.* p. 12.

practices, and all other admissions and financial aid services provided by Zovio instead of starting a new school with its own team.

- UAGC [retained](#) Ashford’s faculty, staff, and academic programs.
- Ashford’s parent company, Zovio, [controls](#) recruiting, financial aid, counseling, institutional support, information technology, and academic support services.
- Zovio controls details like the tuition cost per credit, which it informed investors it is altering to attract more graduate-level military students.<sup>18</sup>

During the trial, Pat Ogden, the former Vice President for Accreditation Services at Ashford and UAGC, testified that Ashford University and UAGC were “the same institution under a different name.”<sup>19</sup> Students have also stated that the same fraudulent conduct that occurred while the school was called Ashford University continued when it was renamed UAGC. As an example, Kim Lee told the [Phoenix New Times](#) that UAGC was “essentially the same school” as Ashford University and, when the school was renamed, the only difference she noticed was that her tuition nearly doubled and the school held her diploma “ransom” until she paid her balance.

The Department must responsibly steward taxpayer dollars and stop Title IV aid from flowing to UAGC unless and until an appeal overturns the numerous findings of fraud. The Higher Education Act requires the Department to act *now* to protect students and taxpayers’ dollars—not years into the future. At a bare minimum, if the Department continues to allow UAGC to receive Title IV aid, it should require a dollar-for-dollar letter of credit (or other guarantee) to ensure a full return of any funds distributed to the school during the pendency of failed appeals.

### **The Department Should Provide Borrower Defense Relief to Students Who Attended Ashford University**

In addition to taking action to stop additional Title IV funds from flowing to UAGC, the Department should not place Ashford borrowers back into repayment until it discharges the student loans issued during the period covered by the judgment: February 6, 2009 until at least December of 2020.<sup>20</sup> Borrower Defense to Repayment regulations and related laws clearly establish that borrowers covered by a government agency’s contested judgment against a school finding violations of state law are entitled to debt cancellation.<sup>21</sup>

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<sup>18</sup> October 27, 2021 Zovio, Inc. Third Quarter [earnings call](#).

<sup>19</sup> See [Closing Argument](#) (p. 9) by California Attorney General’s Office, citing testimony at trial. Veterans Education Success is in possession of transcripts from the trial and can provide them upon request.

<sup>20</sup> The decision found a pattern of deceptive practices reaching back to 2009 (limited because of the statute of limitations applicable to the State of California’s claims) and calculated penalties for deceptive phone calls between 2009 and 2020. *See, e.g.*, Order pp. 8, 43.

<sup>21</sup> 20 U.S.C. § 1087e(h); 34 C.F.R. 685.222(b); 34 C.F.R. 685.206(c)(1).

The Department’s prior actions supply clear precedent for granting group relief: In 2017, the Department discharged federal loans associated with American Career Institute (ACI) after the school entered a consent judgment admitting that it made a series of false representations to prospective students and violated the Massachusetts Consumer Protection Act.<sup>22</sup>

### **The Department Should Recover Costs Associated with Borrower Defense Discharges and Other Liabilities from UAGC**

By acting expeditiously, the Department can ensure that the institution responsible for defrauding students bears the cost of discharging their loans. Regulations empower the Secretary to “collect from the school whose act or omission resulted in the borrower defense the amount of relief arising from the borrower defense.”<sup>23</sup> As discussed above, UAGC and Ashford are the same school, and are operated by the same company. Because of that, UAGC should bear the cost of any student loans discharged as a result of fraud at the school. Furthermore, the Department should protect its financial interest by immediately requiring a letter of credit and evaluating other UAGC liabilities and obligations to return unlawfully obtained Title IV funds. Title IV institutions must be able to cover all liabilities to the Department, including liabilities based on borrower defense.<sup>24</sup>

### **The Department Should Pursue Further Investigation and Action Regarding UAGC**

Finally, the California court’s findings establish a factual basis for additional potential violations of federal law and the terms of UAGC’s Title IV participation agreement, including:

- Violations of the incentive compensation ban based on findings that Zovio “created a high pressure admissions department whose north star was enrollment numbers”<sup>25</sup> and required admissions staff to meet quotas;
- Misleading students about their ability to become teachers, nurses and other licensed professionals in “helping careers” that predominantly employ women, in violation of constitutional and HEA civil rights protections; and
- Misrepresenting their status as an approved non-profit entity.<sup>26</sup>

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<sup>22</sup> U.S. Department of Education Press Release: “American Career Institute Borrowers to Receive Automatic Group Relief for Federal Student Loans,” Jan. 13, 2017, available at <https://www.ed.gov/news/press-releases/american-career-institute-borrowers-receive-automatic-group-relief-federalstudent-loans>.

<sup>23</sup> 34 C.F.R. 685.206(c)(3).

<sup>24</sup> 20 U.S.C. § 1099c(c)(1)(c) requires that Title IV institutions are able to meet their “financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in [Title IV programs].”

<sup>25</sup> Order p. 10. *See also id.* pp. 10-12.

<sup>26</sup> On July 7, 2020, the Department of Education [instructed](#) the school to “refrain from identifying itself as a ‘nonprofit institution’ in any advertising, publications, or other notifications unless and until the Department

The Department has been aware for many years of the predatory and illegal conduct committed by Ashford University and its corporate operator, going back to the 2011-2012 Senate HELP Committee hearing and report, a 2014 [settlement](#) with the Iowa Attorney General's Office, and a 2016 [settlement](#) with the Consumer Financial Protection Bureau. In light of the history of deceptive conduct and the California court's judgment, it is now incumbent on the Department to take steps to protect the integrity of the student loan system by immediately terminating UAGC's access to Title IV, by providing the full student loan relief that borrowers who attended Ashford University are entitled to receive, and by proceeding against UAGC in order to recover liabilities stemming from the fraud.

Sincerely,

American Federation of Teachers  
Americans for Financial Reform Education Fund  
Association of Young Americans  
Center for American Progress  
Center for Responsible Lending  
David Halperin, Attorney  
New America Higher Education Program  
Robert Shireman, The Century Foundation  
Project on Predatory Student Lending  
The Institute for College Access and Success  
Veterans Education Success  
Young Invincibles

cc: U.S. Department of Veterans Affairs  
WASC-Senior College and University Commission  
Arizona Commission for Postsecondary Education  
Arizona Department of Veterans Affairs, State Approving Agency

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approves the request to convert to nonprofit status." For at least two months, however, Zovio continued to claim that UAGC was a non-profit institution in its [marketing materials](#).