



DEC 17 2021

Dr. Gurpreet Singh
President
Advanced College
13180 Paramount Boulevard
South Gate, CA 90280

Sent Overnight Via UPS
#1Z37X7Y302062644839

OPE ID: 03786300

Re: Denial of Recertification Application to Participate in the Federal Student Financial Assistance Programs

Dear Dr. Singh:

The U.S. Department of Education ("Department") has reviewed Advanced College's ("Advanced's") application for recertification to continue to participate in the 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.* ("Title IV, HEA programs"). Advanced's Program Participation Agreement ("PPA") would have expired on the stated expiration date of September 30, 2021. However, Advanced timely submitted its recertification application prior to that date. As a result, the Department extended Advanced's PPA on a month-to-month basis while evaluating the application and related matters. *See* 34 C.F.R. § 668.13(b)(2). This notice is to inform you that the Department has denied Advanced's application for continued participation, and that Advanced's Title IV eligibility will therefore expire at the end of this month, on December 31, 2021.

In particular, as of December 31, 2021, Advanced will no longer be eligible to participate in the following Title IV, HEA programs: Federal Pell Grant ("Pell Grant"), Federal Supplemental Educational Opportunity Grant ("FSEOG"), Iraq and Afghanistan Service Grants, 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"). The Direct Loan program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan program, and the Federal Direct PLUS Program. The FSEOG, FWS, and Perkins Loan programs are known as campus-based programs.

To continue to participate in any Title IV, HEA program, an institution must demonstrate to the Department that it meets the fiduciary standard of conduct, the standards for participation set forth at 34 C.F.R. Part 668, Subpart B, which include the standards of administrative capability set forth at 34 C.F.R. § 668.16; and the standards of financial responsibility set forth at 34 C.F.R. Part 668, Subpart L. *See* 34 C.F.R. §§ 668.13(a), 668.82(a). As set forth below, the Department has determined that Advanced has failed to meet each of these standards. Advanced's failure to

Federal Student Aid

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meet these critical requirements underscores the need for this denial. Consequently, the Department is not approving Advanced's continued participation in the Title IV, HEA programs and after December 31, 2021, Advanced may no longer continue to receive Title IV, HEA program funds.

I. Advanced Has Breached Its Fiduciary Duty to the Department

Advanced signed a 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 a PPA with the Department, Advanced accepted the responsibility to act as a fiduciary in the administration of the Title IV, HEA programs. As a fiduciary, Advanced is 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), (b). The Department will deny an institution's application for recertification if the Department determines that an institution 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. *See* 34 C.F.R. § 668.82(c).

In late April 2021, the Department's San Francisco/Seattle School Participation Division ("SPD") received information that Advanced was not meeting ongoing financial obligations timely, was violating important Title IV, HEA program requirements, and was not acting as a fiduciary with its administration of Title IV, HEA program funds. In particular, the Department was informed that Advanced was not returning Title IV, HEA program funds to the Department timely; was not paying credit balances owed to students; that employee paychecks repeatedly bounced or could not be cashed due to insufficient funds; and that the institution was not paying debts, including those owed to other government funding agencies. Therefore, on April 30, 2021, the SPD sent a letter ("April 30th Request") to Advanced requesting specific information related to those claims. In particular, the Department requested that Advanced provide a complete list of all unpaid Return to Title IV ("R2T4") refunds; a complete list of all unpaid credit balances due to students; an official statement regarding allegations of non-sufficient funds when employees attempted to cash their payroll checks; and a statement detailing any late, or unpaid, debts, including debts owed to a state or federal agency. Advanced submitted its response to the April 30th Request on May 6, 2021 ("May 6th Response").

On May 12, 2021, after reviewing Advanced's May 6th Response, the Department requested that Advanced provide additional documentation ("May 12th Request"). In particular, the Department requested that Advanced provide, for each student credit balance refund paid to students beginning July 1, 2020 to the present, copies of the front and back of the cashed checks along with each student's complete account ledger; a copy of the front and back of cashed checks evidencing payment of the debts owed to the Veterans Administration ("VA") for \$21,279.25 and to the California Student Aid Commission ("CSAC") for \$73,292; and documentation from Advanced's financial institution regarding the set-up of a direct deposit process for the school's payroll that was mentioned in Advanced's May 6th Response. The Department then transferred Advanced to the Heightened Cash Monitoring 2 ("HCM2") method of payment on May 14,

2021. On May 21, 2021, Advanced submitted its response ("May 21st Response") to the Department's May 12th Request.

After review of Advanced's prior submissions in connection with Advanced's pending recertification application, on November 29, 2021, the Department requested that Advanced provide further information ("November 29th Request"). In particular, the Department requested that Advanced submit a list of any unpaid Title IV returns owed to the Department on behalf of students and an updated list of all Title IV returns made to the Department on behalf of students from July 1, 2020 to the present, with copies of R2T4 calculations and account ledgers for those students ("Item 1"); a list of all non-sufficient funds ("bounced") checks, including all non-sufficient funds checks from July 2020 to the present, with evidence of the subsequent payment made and copies of the applicable re-issued checks ("Item 2"); a list of any and all unpaid credit balance refunds owed to students, and an updated list of all credit balance refunds paid to students from July 1, 2020 to the present, along with account ledgers and any credit balance authorizations for those students ("Item 3"); bank statements, including canceled checks, from July 1, 2020 to the present, from the accounts from which Title IV returns, student credit balance payments, and payroll checks are drawn ("Item 4"); internal email exchanges concerning the payment of refunds to the Department, credit balances to students, and non-sufficient funds (student credit balance checks, as well as staff payroll checks) from January 1, 2021 to the present ("Item 5"); and a list of Advanced staff employed from July 1, 2020 to the present ("Item 6"). The Department also required, on December 3, 2021, that Advanced's Vice President and Financial Aid Director ("FAD") attest that the information provided in response to the November 29th Request was complete and accurate with regard to Items 1 through 6, including an acknowledgment that providing any false or misleading information could result in the Department taking action against them or the institution. As further set forth below, Advanced submitted only partial responses on December 3 and 4, 2021 ("December 2021 Response"). We note that Advanced has subsequently provided some additional information, but the response is still incomplete, as discussed below.

The Department's review of Advanced's Responses and submissions, and its participation history in the Title IV, HEA programs, have confirmed that Advanced is operating in violation Title IV, HEA regulations, and is not meeting its fiduciary responsibilities to the Department.

A. Advanced Failed to Return Funds to the Department When Due

When a recipient of Title IV, HEA program grant or loan assistance withdraws from an institution during a payment period or period of enrollment in which the student began attendance, the institution must determine whether the amount of the Title IV, HEA program grant or loan assistance disbursed to the student as of the date of the institution's determination that the student withdrew exceeded the amount of such assistance the student earned as of his or her withdrawal date. 34 C.F.R. §§ 668.22(a)(1), (a)(4). If so, the institution must return the unearned funds to the Title IV, HEA programs as soon as possible but no later than 45 days of the date of the institution's determination that the student withdrew. 34 C.F.R. §§ 668.22(a)(4)(i), (e)(4), (j)(1).

As stated above, in late April 2021, the Department received information that Advanced was not timely returning funds to the Department that it had determined were due. Advanced's May 6th Response included a packet of information entitled "Re: Unpaid Return to Title IV (R2T4)," enclosed as Enclosure A to this letter, that confirmed this was the case. According to the cover sheet, the packet included "a list of unpaid R2T4 as of May 5, 2021" and an "Action Plan addressing these issues." The list of unpaid R2T4 refunds was a report identifying refunds owed to the Department on behalf of students, by location. According to the report, Title IV returns totaling \$23,502.30 were owed on behalf of seven students¹ and were between 2 to 684 days late as of May 5, 2021. Advanced's packet also included a May 5, 2021 "Audit Report Summary," the purpose of which was "[t]o ensure the R2T4 is paid within compliance of the 45-day completion requirement", in which Advanced represented that its failure to return the funds was an "error" due to the distance between staff members, a lack of training, and a failure to understand Federal requirements and internal policies. Advanced represented in its cover sheet that it had successfully implemented the "Action Plan," and that as of May 6, 2021, Advanced had brought itself into compliance, pending completion of the returns through the G5 System.

In its May 21st Response, Advanced provided a spreadsheet listing the returns made to the Department on behalf of students between July 1, 2020 and May 20, 2021, along with copies of the students' account ledgers. Advanced's May 21st Response established that during that time period, Advanced made late returns to 10 additional students.²

Although Advanced characterized its failure to return funds as an "error," the noncompliance was in fact intentional, as Advanced was demonstrably aware that returns were due to the Department and deliberately did not pay them. Advanced's December 2021 submission with respect to Item 5 included numerous internal emails that evidenced Advanced's former FAD's extensive and continuing efforts to convince Advanced's executive leadership to return Title IV funds within the regulatory timeframe.

For example, Email #10 shows that the former FAD prepared an "Audit Report Summary" dated January 22, 2021, which was an obvious precursor to Advanced's May 5, 2021 "Audit Report Summary." The purpose of the January 22, 2021 document was the same as the purpose of the May 5, 2021 document: "To ensure the R2T4 is within compliance of the 45-day completion requirement". The January 22, 2021 document also contained both a "Corrective Action" section and a "Plan of Action" developed to ensure compliance going forward. However, emails such as Emails #12 and #13 establish that, rather than coming into compliance, Advanced continued to not return Title IV, HEA funds when due. Email #12 in particular shows that the former FAD sent emails to Advanced executive staff entitled "URGENT: R2T4 Required Notification" on April 5, 2021, April 13, 2021, April 19-20, 2021, and April 26, 2021 listing Title IV returns that were past due, as well as those that were coming due. Email #13 shows that on April 14, 2021, the former FAD reached an agreement with executive staff that \$46,148.79 of the \$47,065 in Title IV funds to be drawn down from the Department for new Title IV disbursements would be used to pay the outstanding overdue refunds, which would have left only \$4,701 unpaid, however that executive staff did not comply with this agreement, and

¹ Students #8, 17, 30, 35, 42, 43, and 47. See Enclosure entitled "List of Students".."

² Student #13, 21, 22, 23, 27, 44, 46, 49, 51, and 58.

instead paid only \$14,103 in returns. Advanced apparently returned the overdue funds to the Department on May 6, 2021 only because Advanced was required to provide a list of all unpaid refunds in response to the Department's April 30, 2021 Request.

In its December 2021 Response, Advanced provided an updated list of returns made to the Department between July 1, 2020 to the present, and a list of unpaid returns. Advanced's December 2021 Response disclosed that, similar to Advanced's conduct after its January 22, 2021 internal audit and corrective action plan, Advanced repeatedly failed to return unearned student funds timely after the May 5, 2021 implementation of its "Action Plan." Advanced made late returns on behalf of three³ of the five students who were on the institution's May 6, 2021 list of unpaid R2T4 refunds with returns that were not yet due; did not timely pay refunds on behalf of 12 additional students⁴, 11 of whom⁵ had refund due dates after May 6, 2021, and one of whom⁶ should have been on the May 6, 2021 list of unpaid refunds but was not; did not pay refunds owed to two students⁷; and partially returned funds for one student⁸, leaving an unpaid balance of \$1,040.10 in loan funds for that student. In addition, information the Department received from the institution's third-party financial aid servicer, RGM, indicated an unpaid refund for an additional student.⁹ Further, the Department's review of the returns in the Common Origination and Disbursement ("COD") system revealed that in many cases, the funds were actually returned electronically to the Department up to 31 days after the date Advanced represented on the students' account ledgers that the funds were returned. A chart detailing Advanced's late and unpaid refunds is enclosed as Enclosure A-1.

Advanced's continued untimely return of unearned student funds and inaccurate reporting to the Department constitute an egregious failure to meet the fiduciary standard of conduct and indicates that Advanced is either unwilling or unable to comply with critical Title IV, HEA program requirements.

B. Advanced Failed to Pay, or Pay Timely, Credit Balances Owed to Students.

If an institution disburses Title IV, HEA program funds by crediting a student's account and the total amount of all Title IV program funds credited exceeds the amount of tuition and fees, room and board, and other authorized charges the student is required to pay, the institution must pay the resulting credit balance directly to the student or parent. Institutions are required to determine Title IV, HEA credit balances on a payment period basis. 34 C.F.R. § 668.164(h)(1). Institutions must prorate the charges, and determine the amount associated with each payment period in accordance with 34 C.F.R. § 668.164(c)(5). An institution must pay credit balances as soon as possible but no later than 14 days after the balance occurred, or 14 days after the first day of classes in a payment period if the balance occurred before that time. 34 C.F.R. § 668.164(h). Institutions may in general hold credit balance funds to cover future payment period charges if

³ Students #5, 36, 38.

⁴ Students #7, 10, 12, 20, 24, 34, 40, 41, 50, 54, 56, and 57.

⁵ Students #7, 10, 12, 24, 34, 40, 41, 50, 54, 56, and 57.

⁶ Student #20.

⁷ Students #39 and 26.

⁸ Student #34.

⁹ Student #1.

they obtain a valid authorization from the student. 34 C.F.R. § 668.165(b). However, an institution on the heightened cash monitoring method of payment cannot hold student credit balances. 34 C.F.R. § 668.165(b)(1)(ii).

As stated above, in late April 2021, the Department received information that Advanced was not paying credit balances owed to students. Advanced's May 6th Response included a packet of information entitled "Re: Unpaid Title IV Credit Balances Due to Students", enclosed as Enclosure B, that confirmed that this was the case. According to the cover sheet, the packet included "a list of unpaid Title IV Credit Balances," a "list of Balances Paid in Full which require student refund checks," and a "Plan of Action." The list of unpaid Title IV credit balances report (Enclosure B, page 2), entitled "Title IV Credit Balances (Unresolved)" identified credit balances owed to seven students, totaling \$26,992.50, which had been outstanding from between 16 to 220 days as of May 6, 2021. The second list (Enclosure B, page 3) was a list of credit balances that were owed to students whose school charges had been paid in full. This list identified credit balances owed to 15 students, totaling \$37,545.50 (the actual total is \$38,063.50), which had been outstanding for as long as 703 days. Advanced therefore reported outstanding overdue credit balance refunds totaling \$64,538. Advanced included in the packet an "Audit Report Summary" dated May 6, 2021, the purpose of which was "[t]o ensure that Student Credit Balances are paid within stated 14-day catalog requirements," in which it represented that the failure to pay the credit balances due was also an "error" due to a lack of training, and a failure to understand the PPA, federal fiduciary responsibility requirements, and internal policies. Advanced did not represent in the May 6th Response that it had paid all outstanding credit balances, but rather created the impression that the institution was coming into compliance by stating that its Plan of Action was in the process of being addressed at that time.

In its May 21st Response, Advanced provided documentation regarding credit balance refunds paid to students since July 1, 2020, with copies of the front and back of the cashed checks and each student's account ledger; however, in many cases the date on which the checks were cashed could not be discerned. Although FSA requested the bank statements needed to evaluate these payments, Advanced did not provide them. The documentation included lists totaling 30 students, whose credit balances totaled \$71,686.43.

Advanced's May 21st Response did not indicate that any of the credit balances owed for the students listed in Enclosure B, page 2 were paid to the students listed. The Department therefore requested updated and additional information concerning credit balances at Items 2, 3, 4, and 5 of the November 29th Request. As more fully set forth below, Advanced, in its December 2021 Response, did not provide any of the information that the Department requested in Items 2, 3, and 4 with regard to credit balances. The Department therefore reviewed student account ledgers obtained from RGM. These student account ledgers revealed that rather than pay credit balances owed to these students, Advanced held the credit balance funds on the students' accounts to apply to future charges. Advanced did not produce any credit balance hold authorizations signed by any of these students nor mention this in the information reported to the Department. Advanced was also prohibited from holding any credit balance funds as of May 14, 2021, the date of its placement on HCM2. A chart summarizing the Department's review is enclosed as Enclosure B-1. In the case of Student #25, Advanced included in its September 8, 2021 HCM2 request a copy of only the front of the check for the credit balance that remained after application

of a new disbursement and new charges to his account, and did not provide evidence that the credit balance was resolved, as required in the Department's May 14, 2021 HCM2 instructions. The Department was unable to determine whether the credit balance was resolved because Advanced failed to provide the requested bank statements and canceled checks.

With regard to the students listed in Enclosure B at 3, Advanced's May 21st Response disclosed that Advanced paid overdue credit balances to nine students¹⁰ only after the Department's April 30th Request for a list of unpaid credit balances, and that credit balance checks issued to at least two of the students actually bounced¹¹. Further, Advanced's May 21st Response did not demonstrate that credit balances due to an additional six students¹² were paid, one of which was due after Advanced's May 5, 2021 Action Plan¹³. The Department's review is set forth in Enclosure B-2. In addition, Advanced's May 21st Responses indicated that an additional student's credit balance check did not clear the bank when presented¹⁴.

It was apparent from Advanced's May 21st Response that the entry of a credit balance check date and amount on a student's account ledger was neither evidence that the check was actually given to the student, nor evidence that there were sufficient funds in the school's operating account to allow the student to actually cash the check if he or she presented it to Advanced's bank either in person or through depositing the check at their own financial institution. This was an additional reason why the Department requested the documents listed in Items 2, 3, 4, and 5 of the November 29th Request regarding credit balances.

In particular, at Item 2, the Department requested a list of all non-sufficient funds checks from July 2020, including checks to students, with evidence of the subsequent payment made and copies of the applicable re-issued checks, in order to determine how many credit balance checks that Advanced gave to its students bounced or were declined. The Department required Advanced to disclose not only the checks that were returned through the banking system, but also those credit balance checks which students reported to Advanced that they were unable to cash when they presented them to the bank due to non-sufficient funds. In its December 2021 Response, Advanced did not submit the required list. Advanced did submit some checks to the Department in its December 2021 Response; however these checks were not responsive to the request for credit balance checks to students that either bounced or were declined due to insufficient funds. As noted above, Advanced's May 21st Response identified two instances¹⁵ wherein it issued new credit balance checks after the checks it gave to the student after the Department's April 30th Request did not clear the bank.

At Item 3, the Department requested a list of any and all unpaid credit balance refunds, and an updated list of all credit balance refunds paid to students from July 1, 2020 to the present, including account ledgers and any credit balance hold authorizations. The list was required to include the Credit Balance Paid Date, as well as the Check Number, Check Date, Amount, and

¹⁰ Students #3, 4, 9, 11, 18, 29, 31, 45, and 53.

¹¹ Students #4 and 11.

¹² Students #14, 37, 48, 52, 55, and 59.

¹³ Student #37.

¹⁴ Student #2.

¹⁵ Students #4 and 11.

Cashed Date (Negotiated Date). The Department therefore required Advanced to provide the date that it actually gave the check to the student, and not just the date of the check, which is necessary to determine the actual timeliness of the payment of the credit balance. Advanced did not submit any information responsive to Item 3 in its December 2021 Response.

At Item 4, the Department requested the bank statements, including canceled checks, from July 1, 2020 to the present, from the bank account from which student credit balance payments were paid, in order to review Advanced's management of the funds in that account. The Department also requested this in order to identify credit balance checks had been rejected for non-sufficient funds by the check processing system, with the knowledge that this probably would not identify those checks that the bank had denied for non-sufficient funds when the student physically presented them for payment at the bank. Advanced did not submit any bank statements or canceled checks from the account from which the credit balances were paid in its December 2021 Response.

At Item 5, the Department requested internal email exchanges concerning the payment of credit balances paid to students, and non-sufficient funds concerning credit balance checks, from January 1, 2021 to the present. Advanced's December 2021 Response included only the first 20 of the 38 emails listed on the "Index of Financial Aid Emails" included in the December 2021 Response. Emails that Advanced did include in the Response showed that Advanced's executive team required the former FAD to hold credit balance checks that were past due, rather than provide the checks to the students. As with the unpaid returns, the emails evidenced Advanced's former FAD's extensive and continuing efforts to convince Advanced's executive leadership to pay credit balances owed to students. Email #11 in particular shows that the former FAD sent emails entitled "URGENT: Reminder: Students Refund Checks Required" on February 15, 2021, February 22, 2021, March 1, 2021, March 9, 2021, March 15, 2021, March 22, 2021, March 29, 2021, April 5, 2021, April 14, 2021, April 19-20, 2021, and April 26, 2021 listing credit balance refunds that were past due, as well as those that were coming due. It is apparent that Advanced finally, in May 2021, provided overdue credit balance checks to some of the students listed in the May 6th Response only because of the Department's April 30th and May 12th Requests. However, due to Advanced's failure to provide the credit balance information requested in the November 29th request, the Department still cannot establish whether these credit balance refunds were really given to students and whether the checks actually cleared the bank.

The Department was able to piece together Student #2's predicament despite Advanced's non-responsiveness. According to Advanced's May 6th Response, on November 28, 2020, Advanced's former FAD notified Student #2 that she owed a balance of \$411.50. Then, on December 3, 2020, the former FAD informed the student that staff had audited her account and determined that she would actually be receiving a refund, and that the FAD had begun the process of requesting the refund from the accounts department. The FAD also agreed to get in touch with the student once the FAD had the refund check in her possession. The student's account ledger shows that the student paid her tuition and fees in full as of January 7, 2020; had a credit balance of \$1,556.50 as of that date; and that on April 22, 2020, the student's credit balance increased to \$3,621.50 after additional Title IV funds were credited to her account. Advanced did not provide any evidence that Student #2 had authorized Advanced to hold a credit

balance on her account, and any such authorization would have been inconsistent with the exchanges between the student and the FAD. The FAD requested the refund check on December 1, 2020, with supporting documentation. The student asked for an update on December 9, 2020, after which the former FAD requested a status on the check on December 9, 2020, and again on December 15, 2020. The May 6th Response also included a file copy of check #6593, dated December 14, 2020, in the amount of \$3,621.50, however "Did Not Clear" is written on the check copy. The student's account ledger has an entry dated December 14, 2020 for check #6593 in the amount of \$3,621.50, which cleared the credit balance on the account and resulted in a zero balance as of that date.

The May 6th Response did not provide any further information about that payment. However, Advanced's December 2021 Response with Respect to Item 5 showed, at Email #2, that the student picked up her refund check on January 29, 2021, at which time the former FAD requested that money be available "so that we do not have issues with the check." This email also shows that the former FAD had not been approved to release the check to the student until two weeks prior to January 29th, which would have been around January 15th, a full month after the check date. Email #5 shows that on February 16, 2021, the former FAD reported that the student was currently at the South Gate campus, that she had gone to cash her check, and that she was denied due to insufficient funds. When the former FAD asked executive staff what to tell the student, she was told to advise the student to "go back tomorrow morning at 11 am." Because of Advanced's failure to provide the requested information concerning student credit balances, the Department still cannot establish whether and when the credit balance was actually paid to the student.

Under the provisions of 34 C.F.R. § 668.161(b), Title IV, HEA program funds received by an institution are held in trust for the intended beneficiaries or the Secretary. The institution, as a trustee of those funds, may not use these funds for any other purposes. Further, under the provisions of 34 C.F.R. § 668.161(c), the institution must exercise the level and care and diligence required of a fiduciary with regard to managing Title IV, HEA program funds. It is apparent that Advanced is using the Title IV, HEA funds it is holding in trust for students such as Student #2 for purposes other than paying the credit balances it owes to its students.

Advanced's actions regarding the payment of student credit balances, and its failure to provide the Department with the information required, exemplify its callous disregard for the needs of its students and its willingness to conceal that information from the Department, and is in direct conflict with a fiduciary standard of conduct.

C. Advanced Has Failed to Meet its Financial Obligations by Not Paying Debts to other Federal as well as State Agencies.

As stated above, in late April 2021, the Department received information that Advanced was not paying debts, including those owed to other government funding agencies. Advanced's May 6th Response included a packet of information entitled "Re: Late or Unpaid Debt – Cal Grant", enclosed as Enclosure C, that confirmed that Advanced was not paying a debt owed to its state funding agency. According to the cover sheet, the packet included communications between CSAC and Advanced with regard to a balance owed as a result of the reconciliation of

Advanced's Cal Grant Account for the 2019-20 academic year. Advanced represented in the cover sheet that it had written a check (for \$73,292) to CSAC in December of 2020; that it had mailed the check in March of 2021; that as of May 5, 2021, CSAC had not received the check; and that on May 5, 2021, Advanced told CSAC it would resolve the matter.

The communications provided consisted of email communication regarding the unpaid debt, including an email string entitled "Re: Past Due 19-20 Year End Invoice for Advanced College South Gate" (Enclosure C, at pages 2-7), and an email string entitled "Re: California Student Aid Commission Intent to Withhold Funding Notification" (Enclosure C, at pages 8-18.) The email strings show that although Advanced's check to CSAC was dated December 2, 2020, the check was not approved to be sent to CSAC until March of 2021; that although Advanced's Vice President stated on March 4, 2021 that he had the check in his possession, and would share a picture and information of it being mailed via certified mail with Advanced's former FAD, he did not share the mailing information; that although CSAC staff repeatedly requested information including the tracking number and mailing date of the December 2020 check, Advanced did not provide this information to CSAC; and that on May 5, 2021, after receipt of the Department's April 30th Request, Advanced sent an email to CSAC staff saying that in order to make sure the situation was resolved "immediately", Advanced would void the previous check it claimed but apparently could not prove it had sent, and issue a new check.

Advanced's May 6th Response also included a packet of information entitled "Re: Late or Unpaid Debt – VA", enclosed as Enclosure D, that confirmed that Advanced was not paying debts owed to another federal funding agency. According to the cover sheet, the packet included communications between the VA Certifying Official and Advanced staff regarding a check that Advanced sent to the VA, which bounced. The communications included in the May 6th Response showed that on November 8, 2020, the VA notified Advanced that it owed a debt of \$21,279.25; that Advanced prepared a check to the VA for \$21,279.25 dated December 15, 2020; that the VA notified Advanced on February 5, 2021 that it had received Advanced's payment of \$21,279.25, and the account was paid in full; that the check then bounced and the VA resumed collection; and that on May 5, 2021, after receipt of the Department's April 30th Request, Advanced sent an email to the VA acknowledging that the check was returned due to insufficient funds, and stating that a new check would be sent.

After review of May 6th Response, the Department requested in its May 12th Request that Advanced provide copies of the front and back of cashed checks to the VA for \$21,279.25, and to the CSAC for \$73,292, by May 21, 2021. In its May 21st Response, Advanced provided copies of Cashier's checks to the VA and CSAC. The Cashier's checks were not prepared until May 19, 2021, and the mailing receipts showed that the checks were not mailed to the agencies until May 20, 2021. Nearly half a year passed between Advanced's acknowledgment to pay the debt to VA and when it was actually paid. Notably, Advanced did not actually pay the outstanding debts to CSAC and the VA until the Department required the institution to provide proof of payment. Advanced's delays and unfulfilled payment promises with regard to the payment of the debts owed to other federal and state agencies further evidences its failures to demonstrate financial responsibility and administrative capability.

D. Advanced Repeatedly Issued Checks, including Payroll Checks, from Accounts With Insufficient Funds to Pay Those Obligations.

As stated above, in late April 2021, the Department received information that Advanced repeatedly provided paychecks to employees that bounced or could not be cashed due to insufficient funds. Advanced's May 6th Response included a packet of information entitled "Re: Statement Regarding Allegations of Insufficient Funds", enclosed as Enclosure E, that confirmed that this occurred, but created the impression that the issue was confined to the school's April 3, 2021 bi-weekly payroll checks. Advanced admitted that the bank account upon which these payroll checks were drawn did not have sufficient funds and represented that this was due to an "accounting error"; that 12 checks had bounced; and that Advanced was in the process of implementing direct deposit for payroll. Three weeks later, in its May 21st Response, Advanced provided an update with regard to direct deposit, acknowledged that employees' checks had bounced, represented this time that it was due to miscommunication, and stated it was progressing with implementing direct deposit in order to avoid this in the future.

Because the Department had received information that employee's paychecks had bounced or been denied payment on multiple occasions, and that the issue was not confined to a single cycle of payroll checks, the Department, at Item 4 of the November 29th Request, specifically requested bank statements, including canceled checks, from July 1, 2020 to the present, for the bank account from which payroll checks were paid. Advanced's December 2021 Response did not provide the required bank statements and canceled checks. The Department also requested, at Item 2, a list of non-sufficient funds checks from July 1, 2020 to the present, including those to staff, with evidence of the subsequent payment made and copies of the applicable re-issued checks. Advanced's December 2021 Response did not provide a list of the non-sufficient checks, which should have included checks that Advanced knew that employees presented to its bank, only to be denied payment for insufficient funds. Although it did provide some payroll checks, these consisted of 11 payroll checks to staff dated April 23, 2021, and one payroll check dated July 31, 2020. Without the canceled checks or the corresponding bank statements, the Department cannot determine whether there are additional checks that bounced, even if those statements do not disclose instances wherein employees were unable to cash checks at Advanced's bank due to insufficient funds. The Department further requested, at Item 5, internal email exchanges concerning payroll checks denied for non-sufficient funds. Advanced's December 2021 Response did not provide any emails responsive to this aspect of Item 5 nor acknowledge that the institution was providing an incomplete response. Advanced's failures to provide the Department with the requested information give rise to an inference that the information corroborates claims of these repeated failures to timely pay debts and represents a breach of the fiduciary standard of conduct.

E. Advanced Failed to Completely Respond to the Department's November 29th Request for Information.

As detailed above, in the November 29th Request, the Department requested that Advanced provide six itemized groups of documents, no later than Wednesday, December 1, 2021. Advanced did not, however, provide any documents until Friday, December 3, 2021, and Saturday, December 4, 2021. On December 3, 2021, the Department sent, via email, a

certification statement for Advanced's vice president and financial aid director to sign, certifying that the institution's response provided complete and accurate information with regard to Items 1 through 6 of the November 29th Request. Advanced's Vice President and FAD signed these certifications and submitted them on December 4, 2021. Upon review of the documentation submitted in Advanced's December 2021 Response, the Department has determined, as set forth above, that Advanced did not provide the list of non-sufficient funds checks requested in Item 2; did not provide any documentation responsive to Item 3 regarding student credit balances; did not provide the bank statements and canceled checks for the accounts from which credit balance checks and payroll checks were drawn requested in Item 4; and provided only 20 of the 38 emails listed in its response to Item 5. Therefore, as of the date of this letter, and notwithstanding the signed certifications to the contrary, Advanced still has not submitted all of the documentation the Department requested in the November 29th Request. Advanced's failure to respond completely to the Department's November 29th request is further evidence that the institution does not have the administrative capability and fiduciary responsibility to continue to participate in the Title IV, HEA programs.

F. Advanced Submitted False Ledgers to the Department in its HCM2 Request for Payment.

As stated above, on May 14, 2021, the Department informed Advanced that it was placing the institution on the HCM2 method of payment. In the letter, the Department informed Advanced that it must provide, among other things, credit balance documentation demonstrating that all student credit balances were liquidated. The Department also required the President, Owner or CEO to certify that the information submitted to receive funds while under the HCM2 payment method was accurate, and advised Advanced that **"A false certification may result in civil or criminal action by the Department against the institution."**

Advanced submitted an HCM2 claim for payment on September 8, 2021. The Department's review disclosed an error rate of 100% with regard to the 15 students in the sample. Thirteen of the students' ledgers contained Higher Education Emergency Relief Fund (HEERF) II fund payments to students ranging from \$300 to \$600; however Advanced did not provide evidence that the funds were actually paid to the students. The Department therefore rejected the HCM2 request on October 22, 2021, and required Advanced to provide, for each of the students listed, proof that the students were paid, i.e., front and back copy of the cashed check. On November 15, 2021, in a telephone conversation with Department staff, the Vice President and Compliance Officer admitted that the ledger entries evidencing payment were false, and that Advanced had not actually paid the funds to the students. This further demonstrates that the Department cannot rely on Advanced's student account ledgers with regard to any payments purportedly made to students.

G. Advanced Failed to Submit its Annual Audit Submission for its Fiscal Year ended December 31, 2020 and Failed to Timely Submit its Annual Audit Submission for its Fiscal Year Ended December 31, 2019.

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 Advanced 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.

Advanced's fiscal year ends on December 31. Pursuant to 34 C.F.R. § 668.23(a)(4), Advanced's annual audit submission for the fiscal year ended ("FYE") December 31, 2019 was due to the Department by December 31, 2020¹⁶, and its annual audit submission for FYE December 31, 2020 was due by June 30, 2021. Nevertheless, Advanced did not submit an acceptable annual audit submission for FYE December 31, 2019 until March 1, 2021, 60 days late, and has not, as of the date of this letter, submitted an acceptable annual audit submission for FYE December 31, 2020.

Advanced's failure to submit its annual audit submission for FYE December 31, 2020 and failure to timely submit its annual audit submission for FYE December 31, 2019 are serious violations, 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. Through its failure to timely submit its annual audit submissions for its 2019 and 2020 fiscal years, Advanced has failed to meet the fiduciary standard of conduct.

II. Advanced has Failed to Meet the Standards of Financial Responsibility

To continue participation in any Title IV, HEA program, an institution must demonstrate to the Department that it is financially responsible under the standards set forth at 34 C.F.R. Part 668, Subpart L. The Department determines whether an institution is financially responsible based on the institution's ability to administer properly the Title IV, HEA programs in which it participates, and meet all of its financial obligations. 34 C.F.R. §§ 668.171(a)(2), (3); 668.171(b)(3). An institution is not able to meet its financial or administrative obligations if it fails to make refunds under its refund policy or return Title IV, HEA program funds for which it is responsible under 34 C.F.R. § 668.22, or if the institution is subject to a condition of past performance under 34 C.F.R. § 668.174(a). 34 C.F.R. §§ 668.171(b)(3)(i), (4). Advanced has intentionally failed to return funds to the Department when due, has failed to pay student credit balances when due, and has repeatedly issued bad checks to its students and others. Further, on September 10, 2021, the Department cited Advanced for failing to timely submit compliance and financial statement audits, which is a violation of the past performance standard at 34 C.F.R. §

¹⁶ This annual submission was due by June 30, 2020. However, due to the COVID-19 pandemic, the Department modified the submission requirement to permit institutions such as Advanced up to an additional six months to submit the annual compliance and financial statement audits.

668.174(a)(3). Advanced's actions and failures clearly establish that the institution cannot meet this standard.

Further, the Department's standards of financial responsibility were established to ensure that only institutions which are sound and financially capable of meeting their educational and administrative responsibilities participate in the Title IV, HEA programs. The financial responsibility regulations at 34 C.F.R. § 668.171(e) 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 the Department to end the school's participation in the Title IV, HEA programs. Advanced's failure to pay credit balances timely, return unearned student refunds to the Department, meet its accounting and financial obligations to the California grant program and VA program, and repeated failures to make payroll for staff also constitute failures of the general standards of financial responsibility in 34 C.F.R. § 668.171. Advanced's cumulative failures to meet the financial responsibility standards also warrants denial of its application for recertification.

III. Advanced 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). Advanced's failure to pay credit balances and refunds when due, incomplete response to the Department, issuance of bad checks to its students and others, failure to submit its FYE December 2020 annual audit submission, and failure to submit its FYE December 31, 2019 audit timely, as set forth above, demonstrate the institution's lack of administrative capability, and independently warrants denial of Advanced's application for recertification.

The Department notes that during a December 7, 2021 meeting with SPD staff, Advanced's officials acknowledged the institution's failures to administer the Title IV, HEA programs in accordance with the Title IV statute and its implementing regulations. The officials claimed that the institution had been mismanaged in the past and attempted to place the blame on the institution's prior president, who was no longer with Advanced and not at the meeting to respond to the allegations. Advanced's officials represented that new staff would ensure compliance in the future and stated that they hoped the Department would continue to work with them. However, Advanced's actions over at least the past year constitute an institution-wide, rather than an individual, failure to meet the fiduciary standard of conduct to which the institution, and its officers, are held. Based upon these multiple demonstrated failures, Advanced's application for continued participation in the Title IV, HEA programs is denied.


Should Advanced have factual evidence to dispute the Department's findings, and demonstrate their inaccuracy, Advanced may submit that evidence via overnight mail to me at the following address:

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

This denial of recertification is effective December 31, 2021. If Advanced chooses to submit material for the Department's consideration, it must be received within two weeks of the date of this letter. Any such material will be reviewed by the Department, and Advanced will be notified whether the recertification denial will be modified, rescinded, or left in place. If the denial of recertification is left in place, the SPD will then contact you concerning the proper procedures for closing out Advanced's Title IV, HEA program accounts.

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

Sincerely,



Susan D. Crim
Director
Administrative Actions and Appeals Service Group

cc: Gary Puckett, President/Executive Director, Council on Occupational Education, via
gary.puckett@council.org
Deborah Cochrane, Chief, California Bureau of Proprietary School Supervision, via
Deborah.Cochrane@dca.ca.gov
Department of Defense, via osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov
Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.