VIA UPS

Illinois State Board of Education
Attn: FOIA Coordinator – Mark Wancket
Freedom of Information Office
100 North First Street
Springfield, IL 62777-0001

Re: Freedom of Information Act Request For Records

Dear Sir or Madam:


1. All records since 2001 explaining, discussing, or communicating the Illinois State Board of Education’s policy, guidance or criteria regarding intervention in state or federal qui tam actions alleging false claims under the Illinois False Claims Act (formerly known as the Illinois Whistleblower Reward and Protection Act), title 740 ILCS §§ 175/1-175/8, in connection with student loan or grant programs administered under authority of the HEA and/or state student financial aid, loan or grant programs under Illinois state law.

2. All records since 2001 explaining, discussing, or communicating the Illinois State Board of Education’s decision, policy, or practice and reasons to intervene or not to intervene in state or federal qui tam actions based on the Illinois False Claims Act brought against for-profit education companies participating in federal student loan or grant programs under Title IV of the HEA and/or state student financial aid, loan or grant programs under Illinois state law.

3. All complaints, including all exhibits and attachments to the complaints, filed since 2001 in qui tam actions based on the Illinois False Claims Act brought against for-profit education companies in which the State of Illinois and/or the Illinois State Board of Education decided to intervene or not to intervene.

4. All records interpreting, analyzing, explaining, discussing or communicating the Illinois State Board of Education’s decision, policy, guidance or practice on
how to interpret the meaning of 20 U.S.C. § 1094(a)(20) (which provides that a recipient of federal funds under Title IV of the Higher Education Act may not "provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons ... engaged in any student recruiting or admissions activities or in making decisions regarding the award of student financial assistance"), and how 20 U.S.C. § 1094(a)(20) applies to recipients of student financial aid, loans or grants provided by the State of Illinois.

5. All records explaining, discussing, or communicating the Illinois State Board of Education’s decision, guidance or practice on how to interpret 34 C.F.R. § 668.14(b)(22) (which says in part: “Fixed compensation, such as a fixed annual salary or fixed hourly wage, as long as that compensation is not adjusted up or down more than twice during any twelve-month period, and any adjustment is not based solely on the number of students recruited, admitted, enrolled, or awarded financial aid,” including without limitation all records explaining, discussing or communicating the meaning of the term “solely.”), and how 34 C.F.R. § 668.14(b)(22) applies to recipients of student financial aid, loans or grants provided by the State of Illinois.

6. All records since 2001 communicating, discussing or explaining the Illinois State Board of Education’s decision, policy, guidance, opinions, interpretation or practice regarding whether various programs of for-profit educational institutions, such as President’s Clubs, seminars and trips to conferences for top achievers, and similar programs that recognize achievement, comply or do not comply with 20 U.S.C. § 1094(a)(20), 34 C.F.R. § 668.14(b)(22), or any Illinois state law.

7. All records or communications by or from the State of Illinois and/or the Illinois State Board of Education regarding the Negotiated Rulemaking process for the promulgation of the twelve “safe harbor” provisions set forth in 34 C.F.R. § 668.14(b)(22).

8. All records or communications by or from the State of Illinois and/or the Illinois State Board of Education regarding the Negotiated Rulemaking process for the elimination of the twelve “safe harbor” provisions set forth in 34 C.F.R. § 668.14(b)(22).

9. All Illinois State Board of Education records, policy guidance, policy memoranda, or policy criteria that were used or relied upon since 2001 in connection with any annual evaluations, reviews, or audits of EDMC’s compliance with state or federal regulations on incentive compensation for admissions, recruiting, and financial aid personnel. For purposes of this letter, “EDMC” is defined to include all institutions for which Education Management corporation is a parent corporation, including each institution identified by OPEID number in Exhibit A to this letter that is located in the State of Illinois.

10. All compensation plans of all for-profit education institutions that the Illinois State Board of Education and/or the State of Illinois has evaluated, reviewed, or audited
since 2001 for compliance with federal or state regulations on incentive compensation for admissions, recruiting, and financial aid, and all records relating to the compliance or noncompliance of those plans with the HEA, federal implementing regulations, and/or State of Illinois laws and regulations.

11. All Illinois State Board of Education records since 2001 consisting of, describing, or discussing the Illinois State Board of Education’s decision, policy, guidance, interpretation or practice to bring or not to bring an enforcement action or to seek any other form of adverse action, such as a fine or penalty, against a for-profit education institution for non-compliance with federal Department of Education or state regulations governing incentive compensation for admissions, recruiting, and financial aid personnel.

12. All records explaining, discussing or communicating each decision by the State of Illinois and/or Illinois Board of Education since 2001 to allow EDMC to participate in state financial aid, loan, or grant programs.

13. All records since 2001 comparing or discussing the similarities or differences between the compensation plans of EDMC for its admissions and financial aid personnel with the compensation plans of any other for-profit educational institution for its admissions and financial aid personnel, including without limitation the University of Phoenix or the Apollo Group.

14. All records since 2001 consisting of communications with any person not employed by the Illinois State Board of Education or Illinois Attorney General Office relating to (a) EDMC; (b) 20 U.S.C. 1094(a)(20); (c) 34 C.F.R. § 668.14(b)(22); or (d) potential elimination or amendment the twelve “safe harbor” provisions in 34 C.F.R. § 668.14(b)(22) by the United States.

15. All records since 2001 explaining, discussing or communicating the Illinois State Board of Education’s policy, guidance, interpretation, practice or criteria for the circumstances in which the Illinois State Board of Education will suspend or terminate state financial aid, loans or grant funds available to a for-profit educational institution program for non-compliance with the HEA, its implementing regulations, or any state law.

16. All records since 2001 explaining, discussing or communicating the Illinois State Board of Education’s decision to suspend or terminate or not to issue state financial aid, loan or grant funds to a for-profit educational institution for the reason of non-compliance with the HEA, its implementing regulations, or any state law.

17. All records since 2001 explaining, discussing or communicating the Illinois State Board of Education’s decision not to suspend or terminate a for-profit educational institution’s program participation agreement with the Department despite non-compliance with the HEA or its implementing regulations or any state law.
18. All records since 2001 consisting of communications discussing EDMC between the Illinois State Board of Education and (a) any committee of the United States Senate or House of Representatives, or (b) the General Accounting Office of the United States, or (c) the United States Office of Management and Budget, or (d) the Executive Office of the President of the United States.

19. All records explaining, discussing or communicating any analysis or interpretation of data concerning the compensation plans, performance, activity or operations of EDMC.

20. All records showing, explaining, discussing or communicating any information or data regarding: (a) financial aid, loan, and grant funds from the State of Illinois to students enrolled or intending to enroll at an institution owned or operated by EDMC; (b) repayment of financial aid, loan, and grant funds from the State of Illinois or default rates on repayment of loans from the State of Illinois by students enrolled or intending to enroll at an institution owned or operated by EDMC; (c) the graduation rate of students enrolled at an institution owned or operated by EDMC; or (d) the employment of students who were enrolled at an institution owned or operated by EDMC. Those institutions include The Art Institutes (since 2001), Argosy University (since December 2001), South University (since 2003), and Brown-Mackie Colleges (since 2003).

21. All records since 2001 explaining, analyzing, discussing or communicating any consideration of or proposal to condition the award of any student loan, grant, or financial aid from the State of Illinois upon an evaluation or assessment of the student's ability to repay the loan.

22. All records since 2001 explaining, analyzing, discussing or communicating the Illinois State Board of Education's evaluation or assessment of the default rates and/or cohort default rates on student loans, grants or financial aid from the State of Illinois at for-profit educational institutions, including without limitation the reasons for those default rates and/or cohort default rates.

23. All records since 2001 explaining, analyzing, discussing or communicating the Illinois State Board of Education’s use of collection agencies to obtain repayment of state student loans, grants or financial aid from the State of Illinois, including without limitation any evaluation, assessment or information regarding their success or lack of success in obtaining repayment of such loans, grants or financial aid.

24. All records since 2001 showing, explaining, analyzing, discussing or communicating the Illinois State Board of Education’s budget, disbursements, repayments and amounts owed for student loans, grants and financial aid awarded by the State or Illinois.
25. All records relating to any Program Reviews performed by the Illinois State Board of Education of EDMC or any institution owned or operated by EDMC, including any work papers generated and any documents collected from the company, institution, or third parties.

26. All licenses or approvals issued by the Illinois State Board of Education to EDMC between 2001 and 2010 for participation in any Illinois state funded financial aid, grant or loan program.

27. All completed applications for licensure or participation submitted by EDMC to the Illinois State Board of Education and/or the Illinois Student Assistance Commission between 2001 and 2010 requesting eligibility for participation in any Illinois state funded financial aid, grant, or loan program.

28. All certifications made by EDMC in order to participate in or receive state financial aid, grant or loan funds.

29. Copies of blank forms required to be completed by students seeking any Illinois state funded financial aid, grant or loan program between 2001 and 2010.

30. All records relating to any investigation by the Illinois State Board of Education and/or the Illinois Student Assistance Commission between 2001 to the present into the accuracy of applications made by EDMC relating to any Illinois state financial aid, loan or grant program.

Definitions:

(A) The term “records” is meant to be applied in its broadest meaning to include all forms of media on which information may be transmitted or recorded, and to include, without limitation, all memoranda, publications, notices of rulemaking, proposed or final regulations, notices of violations, enforcement actions, decisions to bring or not to bring enforcement actions, informal or formal opinions, guidelines, correspondence, legal documents including affidavits, motions and briefs, transcripts, and any written or recorded communication.

(B) “EDMC” or Education Management Corporation is defined to include all institutions for which Education Management Corporation is a parent corporation, including each institution identified by United States Department of Education OPEID numbers in Exhibit A to this letter that are located in the State of Illinois.

Please provide expedited processing for this request. There is a compelling need for these records on an expedited basis in order to ascertain and verify the proper interpretation of the statute and regulations for purposes of legal compliance.
I agree on behalf of my client to reimburse the Illinois State Board of Education for its reasonable costs in copying and furnishing the requested records. If more efficient for the Illinois State Board of Education, it may furnish the records in electronic format on a CD.

I appreciate the Illinois State Board of Education’s time and cooperation in this matter. Should you have any questions, please contact me at 412-394-7263.

Very truly yours,

Amy K. Pohl

Enclosure