

March 30, 2023

The Honorable Miguel Cardona  
Secretary, United States Department of Education  
400 Maryland Avenue SW  
Washington, DC 20202

**Re: Docket ID ED-2022-OPE-0103**

Dear Secretary Cardona,

On behalf of the public and private colleges and universities and the health system from North Carolina listed below, thank you for the opportunity to comment on the Department's February 15 Dear Colleague Letter (DCL), "Requirements and Responsibilities for Third-Party Servicers and Institutions" (DCL ID: GEN-23-03), as updated on February 16 and February 28. While we appreciate the Department's continued commitment to robust and effective administration of Title IV programs, we are concerned that the Department's new, significantly expanded definition of Third-Party Servicer (TPS) has far-reaching, unintended consequences for colleges and universities across the country. We agree with and support the letter submitted to the Department by the American Council on Education (ACE) on March 29, 2023, and similarly, we respectfully request that the Department rescind the DCL in its entirety.

While the Department may have intended to expand the definition of TPS and the TPS requirements to include online program managers (OPMs), the DCL's scope goes beyond that intention. As drafted, the TPS definition implicates the majority of agreements between our institutions and an outside entity, regardless of whether the entity is an OPM and regardless of whether it has any involvement in the management of Title IV program funds. This broad definition creates oversight, compliance, legal, financial, and contract management burdens for institutions and the Department itself.

We echo the concerns raised by ACE that the expanded definition of TPS, as currently written, includes entities that help us provide academic and support services to our undergraduate, graduate, and professional students, including:

- Hospitals, clinics, and healthcare practices that provide clinical experiences for medical, pharmacy, dentistry, nursing, psychology, and other healthcare students;
- Sites that provide academic experiential and clinical training for students studying veterinary medicine, public health, primary and secondary education, special education, school counseling, and social work;
- Study abroad programs, joint and dual degree programs, and other academic partnerships with foreign institutions;
- International recruiters that assist non-Title IV eligible students to attend undergraduate, graduate, and professional programs in the U.S.;
- Nonprofit entities that assist with the recruitment and retention of or provide academic counseling and instructional support to low-income, first-generation students;
- Organizations that partner with colleges and universities to provide mental health services to students;

- Local police departments that help to compile and analyze campus crime statistics;
- Information technology companies that provide adaptive academic software and service solutions;
- Publishers that provide e-textbooks and other electronic instructional materials and study aids, including accessible formats for students with low vision or other vision challenges;
- High schools and local educational agencies that participate in dual or concurrent enrollment programs; and
- Businesses that partner with community colleges to provide advanced technical training programs.

Our institutions have hundreds of agreements in place with partners in North Carolina, throughout the United States, and across the globe to help train thousands of our students each year. Given that there is a shortage of partners willing to serve as host sites and provide these required academic experiences for students (and in particular, medical, dental, psychology, nursing, pharmacy, and other students in health-related fields), we cannot afford to jeopardize these vital relationships and meaningful educational opportunities for our students.

As currently written, the DCL restructures study abroad programs and other academic partnerships with foreign universities in ways that will adversely affect hundreds of thousands of students. To give an idea of the scale of this disruption, almost 350,000 U.S. students study abroad in a non-pandemic year, nearly all in programs involving a TPS under the expanded definition in the DCL. In order to be fully compliant with all Title IV requirements as revised by the DCL, our colleges and universities will be forced to terminate international partnerships and invaluable study abroad programs or be at risk of losing Title IV funds. Certain foreign universities would lose the ability to enroll American students receiving Title IV aid, thereby limiting such study abroad opportunities to only those students who can independently fund these experiences. In addition, the recruitment of international students by American colleges and universities would be similarly affected. Even if the Department were to remove the prohibition on contracting with a non-U.S.-located entity, foreign universities, study abroad programs, and other international partners are unlikely to be willing to subject themselves to TPS liability, audit, or other requirements. Either way, the outcome is the same – the DCL significantly restricts long-standing educational opportunities for hundreds of thousands of American students – and may terminate them altogether.

Our colleges and universities rely on the expertise and cost effective services that outside entities provide. The DCL significantly hinders our ability to enter into contractual relationships which currently enable our public institutions to more efficiently utilize and steward the funding provided by North Carolina taxpayers. In light of the DCL, some of our current partners may be unwilling to be designated a TPS and, as such, may terminate our contractual relationships. If some of our current relationships end because of the DCL, we will be forced to find many new service partners in a pool with diminished capacity and expertise. Not only will this outcome take significant time and administrative resources to address, it will likely come at a higher cost to taxpayers.

We have grave concerns about the consequences that are likely to follow if the DCL remains, because it will negatively impact critical education services to students and impose major disruptions and significant financial and operational costs to colleges and universities across the country – and to the Department.

We welcome the opportunity to discuss further or to expand on any of our comments outlined above, and we stand ready to assist the Department's evaluation of other alternatives. We appreciate your consideration.

Sincerely,

The University of North Carolina at Chapel Hill  
North Carolina State University  
The University of North Carolina at Charlotte  
Appalachian State University  
The University of North Carolina at Greensboro  
North Carolina Agricultural and Technical State University  
East Carolina University  
The University of North Carolina at Wilmington  
Western Carolina University  
Fayetteville State University  
Carolinas College of Health Sciences  
North Carolina Central University  
UNC Health  
Davidson College  
Wake Forest University  
Wake Forest University School of Medicine  
Duke University

cc: The Honorable Thom Tillis  
The Honorable Ted Budd  
The Honorable Don Davis  
The Honorable Deborah Ross  
The Honorable Greg Murphy  
The Honorable Valerie Foushee  
The Honorable Virginia Foxx  
The Honorable Kathy Manning  
The Honorable David Rouzer  
The Honorable Dan Bishop  
The Honorable Richard Hudson  
The Honorable Patrick McHenry  
The Honorable Chuck Edwards  
The Honorable Alma Adams  
The Honorable Wiley Nickel  
The Honorable Jeff Jackson