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**STATEMENT**

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**BEFORE THE**

**SENATE ARMED SERVICES COMMITTEE**

**HEARING**

**ON THE**

**DEPARTMENT OF DEFENSE ACTIONS CONCERNING  
VOLUNTARY EDUCATION PROGRAMS**

**NOVEMBER 29, 2016**

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Chairman McCain, Ranking Member Reed, and distinguished Members of the Committee, we appreciate the opportunity to appear before you to discuss the Department of Defense (DoD) Voluntary Education Program. Through 283 Education Centers operating at military installations around the world and on-line, the Department offers a full spectrum of education services and benefits to our Service members, including the opportunity to enroll in post-secondary education programs that can lead to industry-recognized credentials, and undergraduate and graduate degrees. Service members' costs to participate in these education programs may be reduced through appropriated fund financial support in the form of Tuition Assistance (TA).

TA support often makes the difference between whether or not a Service member can afford to take a class. An eligible Service member may receive tuition assistance benefits of up to \$250 per semester hour, up to a maximum of \$4,500 per fiscal year. Last year, DoD paid more than \$518 million in appropriated TA funding for qualifying military students.

Together, the Voluntary Education Program and TA seek to facilitate quality learning and educational opportunities for military Service members, contributing to their enhanced readiness and mission accomplishment while in service—completing and enhancing their education prepares our Service members to be better Soldiers, Sailors, Airmen, and Marines, as well as to be better critical thinkers, analysts, problem-solvers, and leaders. Education also enhances the likelihood that a Service member will successfully transition to civilian life at the end of his or her term of service.

Our military students face unique challenges. They attend school during off-duty hours and take courses in a part-time capacity. The military mission, deployments, and permanent changes of station often take precedence over Service members' academic coursework, and the

rigors of military life frequently require Service members to take breaks of months or even years between courses. These challenges make on-line education a very appealing and useful model for many of our Service members—in fact, in FY 2015, 85 percent of the courses taken through TA were conducted on-line. Also, because of these challenges, our Service members often complete a degree program only after many years of commitment to their studies and many never receive degrees at all.

In FY 2015, the last year for which complete data is currently available, approximately 286,000 Service members enrolled in more than 760,000 post-secondary courses using military TA, but only 53,000 Service members earned degrees or other credentials.

In overseeing the Voluntary Education and TA programs, we are guided by two core principles: a commitment to ensuring that our Service members are provided a diverse range of high-quality educational opportunities and good stewardship of the taxpayer dollars that comprise the TA account. The substantial appropriated fund dollars expended for the TA program, the wide diversity of educational institutions participating in the Voluntary Education and TA programs, the extended periods of time required and unconventional delivery mechanisms utilized, and the relatively low rate of successful completion with degrees or certificates, all give the Department reason to be concerned about the extent to which these two core principles are being met.

These concerns have been enhanced, over time, by Service member complaints and published reports indicating that some participating institutions may have engaged in misrepresentation or deceptive actions, including multiple unsolicited phone calls or emails used as a high-pressure recruitment tactic, false representations about degree programs, misleading statements regarding accreditation, and promotion of costly private or institutional loans.

In 2014, President Obama issued Executive Order 13607, *Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members* (commonly referred to as the “*Principles of Excellence*”). The *Principles of Excellence* seek to prevent abusive and deceptive recruiting practices that target the beneficiaries of federal educational benefits, including DoD TA. In July 2014, DoD updated its policies governing the Voluntary Education Program and TA to incorporate the *Principles of Excellence*, as set forth in Department of Defense Instruction (DoDI) 1322.25, *Voluntary Education Programs*. Effective September 5, 2014, any educational institution providing educational programs and to which appropriated TA funds are to be paid on behalf of an enrolled Service member student, must execute a new memorandum of understanding (MOU) with DoD. Consistent with the *Principles of Excellence*, the revised MOU requires educational institutions to provide meaningful information about the financial cost and quality of their programs so that military students can make informed decisions about where to attend school. The revised DoD MOU also requires that each participating educational institution be accredited by a body recognized by the Department of Education and increases protections for our Service members and their families by forbidding unfair, deceptive, and abusive recruiting practices, requiring high quality academic and student support services, and strengthening procedures for access by educational institutions to DoD installations. Currently, more than 2,700 main educational institutions have signed the DoD MOU; a number of other educational institutions elected to drop out of the TA program rather than sign the updated MOU.

When educational institutions agree to participate in the DoD Voluntary Education and TA Programs, they agree to abide by the terms of the MOU and applicable DoD policy as set forth in DoDI 1322.25. The MOU expressly provides that DoD may “terminat[e] and suspend[ ]

an MOU with an educational institution . . . at any time for failure to follow a term of this MOU” (DoDI 1322.25, Appendix to Enclosure 3, *Template of DoD MOU Between Office of the USD(P&R) and Educational Institution*, section 6f).

In January 2014, DoD worked with other agencies to launch the new Postsecondary Education Complaint System (PECS) to enable appropriate officials to identify and address unfair, deceptive, and misleading practices that may contravene the *Principles of Excellence*. PECS is a centralized, online system that provides a vehicle by which Service members may report negative experiences with educational institutions. DoD reviews each such complaint and reaches out to the educational institution identified in the complaint for a response, which is provided to both the complainant and the Department. The Department endeavors to provide the complainant with updated information about his or her case until it is resolved. At the same time, the Department utilizes information received through PECS and from other sources (e.g., field reports, court cases, other federal agency referrals, and media reports) to evaluate the educational institutions that receive appropriated TA funds on behalf of our military students, ensure that our Service members are receiving the highest caliber education, and foster good stewardship of the taxpayer dollars that comprise the TA account. If an incoming report is determined to represent an issue of potential non-compliance with the provisions of the DoD MOU or the *Principles of Excellence*, the Department sends an email to the educational institution named in the report.

The email typically includes details of the allegation, information about the potential impact if the allegation is substantiated, and provides an opportunity for the educational institution to respond in writing. If a violation is substantiated, the Department may take actions,

depending on the severity, scope, number, and effect of the violation(s), that range from a written warning to a directed institutional compliance program review to termination of the DoD MOU.

The Department takes very seriously its duty to oversee compliance by educational institutions with the standards set forth in the DoD MOU. To the greatest degree practicable, the Department follows the same review and enforcement processes for all complaints and allegations of non-compliance, and for all educational institutions that receive appropriated TA funds, without regard to the identity of the participating institution.

While more can and has been done to clarify and enhance these policies, we believe that the University of Phoenix (UoP) probation was addressed in accordance with established policies and the Department's overriding requirement to protect both Service members and the taxpayers.

UoP signed a revised MOU, which included UoP's promise to comply with all of the requirements associated with the *Principles of Excellence*, on August 28, 2014. Numerous alleged violations followed. In particular:

- Between January 2014 and June 30, 2015, there were 19 *Principles of Excellence*-related PECS complaints filed against UoP—the most filed against any recipient of TA funding in that period. The allegations set forth in these complaints were wide ranging, addressing such matters as the quality of education provided, the transfer of academic credits, and tuition refund and collection issues. After initial compliance review, six of these complaints were not substantiated. The balance of the complaints was found to be valid.
- On June 11, 2015, the Chief of DoD Voluntary Education participated in a media interview to inform a PBS News Hour segment on the Department's implementation of the *Principles of Excellence* and was confronted with allegations that UoP had violated a DoD policy intended to prevent the appearance that DoD endorses or favors the programs and services

offered by a particular institution over those of another by prohibiting the use of the Departments' official seals in their marketing, promotional, or other materials. UoP was also alleged to have engaged in other recruiting practices that were inconsistent with the MOU, including violations of the DoD policy regarding base access.

- On June 30, 2015, the Center for Investigative Reporting (CIR) published an article entitled, "*University of Phoenix sidesteps Obama order on recruiting veterans.*" The article cited several examples of marketing and recruiting efforts by UoP—paying for the sponsorships of briefings and events on several military installations without properly securing base access authorization—that, if true, would reflect clear violations of the DoD MOU. DoD confirmed with the Military Services that base access and recruiting and marketing violations had occurred at the identified installations, as alleged.
- In that same period, DoD became aware of ongoing inquiries by the Federal Trade Commission and the California State Attorney General into UoP recruiting and marketing practices involving military students.

On the basis of these reports from multiple sources, the Department followed established procedures by informing UoP of the alleged MOU violations and requested that UoP take appropriate corrective actions, as it did with other educational institutions alleged to have violated their MOUs with DoD.

Over a four month period beginning with the PBS interview on June 11, 2015, the Department sent six emails to UoP notifying it of potential violations of the MOU regarding DoD's trademark policy and alleged violations of the installation access provisions. In contrast to other educational institutions that swiftly acknowledged their incidents of non-compliance and agreed to work with DoD to bring their activities back into compliance as quickly as possible,

UoP responded to these emails without acknowledging error. While UoP promised to take corrective action with regard to the use of DoD seals, it continued to assert a right to utilize base access in a manner inconsistent with the terms of the MOU.

For this reason, the Department determined that enforcement action was warranted. On October 7, 2015, UoP was notified that its MOU with DoD was being placed in a probationary status, which temporarily limited its access to bases and precluded UoP from using TA to enroll new students. The letter of probation also advised that while in a probationary status, UoP was authorized to “teach out”—meaning that current UoP students who were receiving DoD TA would be permitted to complete courses already in progress and enroll in new courses deemed to be a part of the student’s established education degree plan. Further, the probationary status of the UoP MOU did not preclude any military member from using funds other than TA to enroll in any UoP course.

After the issuance of the probation letter, the Department endeavored to work with UoP leadership to bring UoP back into compliance and good standing. On October 21, 2015, UoP responded to the allegations set forth in the letter of probation with a 19-page letter, accompanied by multiple exhibits. Rather than undertaking to bring UoP into compliance with the MOU, the letter asserted that UoP could override DoD policy and MOU terms regarding base access through inconsistent agreements with base commanders. In addition, the UoP response letter described conduct that appeared to constitute additional violations of the MOU, including issues with UoP accreditation, infringement on DoD intellectual property on UoP websites and in marketing materials, and numerous additional agreements for installation access that did not comport with the MOU.



On November 15, 2015, DoD appointed a member of the Senior Executive Service to work personally and directly with the UoP President to gather needed information and bring UoP back into compliance with the MOU. From that time forward, DoD and UoP were able to develop a more cooperative relationship. On January 15, 2016, the Department determined that sufficient corrective action had been taken and UoP was removed from probation, subject to enhanced DoD oversight for a period of one year. This action allowed UoP to resume the enrollment of new military students eligible for TA and access installations for purposes of participating in education-related activities, including commercial sponsorship.

Since its removal from probation, UoP has continued to work cooperatively with DoD and, to the best of DoD's knowledge, has complied with the requirements of the MOU and the *Principles of Excellence*.

The Department remains committed to ensuring educational institutions are good partners in the delivery of quality educational opportunities that allow Service members to realize their educational goals. An educational institution's commitment to abide by the DoD MOU is imperative to enabling viable DoD Voluntary Education and TA programs.

At the same time, DoD is committed to the continuous improvement of all of its programs, and recognizes that clearer communications and more precise policies would likely have yielded a speedier and more satisfactory outcome in this case.

First, DoD has initiated enhanced communication with educational institutions regarding trademark law and regulations and installation access policies and procedures with a view to preventing common violations. With DoD guidance, the Services have standardized and automated the installation access request process, rendering it more transparent, consistent, and timely. A standardized request form and submission process now applies to every military

installation. For example, any educational institution that desires to participate in an activity on any DoD installation can submit its request for access online. The request is automatically routed to the responsible installation Education Advisor for review and action. DoD recently learned of assertions that some Educational Advisors were confused about their duties and responsibilities in the base access process and will consider generating a training module to address this potential knowledge deficit.

Second, DoD is taking action to improve and update its policies and procedures for placing an educational institution in probationary status. The policy will provide for formal written notice of, and an opportunity to respond to, a proposed probation—not just to individual allegations of non-compliance with the DoD MOU or other Departmental concerns—before probation is imposed. The policy will make clear that probation is intended as an opportunity for remediation of non-compliance, and will clearly distinguish among the different statuses and processes associated with probation, suspension, and termination. The policy will prescribe a timeline for decisions and actions associated with the probation process, all with a view to ensuring transparency and expeditious action. Finally, the revised policy will expressly withhold to a level no lower than Assistant Secretary of Defense the authority to place an educational institution in a probationary status. The Department will invite the views of educational institutions and interested members of the public on these and other proposed changes to its policies and procedures.

Finally, beginning in January 2017, DoD will implement a new and enhanced MOU compliance framework, led by an internationally recognized expert in audit, compliance, and quality assurance/quality control. Under this new compliance framework, DoD will institute an industry-consistent risk assessment, combined with random sampling, to dramatically expand the

number of educational institutions subject to compliance audits each year, while at the same time vastly reducing the amount of input required from each school. Under the new model, all 2,700 plus educational institutions that have signed an MOU to participate in the TA program will be assessed for risk against factors related to desired student and Departmental outcomes. These factors will be made public. Leveraging the services and expertise of its industry partner, DoD will annually conduct field surveys of roughly 10 percent of all participating educational institutions. These field surveys will provide “on the ground” insights into the operations of these educational institutions, and will be supplemented by a review of the institution’s web presence, self-assessments, after action reporting, and personal dialogue. This framework will expand DoD oversight to more schools, using standardized processes and criteria known, in advance, to all participating educational institutions. Although individual student complaints received via PECS will remain an integral part of the DoD oversight network, the new third-party compliance framework will enhance the Department’s capabilities to gather facts and information and impartially enforce MOU compliance. We believe this new framework will prove an improvement over our current efforts, pursuant to which we are able to review less than 1 percent of educational institutions each year. The tenets of this new compliance framework will be detailed in a process document that will govern the Department’s actions going forward.

Also central to this framework is a revised communication plan and an online tutorial that will enable representatives of educational institutions to bring themselves current on the requirements of the DoD MOU and their responsibilities for fostering compliance with the *Principles of Excellence*. The tutorial will employ scenario-based learning strategies to educate users about common misconceptions and pitfalls and how best to avoid them. Communication

circulars and the compliance tutorial will be available to employees of all MOU partner institutions in the coming weeks.

The Department believes that the combination of these efforts will significantly improve its administration and oversight of the DoD Voluntary Education and TA programs. Our goal is to create a culture of compliance across all program stakeholders, such that participating educational institutions see the value in compliance with program requirements, and cascade that value across our military student population.

We thank the Congress and the Members of this Committee for your continued support of our Service members and their families, especially in championing the services and benefits provided through the DoD Voluntary Education Program and TA. DoD is proud of our ongoing efforts to improve these programs with a view to providing our Service members with high quality educational opportunities and fulfilling our duty to serve as good stewards of the appropriated TA funding that facilitates these objectives.