

January 8, 2019

The Honorable Betsy DeVos  
Secretary of Education  
U.S. Department of Education  
400 Maryland Ave. SW  
Washington DC, 20202

Dear Secretary DeVos

As 35 organizations advocating for students, families, taxpayers, veterans, and service members, we write to express concern about the unclear future facing students in the wake of the sudden closures of both Education Corporation of America (ECA) and Vatterott Education Holdings, companies which announced the closures of virtually all of their schools on December 5<sup>th</sup> and December 17<sup>th</sup>, 2018, respectively.

The Department's failure to heed multiple warning signs and obtain letters of credit from the two companies harms both students and taxpayers.<sup>1</sup> We are concerned that the Department of Education has not provided clear and direct guidance to students regarding the possible paths for students, including approved eligibility for closed school discharges or teach-out or transfer agreements for those students who are close to completing. This is particularly concerning given the Department's long awareness that both ECA and Vatterott were in serious jeopardy of losing accreditation and at risk of financial collapse.

In the absence of this guidance, we are particularly concerned that students are being given incomplete, incorrect, and harmful information about their options for closed school discharge and information on transfer options that have not been formally approved or overseen by any member of the regulatory triad.

We therefore ask the Education Department to immediately take the following actions:

- 1.) **Extend the window for a closed school discharge.** The closed school discharge regulation states that "[t]he Secretary may extend the 120-day period if the Secretary determines that exceptional circumstances related to a school's closing justify an extension."<sup>2</sup> On May 8, 2018, ECA's accreditor, the Accrediting Council for Independent Colleges and Schools (ACICS) placed ECA's largest chain, Virginia College, on show cause.<sup>3</sup> The action was taken after Virginia College sought and was denied accreditation by the Accrediting Council for Continuing Education & Training (ACCET). In a 59-page letter to the college finding noncompliance with 23 standards, ACCET detailed a long list of issues including low completion and job-placement rates,

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<sup>1</sup> See Veterans Education Success, "[Could Education Corporation of America's Sudden Closure Have Been Avoided?](https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5c17fc43c2241b89460a1977/1545075779356/Issue+Brief+on+ECA.FINAL.pdf)" (Dec. 2018).

<https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5c17fc43c2241b89460a1977/1545075779356/Issue+Brief+on+ECA.FINAL.pdf>

<sup>2</sup> 34 CFR 685.214 (c) (1) (i) (B).

<sup>3</sup> ACICS letter to Virginia College, September 7, 2018.

[http://acics.org/uploadedFiles/Actions/00010582\\_VirginiaColl-SCC.pdf](http://acics.org/uploadedFiles/Actions/00010582_VirginiaColl-SCC.pdf)

high faculty turnover, and problems with governance and management.<sup>4</sup> This information was public, easily accessible, and publicly reported on, which could have signaled to students there were problems and is likely to have resulted in withdrawals. In its recent lawsuit, ECA acknowledged that providing information to students on the consequences if ECA did not obtain alternate accreditation caused some students not to remain enrolled. Moreover, the lack of quality programs and issues like faculty turnover students experienced after enrolling could have resulted in additional withdrawals. Similarly, Vatterott was placed on probation by their accreditor in May of 2018, with a long history of problems cited. Vatterott's closed school window should go back at least to May 2018 as well, although arguably the window should be extended back to Vatterott's filing for receivership in May of 2017.<sup>5</sup> The Department should extend the closed school lookback period back to when signs of serious problems with these schools first emerged.

- 2.) **Send closed school loan discharge applications to all eligible students immediately**, and make public copies of all general information being sent to students. In the wake of ECA's closure, students were reportedly told that they were still responsible for paying any loans they took out and were not going to get their money back, despite their clear and unambiguous right to a closed school discharge.<sup>6</sup> This type of guidance is confusing to students and fails to mention the option of obtaining a closed school discharge or other relief. In a letter Vatterott sent to students, they were told they "may be eligible" for closed school discharge, when in fact they are automatically eligible if they were enrolled within 120 days of closure.<sup>7</sup> Closing institutions are required by regulation to provide closed school discharge applications directly to students and the Department should ensure ECA and Vatterott are complying with these requirements.<sup>8</sup>
- 3.) **Inform students of transfer options that were reviewed, vetted, and approved by state agencies**, so that students are not harmed twice. In guidance posted following ECA and Vatterott's closures, the Department directed students to transfer to another school or contact their state agency to explore transfer options without any guidance.<sup>9</sup> It is concerning that the Department did not require or direct ECA or Vatterott's accreditor to require proper teach out agreements in advance of the sudden closure, given its longstanding knowledge of ECA and Vatterott's precarious financial situation. Furthermore, ECA and Vatterott have both posted transfer options on its website, guiding students to schools, and it's not clear that these options have been approved or vetted in

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<sup>4</sup> Accrediting Council for Continuing Education & Training letter to Virginia College, August 31, 2018. <http://s3.amazonaws.com/docs.accet.org/downloads/adverse/1539.pdf>.

<sup>5</sup> Accrediting Commission of Career Schools and Colleges letter to Vatterott, December 15, 2018. <http://www.accsc.org/UploadedDocuments/2018/Withdrawal-Denial-Letters/Vatterott-College-Berkeley-Redacted.pdf>.

<sup>6</sup> Virginia College students worry about loans and transferring credits, WHNT 19, Huntsville, AL, December 10, 2018 <https://whnt.com/2018/12/10/virginia-college-students-worry-about-loans-and-transferring-credits/>.

<sup>7</sup> Vatterott Letter to students 12.17.18. <https://dhe.mo.gov/psc/documents/2018-12-17StudentClosureLetter.pdf>

<sup>8</sup> As required by regulations. <https://ifap.ed.gov/eannouncements/121318ClosedSchoolDischargeChanges.html>.

<sup>9</sup> Information for Students Affected by the Closure of Education Corporation of America Schools. <https://studentaid.ed.gov/sa/sites/default/files/education-corporation-america.pdf>; FACT SHEET: School Closure, <https://studentaid.ed.gov/sa/sites/default/files/vatterott-il.pdf>.

any way by state agencies.<sup>10</sup> Some of these schools are on heightened cash monitoring themselves, indicating significant financial problems. The companies that just left 22,000 students in the dark should not be trusted to guide students into high-quality transfer options without supervision. The Department should ensure that transfer options approved by state agencies are communicated to students as soon as possible, and at the very minimum, not allow students to re-enroll in schools that are under heightened cash monitoring or under investigation.

- 4.) **Ensure that ECA and Vatterott make the transcript retrieval process free for students.** Information on ECA’s website shows that it has contracted with Parchment to provide students access to transcripts. Parchment was also used by ITT, and requires students to pay a fee in order to access the records.<sup>11</sup> Vatterott claims that they are “making arrangements for permanent student records to be stored.”<sup>12</sup> The Department should ensure that students do not face additional barriers to obtaining their records following ECA’s and Vatterott’s closure. Student records should be provided free of charge.
  
- 5.) **Hold the private equity owners and creditors financially liable for their abrupt closures to the fullest extent possible.**<sup>13</sup> It is concerning that the Department did not obtain a letter of credit from ECA – and it unclear whether the Department held one from Vatterott. This is particularly troubling given the long awareness and widespread evidence that ECA was at risk of closure, including troubled finances, and the fact that Vatterott was relying on a sale to ECA. ECA further was under a show cause action that required a teachout plan by its accreditor for some campuses, and clearly told the Department in a lawsuit that “a disorderly and chaotic process that... will irreparably harm students’ interests” could result.<sup>14</sup> The Department should attempt to recoup funds from ECA and Vatterott’s owners and creditors.

The Department has failed to learn the lessons of the collapse of Corinthian and ITT and once again has failed to protect the more than \$344 million of taxpayer dollars that went to Education Corporation of America and Vatterott Education Holdings just in the past year.<sup>15</sup> The Department has once again ignored multiple warning signs,<sup>16</sup> and failed to require a letter of credit or take appropriate action to protect the more than 22,000 students and 4,000 GI Bill beneficiaries left holding largely useless credits and likely considerable debt from ECA and

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<sup>10</sup> Transfer Opportunities, <https://www.ecacolleges.com/transfers/>; Vatterott College homepage, <http://www.vatterott.edu/>.

<sup>11</sup> Parchemnt.com, Order ITT Tech Transcripts & Diplomas, <https://www.parchment.com/ITT/>.

<sup>12</sup> Op. cit. 7.

<sup>13</sup> As allowed per 20 USC 1099 c (e).

<sup>14</sup> *ECA v. DeVos*, October 16, 2018 filing, [https://www.insidehighered.com/sites/default/server\\_files/media/ECA-complaint\\_0.pdf](https://www.insidehighered.com/sites/default/server_files/media/ECA-complaint_0.pdf).

<sup>15</sup> Calculations by TICAS using data from the U.S. Department of Education, Federal Student Aid Data Center, Title IV Program Volume Reports, <https://studentaid.ed.gov/sa/about/data-center/student/title-iv>. Figures include all Pell Grant and Direct Loan disbursements received in 2017-18 at colleges operated by Education Corporation of America and Vatterott Education Holdings. Note that the 2017-18 data may still be revised upward.

<sup>16</sup> Op. cit. 1.

Vatterott Holdings owned schools. The least it can do is make certain that these students receive prompt clear instructions regarding the possible discharge of their debt or the transfer to a higher quality institution as well as expanded eligibility for these options.

Sincerely,

AFL-CIO

American Federation of Teachers

Center for Responsible Lending

Children's Advocacy Institute

Consumer Action

Consumer Federation of California

East Bay Community Law Center, Consumer Justice Clinic

Economic Mobility Pathways

The Education Trust

Generation Progress

Higher Education Loan Coalition

Hildreth Institute

Housing and Economic Rights Advocates

The Institute for College Access & Success (TICAS)

Maryland Consumer Rights Coalition

NAACP

National Association of Consumer Advocates

National Association of Consumer Bankruptcy Attorneys (NACBA)

National Consumer Law Center (on behalf of its low-income clients)

National Consumers League

PHENOM (Public Higher Education Network of Massachusetts)

Project on Predatory Student Lending

Public Law Center

Public Good Law Center

Student Action

Student Veterans of America

U.S. Public Interest Research Group (PIRG)

United States Student Association

University of San Diego Veterans Legal Clinic

Urban Assembly

Veterans Education Success

Veterans for Common Sense

Vietnam Veterans of America

Women Employed

Young Invincibles