



DEC 19 2014

Mr. Michael Flanagan
President
Video Symphony EnterTraining
266 East Magnolia Boulevard
Burbank, CA 91502-3253

Sent via UPS
Tracking #1ZA879640191584970
OPE-ID: 04116000

Dear Mr. Flanagan:

This is to inform you that the Secretary of Education (Secretary) has determined that Video Symphony EnterTraining (VS) is unable to meet its responsibilities under its provisional program participation agreement (PPA) (Enclosure 1). 34 C.F.R. § 668.13(d)(1). As a result, the provisional certification the U.S. Department of Education (Department) sent to VS on September 25, 2013 is hereby revoked. With this revocation, VS's PPA ends, effective the date of this letter, which is also the date of its mailing. 34 C.F.R. § 668.13(d)(2)(ii). Following the revocation of a PPA, an institution may no longer participate in the federal student financial assistance programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* and 42 U.S.C. §§ 2751 *et seq.* (Title IV, HEA programs). 34 C.F.R. § 668.26(a)(4).

In particular, with the mailing of this letter, VS is no longer eligible to participate in the following Title IV, HEA programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), Teacher Education Assistance for College and Higher Education (TEACH) Grant, Federal Work-Study (FWS), Federal Perkins Loan (Perkins Loan), and William D. Ford Federal Direct Loan (Direct Loan) programs. The Direct Loan Program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan Program, the Federal Direct PLUS (PLUS) program, and the Federal Direct Consolidation Loan Program. The FSEOG, FWS, and Perkins Loan programs are known as the campus-based programs.

In addition, with this revocation, VS is responsible for complying with each regulatory requirement that has been established for institutions whose participation in the Title IV, HEA programs ends. 34 C.F.R. § 668.13(d)(2)(iii). Specifically, among other itemized responsibilities, VS must submit to the Secretary, within 45 days of this revocation becoming final, all financial, performance, and other reports required by the Title IV regulations as well as a letter of engagement for an independent audit of all funds that the institution received under the Title IV, HEA programs. 34 C.F.R. § 668.26(b)(2). This closeout audit report is to be submitted within 45 days after the letter of engagement. 34 C.F.R. § 668.26(b)(2)(ii). In addition, VS shall inform the Secretary of the arrangements that it has made for the retention and storage of its records, and the manner in which it will collect any remaining Perkins Loans. 34 C.F.R. §

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668.26(b)(3),(4), and (6). VS must continue to distribute tuition refunds according to 34 C.F.R. § 668.22. 34 C.F.R. § 668.26(b)(7).

VS HAS BREACHED ITS FIDUCIARY DUTY TO THE DEPARTMENT

On September 30, 2013, VS signed a provisional PPA with the Department stating that the institution would comply with all Title IV, HEA program requirements, as well as any conditions specified by the Department in the PPA. 20 U.S.C. §1094(a)(1); see generally 34 C.F.R. § 668.14. By entering into the PPA with the Department, VS, and its officers, accepted the responsibility to act as fiduciaries in the administration of the Title IV, HEA programs. As fiduciaries, VS and its officers are subject to the highest standard of care and diligence in administering the Title IV, HEA programs and in accounting to the Secretary for the funds received. 34 C.F.R. § 668.82(a) and (b).

If the Department determines that a school has not met the fiduciary standard of conduct, either through its failure to comply with Title IV, HEA program standards and requirements, or through acts of affirmative misconduct, revocation of the school's PPA is warranted. See 34 C.F.R. § 668.13. As outlined below, the Department has determined that VS has failed to meet the fiduciary standard of conduct, through its failure to comply with applicable Title IV, HEA statutory and regulatory requirements; failure to respond to a program review report issued by the Department; failure to demonstrate that it has paid refunds owed to the Title IV, HEA programs; failure to submit its annual audit submission for its fiscal year ended December 31, 2013; submission of false certifications and altered documents through the HCM2 process; and failure to meet the standards of administrative capability and financial responsibility. Accordingly, VS's provisional PPA is hereby revoked.

A. VS HAS FAILED TO COMPLY WITH NUMEROUS TITLE IV, HEA REQUIREMENTS, AND FAILED TO RESPOND TO A PROGRAM REVIEW REPORT ISSUED BY THE DEPARTMENT

From June 24-28, 2013, the Department conducted a program review of VS's administration of the Title IV, HEA programs in which it participated. On November 1, 2013, the Department issued its Program Review Report (PRR) (Enclosure 2), in which the Department set forth numerous serious and systemic findings of noncompliance with applicable Title IV regulations. Among these findings were that VS failed to demonstrate administrative capability (Finding 1); failed to adequately account for the federal funds it had received and lacked internal controls (Finding 2)¹; failed to document the bases for its exercise of professional judgment (Finding 3); failed to establish and maintain required documentation regarding its Title IV payment periods (Finding 4)²; failed to establish an adequate attendance record-keeping system (Finding 5)³;

¹ In particular, VS failed to safeguard and account for federal funds; failed to establish written Title IV cash management policies and procedures; failed to reconcile its Title IV accounts and records; failed to follow its own policies; and failed to retain financial records to support its refund calculations and transactions. See pages 6-7 of the PRR.

² In particular, VS did not know whether the institution was required to measure progress in clock or credit hours, and failed to produce written documentation supporting the payment periods it used to determine students' disbursements. See page 10 of the PRR.

failed to monitor satisfactory academic progress (SAP) (Finding 6); failed to perform required verification of student eligibility for the Title IV, HEA program funds disbursed (Finding 7); failed to maintain required student eligibility documentation in student files (Finding 8)⁴; altered students' admissions applications to conceal students' prior baccalaureate degrees (Finding 9)⁵; failed to meet the non-federal share requirements for the Federal Supplemental Educational Opportunity Grant (FSEOG) program (Finding 11); and failed to provide required exit counseling to withdrawn/graduated students (Finding 12).

In the PRR, the Department provided VS 90 days, or until January 30, 2014, to review the report and respond to each finding set forth therein. The Department directed that VS include in its response a brief, written narrative clearly stating VS's position regarding each finding and the corrective action VS implemented to resolve the finding, along with any additional documentation required by the Department. Specifically:

- (1) With regard to Finding 2, the Department required VS to (1) reconstruct its Title IV records for the 2011-12 and 2012-13 award years, (2) reconcile its 2011-12 and 2012-13 fiscal records with its financial aid records to ensure that VS had credited student accounts with the Title IV funds VS drew down via the G5 system⁶ ostensibly on their behalf, and that VS had reported the disbursements to the Common Origination and Disbursement (COD) system⁷ as required; (3) reconcile its Title IV bank accounts to the Department's COD system and G-5 records; (4) conduct and submit the results of a full file review evidencing its fiscal reconciliation on a student-by-student basis, indicating any amounts VS drew down that could not be traced to students, and (5) engage an Independent Public Accountant (IPA) to attest to the accuracy of the reconstruction of its fiscal records as well as attest to the accuracy of all file reviews the Department required in the PRR.
- (2) With regard to Finding 3, the Department required VS to conduct and submit the auditor-attested results of a file review for the 2011-12 award year covering VS's exercise of professional judgment, including documentation supporting each professional judgment identified in the review.
- (3) With regard to Finding 4, the Department required VS to provide payment period schedules for its programs for the 2011-12 and 2012-13 award years, and to conduct and submit the auditor-attested results of a file review for those award years showing the eligibility dates and amounts of each student's Title IV disbursements.

³ Although student ledgers indicated that a R2T4 calculation was performed, VS had no documentation supporting the student's last date of attendance, VS's date of determination that the student withdrew, or the payment period during which the student withdrew. See page 12 of the PRR.

⁴ VS's student files were missing Institutional Student Aid Records (ISIRs)/Student Aid Reports (SARs), and subsequent ISIR/SAR transactions, which are key student eligibility documents. See pages 15-16 of the PRR.

⁵ VS self-reported that a prior financial aid administrator altered admissions application information to hide the fact that students had a baccalaureate degree. See page 16 of the PRR.

⁶ G5 is the Department's delivery system supporting Title IV, HEA program award and payment administration. Schools use G5 to request payments, adjust drawdowns and return cash. G5 also provides access to grant and payment information, such as authorized amounts, cumulative drawdowns, current award balances, and payment histories.

⁷ COD is the Department's software system that uses electronic records to exchange data with institutions. Institutions submit student-specific origination and disbursement records for Title IV HEA program funds; COD processes and either accepts, edits, or rejects them.

- (4) With regard to Finding 5, the Department required VS to conduct and submit the auditor-attested results of a file review determining whether VS made required returns to the Title IV, HEA programs (R2T4s) on behalf of students who withdrew during the 2011-12 award year, along with supporting attendance documentation, academic transcripts, R2T4 calculations, and evidence substantiating any returns VS represented were made.
- (5) With regard to Finding 6, the Department required VS to conduct and submit the auditor-attested results of a file review determining whether Title IV recipients who attended VS for more than one payment period and who received Title IV funding during the 2011-12 or 2012-13 award years were meeting the SAP requirements, along with supporting documents including student transcripts, documentation of VS's SAP determinations, and student ledger cards.
- (6) With regard to Finding 7, the Department required VS to conduct and submit the auditor-attested results of a file review for the 2011-12 award year determining whether VS completed verification for those students selected for verification, including documentation evidencing that students' Expected Family Contributions (EFCs) were accurate.
- (7) With regard to Finding 8, the Department required VS to conduct and submit the auditor-attested results of a file review of its Title IV recipients for the 2011-12 award year determining whether each file had a SAR/ISIR as required, and whether all corrected SARs/ISIRs were in the files, along with any originally missing SARs/ISIRs noted in the PRR which were found by VS subsequent to the review.
- (8) With regard to Finding 9, the Department required VS to repay Pell Grant funds it disbursed as a result of the altered admissions applications identified in the finding; to conduct and submit the auditor-attested results of a full file review determining whether other students' admissions applications had been altered to conceal their baccalaureate degrees; and to provide a list of the students whose admissions applications were altered and the amount of their Pell Grant disbursements.
- (9) With regard to Finding 11, the Department required VS to provide evidence that it paid its portion of the total FSEOG awards from its own resources.
- (10) With regard to Finding 12, the Department required VS to submit specified written policies and procedures ensuring that exit counseling is provided to its withdrawn and graduated students.

At VS's request, the Department extended the due date for the PRR response until May 19, 2014, with the stipulation that VS submit monthly progress reports on actions taken toward resolving the PRR findings. Although VS submitted progress reports on March 19, 2014 and April 19, 2014, these reports in fact showed little progress. On May 21, 2014, VS requested a further extension, which the Department denied on June 5, 2014, as the Department had already afforded VS ample time in which to respond to the findings. The Department warned VS in the June 5, 2014 letter that failure by VS to immediately submit the documentation required by the Department would result in the Department's issuance of the Final Program Review Determination (FPRD) without the benefit of a response from VS, and that the FRPD could include the identification of liabilities for all Title IV, HEA funds received by the institution for the award years under review. As of the date of this letter, VS still has not responded to the PRR.

One of the most serious issues of noncompliance discovered as a result of the program review is VS's failure to account in any manner for \$109,661.01 in Pell Grant funds and \$630,167.97 in Direct Loan funds that it drew down through the Department's G5 payment system for the 2011-12, and 2012-13 award years. The provisions of 34 C.F.R. § 668.161(b) make clear that with the exception of funds received by an institution for administrative expenses and funds used for the Job Location and Development Program under the FWS program, funds received by an institution under the Title IV, HEA programs are held in trust for the intended student beneficiaries or the Secretary, and that the institution, as a trustee of federal funds, may not use or hypothecate (i.e., use as collateral) Title IV, HEA program funds for any other purpose. VS has illegally converted a total of \$739,828.98 in Title IV, HEA program funds to its own use.

Congress has mandated that the Department conduct program reviews in order to ensure that institutions participating in the Title IV, HEA programs are administering those programs in accordance with Title IV, HEA statutes and regulations, and in particular are meeting the standards of administrative capability and financial responsibility. 20 U.S.C. § 1099c-1(a). In accordance with the provisions of 20 U.S.C. §§ 1099c-1(b)(6) and (7), the Department provided VS the opportunity to respond to the November 2013 program review report and to provide relevant materials related to the report prior to issuance of the final determination, however VS has not done so. VS's failure to respond to the PRR, and concomitant failures to account for the Title IV, HEA program funds it received during the period reviewed and to demonstrate that it has taken the corrective action required in the report to prevent future noncompliance, constitute a severe failure of the institution to meet the fiduciary standard of conduct and warrants revocation of the institution's PPA.

B. VS FAILED TO PROVIDE THE DEPARTMENT WITH REQUIRED DOCUMENTATION EVIDENCING THAT IT HAS PAID ALL REFUNDS DUE

When a recipient of Title IV grant or loan assistance withdraws during a payment period or period of enrollment in which the recipient began attendance, the institution must determine if the amount of Title IV assistance that was disbursed to the student exceeded the amount of Title IV funds earned as of the date of the student's withdrawal. 34 C.F.R. § 668.22(a). The institution must return the amount of unearned Title IV, HEA funds for which it is responsible in accordance with 34 C.F.R. § 668.22(g) as soon as possible, but no later than 45 days after the institution's determination that the student withdrew. 34 C.F.R. § 668.22(j)(1).

Subsequent to the June 2013 program review, the Department discovered new issues with regard to VS's payment of Title IV refunds. Specifically, the Department was informed during March of 2014 that VS had not made required returns on behalf of students to the Title IV programs for approximately 18 months. On May 5, 2014, the Department sent a letter to VS requiring the institution provide a spreadsheet of all Title IV recipients who withdrew from the institution during the 2011-12, 2012-13, and 2013-14 (to date) award years. (Enclosure 3) The Department required VS to include for each student in the spreadsheet the amount of unearned Title IV funds, whether the funds had been returned to the Title IV programs, the date of the return if made, and the number of days late. The Department also required VS to submit an independent auditor's attestation with the spreadsheet. VS's response was due to the Department on June 4,

2014. As of the date of this letter, VS has not submitted the required auditor-attested spreadsheet.

Compliance with the Title IV refund requirements is a critical component of an institution's fiduciary duty to the Department and its students. The failure to return unearned loan funds creates a significant and undue hardship on students by inflating the amount of money the student must repay. The inflated loan payments can become an excessive burden on these students who were unable to complete the program and secure viable employment. In addition, the inflated loans result in increased interest and default costs to the government and taxpayers. An institution's failure to pay refunds is a criminal offense. See 20 U.S.C. § 1097.

C. VS HAS FAILED TO SUBMIT ITS ANNUAL AUDIT SUBMISSION FOR THE FISCAL YEAR ENDED DECEMBER 31, 2013

An institution that participates in any Title IV, HEA program must have an independent auditor conduct an audit of its administration of that program and an audit of the institution's financial statements. 20 U.S.C. § 1094(c)(1)(A)(i); 34 C.F.R. § 668.23(a)(2). The compliance audit must be conducted in accordance with U.S. General Accounting Office's (GAO's) Government Auditing Standards, and the audit guides issued by the Department's Office of Inspector General (OIG). 34 C.F.R. § 668.23(b)(2). Financial statements must be prepared on an accrual basis in accordance with generally accepted accounting principles and must be audited by an independent auditor in accordance with generally accepted government auditing standards. 34 C.F.R. § 668.23(d)(1). A proprietary institution of higher education such as VS must submit its compliance and financial statement audits to the Department no later than six months after the last day of the institution's fiscal year. 34 C.F.R. § 668.23(a)(4). Those documents comprise the institution's combined fiscal year audit submission.

VS's fiscal year ends on December 31st. Pursuant to 34 C.F.R. § 668.23(a)(4), VS's compliance and financial statement audits for the fiscal year ended (FYE) December 31, 2013, were due to the Department by June 30, 2014. Nevertheless, as of the date of this letter, VS has failed to submit these required audits.

VS's failure to submit its annual audit submission for its 2013 fiscal year is a serious violation, as such compliance and financial statement audits provide the Department with critical information necessary to assess the institution's compliance with the statutes and regulations governing the Title IV, HEA programs. The financial responsibility regulations at 34 C.F.R. § 668.171(e)(2) specifically provide that the failure of an institution to submit its audits by the date permitted and in the manner required under 34 C.F.R. § 668.23 is grounds for revocation of the institution's provisional PPA under the procedures established in 34 C.F.R. § 668.13(d).

D. VS SUBMITTED FALSE CERTIFICATIONS AND ALTERED DOCUMENTS TO THE DEPARTMENT PURSUANT TO ITS HCM2 REQUESTS

On July 16, 2013, the Department notified VS that as a result of the serious findings discovered during the program review, the Department had transferred the institution to the Heightened Cash Monitoring 2 (HCM2) method of payment. With each HCM2 submission that is filed requesting Title IV funds, a school owner/CEO is required to sign and submit a certification

stating that all refunds owed on behalf of students who have not completed their programs of study have been returned to the appropriate Title IV accounts, and that all credit balances have been paid. These certifications contain a warning that any false or misleading information will subject the individual signing the form to criminal prosecution. The Department has determined that you signed and submitted at least five such certifications between September of 2013 and March of 2014. You have since admitted that VS had not in fact paid all required refunds, and therefore, those certifications were false.

In addition, the Department conducted a focused program review at VS from November 3-7, 2014, in order to expedite the HCM2 review process and confirm the accuracy of the documents VS had submitted. During the November 2014 review, the Department confirmed that, contrary to the signed certifications you had provided with the October 7, 2014 HCM2 request, VS still had not made required returns of Title IV, HEA funds for students. The Department also discovered that the institution had not paid credit balances owed to students, in violation of 34 C.F.R. § 668.164(e), again contrary to your certification. While on-site, the Department obtained from VS a list of student credit balances that VS admitted it had not paid. VS staff stated that the institution was holding some of the checks at your direction to pay for students' expenses for housing that you own.

Further, the Department discovered during the November 2014 unannounced review that documents VS submitted in its October 7, 2014 HCM2 request were in some cases not in fact true and accurate copies of original documents. In a letter to VS dated December 10, 2014 (Enclosure 4) the Department detailed several instances wherein documents obtained during the program review revealed that the student file documentation VS maintained at the school differed from the documentation VS submitted to the Department with its HCM2 request, or contained internal inconsistencies which called its veracity into question. The December 10 letter also noted that the HCM2 request contained falsified signatures on some altered student enrollment agreements. Although you argued in a December 11, 2014 letter to the Department that the alterations were not substantive, it is a breach of the institution's fiduciary standard of conduct to submit altered documentation to the Department to support its request to receive Title IV, HEA program funds.

E. VS HAS FAILED TO MEET THE STANDARDS OF FINANCIAL RESPONSIBILITY

As stated above, in order to continue to participate in the Title IV, HEA programs, an institution must demonstrate that it is financially responsible under the standards established in 34 C.F.R. Part 668, Subpart L. 34 C.F.R. § 668.171(a). As provided under § 498(c)(1) of the Higher Education Act, 20 U.S.C. § 1099c(c)(1), the Secretary determines whether an institution is financially responsible based, among other things, on the institution's ability to administer properly the Title IV, HEA programs in which it participates, and its ability to meet all of its financial obligations. 34 C.F.R. § 668.171(a)(2),(3). Through the numerous serious findings of noncompliance disclosed by the Department's June 2013 and November 2014 program reviews, VS's failure to respond to the Department's November 2013 program review report, failure to provide the refund accounting required by the Department, failure to submit its December 31, 2013 annual audit submission, and submission of false certifications and altered enrollment

documentation to the Department pursuant to the HCM2 process, VS has failed to meet the standards of financial responsibility.

Further, pursuant to 34 C.F.R. §§ 668.171(d)(2) and 668.174(a)(3), an institution is not financially responsible if the institution has been cited during the preceding five years for failure to timely submit an acceptable annual compliance and/or financial statement audit. On September 5, 2014, the Department sent a letter citing VS for its failure to timely submit an acceptable annual audit submission for FYE December 31, 2013. The letter advised VS that its untimely submission constituted a past performance violation under 34 C.F.R. § 668.174(a)(3), which would result in, among other things, continued provisional certification, the posting of a letter of credit, and continuing on a heightened cash monitoring payment method, for a minimum of five years. VS did not respond to the letter.

Subsequently, on October 10, 2014, the Department sent a letter to VS notifying the institution that in view of the September 5, 2014 citation letter and resulting past performance violation, VS could only continue participation in the Title IV, HEA programs under the provisional certification alternative set forth at 34 C.F.R. § 668.175(f). The Department further informed VS that under the provisions of 34 C.F.R. § 668.175(f)(2)(i), it was required to post an irrevocable letter of credit (LOC) in the amount of \$218,964, which was 10% of the Title IV, HEA program funds received by VS during its most recently completed fiscal year, within 75 calendar days (by December 23, 2014). As of the date of this letter, VS has not provided the required past performance LOC. Because the Department is revoking VS's PPA, this option offered to VS to permit its continued participation is rescinded.

F. VS HAS FAILED TO DEMONSTRATE ADMINISTRATIVE CAPABILITY

To continue to participate in the Title IV, HEA programs, an institution must demonstrate that it is capable of adequately administering those programs. The Secretary considers an institution to have the requisite administrative capability if the institution administers the Title IV, HEA programs in accordance with all statutory provisions of or applicable to Title IV of the HEA, all applicable regulatory provisions prescribed under that statutory authority, and all applicable special arrangements, agreements, and limitations. 34 C.F.R. § 668.16(a). Through the numerous serious findings of noncompliance disclosed by the Department's June 2013 and November 2014 program reviews, VS's failure to respond to the Department's November 2013 program review report, failure to provide the refund accounting required by the Department, failure to submit its December 31, 2013 annual audit submission, and submission of false certifications and altered enrollment documentation to the Department pursuant to the HCM2 process, VS has failed to demonstrate the requisite administrative capability.

VS may request reconsideration of this revocation by submitting to the Secretary, **no later than 20 days following receipt of this notice**, written evidence to show that the revocation is unwarranted. 34 C.F.R. § 668.13(d)(3)(i). Should VS elect to pursue this option, please submit written materials to me at the following address:

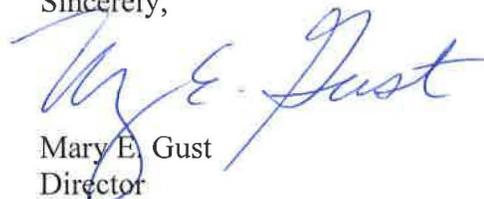
Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/PC
830 First Street, NE- UCP-3, Room 84F2
Washington, DC 20002-8019

Should VS elect to submit written materials by facsimile transmission, the number to be used is (202) 275-5864. Contemporaneous with such a transmission, the institution is responsible for sending by overnight mail a hard copy of the same materials to the above-address. The Secretary discourages the use of facsimile transmissions for documents longer than five pages. 34 C.F.R. § 668.13(d)(3)(iv).

The Secretary's designated official will promptly consider any request for reconsideration and will notify the institution by certified mail, return receipt requested, of a final decision. 34 C.F.R. § 668.13(d)(4)(i).

If you have any questions regarding this letter, you may contact Kathleen Hochhalter at (303) 844-4520.

Sincerely,



Mary E. Gust
Director

Administrative Actions and Appeals Service Group

Enclosures

- cc: William Larkin, Ed.D., Executive Director, Accrediting Council for Continuing Education & Training, via wvlarkin@accet.org
Joanne Wenzel, Bureau Chief, California Bureau of Private Postsecondary Education, via joanne.wenzel@dca.ca.gov
Department of Defense, via osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil
(Excluding Enclosure 2)
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov (Excluding Enclosure 2)
Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.gov (Excluding Enclosure 2)