

Congress of the United States

Washington, DC 20515

February 9, 2023

The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary Cardona:

We are writing regarding our concerns over the educational outcomes and financial obligations of current and former students of Bay State College. Amid allegations of fraud by Bay State and rapidly accumulating evidence that the college could not continue operating based on significant financial losses and severely reduced enrollment, the New England Commission of Higher Education (NECHE or the Commission) announced on January 16 that it will withdraw Bay State College's accreditation on August 31, 2023.¹ We support this action, which will protect future students in Massachusetts and beyond from what appears to be an unscrupulous and failing for-profit college, and we ask that the Department of Education (ED, or the Department) act to protect students who were misled or defrauded by Bay State.

As a result of losing accreditation, Bay State College and its students will not be able to access federal financial aid funding. Institutions of higher education are heavily dependent on federal financial aid, and consequently, accreditation loss almost always leads to bankruptcy and abrupt school closures.² Further, students who attended schools and programs that lose accreditation status may face difficulty finding admission to another school or transferring credits to other institutions.³ While the accreditation decision is not considered final until Bay State and NECHE conclude their appeal process, given Bay State College's history of mismanagement and fraud, the Department should be prepared to act quickly if the Commission's decision is upheld.⁴ NECHE informed our offices that Bay State College has worked out an agreement with the Massachusetts Department of Higher Education (MDHE) to secure \$4 million to support teach-out agreements and provide operating funds to keep the

¹ New England Commission of Higher Education, "NECHE Statement Bay State College," January 16, 2023, <https://www.neche.org/wp-content/uploads/2023/01/NECHE-Statement-Bay-State-College-1-16-2023.pdf>; Boston Business Journal, "Financially troubled Bay State College to lose accreditation this summer; 'heartbroken' officials plan to appeal," Benjamin Kail, January 16, 2023, <https://www.bizjournals.com/boston/news/2023/01/16/bay-state-college-accreditation-lost.html>.

² Colleges & Degrees, "Understanding Accreditation: What Happens When a College Loses Accreditation?" <https://www.collegesanddegrees.com/accreditation#:~:text=Students%20attending%20the%20school%20at,%20unaccredited%20post%20secondary%20institutions>.

³ *Id.*

⁴ Boston Business Journal, "Financially troubled Bay State College to lose accreditation this summer; 'heartbroken' officials plan to appeal," Benjamin Kail, January 16, 2023, <https://www.bizjournals.com/boston/news/2023/01/16/bay-state-college-accreditation-lost.html>.

college operating through the end of 2023.⁵ While this will help many students transition out of the school, it is unlikely to prevent a final closure or address concerns for students who attended the school and will be left with worthless degrees and credits.

In June 2015, then-Secretary of Education Arne Duncan made a promise that ED would ensure that defrauded borrowers would receive “every penny of the debt relief they are entitled to through a streamlined process.”⁶ We request the Department provide an explanation of how it plans to support students and alumni of the institution if the appeal is denied and it loses accreditation.

We appreciate that the Department updated its steps early last year to hold institutions accountable for taxpayer losses, including liabilities arising from closed school loan discharges and borrower defense claims.⁷ We also applaud your recent action in December 2022 to place Bay State College under “heightened cash monitoring,” a tool that provides additional oversight for institutions facing financial or federal compliance issues,⁸ which the President of NECHE cited as one of the several significant concerns commission members had that led to Bay State losing its accreditation.⁹ This move by the Department is in line with its recently announced plan to redouble its efforts to hold colleges that have contributed to the student debt crisis accountable.¹⁰ To build off this success, we encourage the Department to support the students who were victims of Bay State’s predatory behavior.

Earlier this month, we wrote a letter to NECHE outlining our concerns about Bay State’s behavior in advance of NECHE’s January 12 review of the college’s accreditation status.¹¹ In our letter, we discussed Bay State’s many years of financial losses and allegations that the institution failed to pay rent on its facilities and missed payroll for employees. Further, we noted Bay State’s troubling history of noncompliance with state and federal law, including investigations led by Maura Healey, then the Massachusetts Attorney General, that found the school engaged in illegal telemarketing practices, provided prospective students with inaccurate job placement

⁵ On File with the Office of U.S. Senator Elizabeth Warren.

⁶ Republic Report, “Arne Duncan Transcript: Some For-Profit Colleges have ‘the ethics of payday lending,’” David Halperin, June 10, 2015, <https://www.republicreport.org/2015/arne-duncan-transcript-some-for-profit-colleges-have-the-ethics-of-payday-lending/>.

⁷ U.S. Department of Education, “U.S. Department of Education Announces Steps to Hold Institutions Accountable for Taxpayer Losses,” press release, March 23, 2022, <https://www.ed.gov/news/press-releases/us-department-education-announces-steps-hold-institutions-accountable-taxpayer-losses-0>.

⁸ Federal Student Aid, “Heightened Cash Monitoring,” <https://studentaid.gov/data-center/school/hcm>.

⁹ New England Commission of Higher Education, “NECHE Statement Bay State College,” January 16, 2023, <https://www.necche.org/wp-content/uploads/2023/01/NECHE-Statement-Bay-State-College-1-16-2023.pdf>; Boston Business Journal, “Financially troubled Bay State College to lose accreditation this summer; ‘heartbroken’ officials plan to appeal,” Benjamin Kail, January 16, 2023, <https://www.bizjournals.com/boston/news/2023/01/16/bay-state-college-accreditation-lost.html>.

¹⁰ The White House, “FACT SHEET: President Biden Announces Student Loan Relief for Borrowers Who Need It Most,” press release, August 24, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/24/fact-sheet-president-biden-announces-student-loan-relief-for-borrowers-who-need-it-most/>.

¹¹ Letter from Senator Elizabeth Warren and Rep. Ayanna Pressley to NECHE, January 10, 2023, <http://ct.symlicity.com/t/wrn/d208af3e53cb578c61d22ed750229fe4/2665571418/realurl=https://www.warren.senate.gov/imo/media/doc/2023.01.10%20Letter%20to%20NECHE%20Regarding%20Bay%20State%20College%20Concerns.pdf>.

figures, overcharged students thousands of dollars for classes, and misled students about the transferability of classes.¹² Given ongoing allegations of fraud and Bay State College's history of abuses,¹³ we support the Department's and NECHE's actions to hold the college accountable and rescind its accreditation to protect students and taxpayers.

Because Bay State College was found to have misled its students and engaged in misconduct in violation of state laws, students from the institution are likely eligible for borrower defense, which would allow them to discharge all of the federal loans they took out to attend this institution.¹⁴ While we have expressed concerns in the past regarding the Department's prolonged delay in discharging defrauded borrowers' loans, we appreciate the recent actions it has taken to deliver this relief. This includes the Biden Administration's approval in November 2022 of \$14.5 billion in borrower defense claims for nearly 1.1 million borrowers.¹⁵ Over half a million borrowers receiving this relief are students defrauded by Corinthian Colleges, a chain of for-profit schools that abruptly closed after widespread allegations of misconduct.¹⁶ In the case of Corinthian Colleges, the Department acted to ensure students defrauded by the institution were made eligible for student loan discharge regardless of whether or not they formally applied for a borrower defense discharge, or if their claims were previously denied.¹⁷ We ask that the Department take similar actions to proactively protect students defrauded by Bay State.

These actions include using the Department's statutory authority under 20 U.S.C. 1099c(e) to entitle borrower defense discharges to students defrauded by Bay State College and to hold owners and executives of the institution personally liable for scamming students and taxpayers.¹⁸ This authority allows the Department to recoup funds related to certain student debt discharges including borrower defense discharges and other discharges premised on misconduct by for-profit institutions of higher education.¹⁹ Further, this authority gives the Department the ability to discharge up to 100 percent of Federal Direct Loans, Federal Family Education Loans,

¹² *Id.*; Office of Attorney General Maura Healey, "Bay State College to Pay \$1.1 Million in Relief for Misleading Hundreds of Former Students," press release, January 2, 2020, <https://www.mass.gov/news/bay-state-college-to-pay-11-million-in-relief-for-misleading-hundreds-of-former-students>.

¹³ GBH News, "Following claims of fraud, Mass. attorney general gathers information about Bay State College," Kirk Carapezza, October 26, 2022, <https://www.wgbh.org/news/education/2022/10/26/following-claims-of-fraud-mass-attorney-general-gathers-information-about-bay-state-college>.

¹⁴ Federal Student Aid, "Borrower Defense Loan Discharge," <https://studentaid.gov/borrower-defense/>.

¹⁵ U.S. Department of Education, "Biden-Harris Administration Continues Fight for Student Debt Relief for Millions of Borrowers, Extends Student Loan Repayment Pause," press release, November 22, 2022, https://www.ed.gov/news/press-releases/biden-harris-administration-continues-fight-student-debt-relief-millions-borrowers-extends-student-loan-repayment-pause?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=.

¹⁶ Forbes, "560,000 Borrowers Will Get Automatic Student Loan Forgiveness, But Others Can Still Apply For Relief," Adam S. Minsky, June 8, 2022, <https://www.forbes.com/sites/adamminsky/2022/06/08/560000-borrowers-will-get-automatic-student-loan-forgiveness-but-others-can-still-apply-for-relief/?sh=679b62ca5e83>.

¹⁷ U.S. Department of Education, "Education Department Approves \$5.8 Billion Group Discharge to Cancel all Remaining Loans for 560,000 Borrowers who Attended Corinthian," press release, June 1, 2022, <https://www.ed.gov/news/press-releases/education-department-approves-58-billion-group-discharge-cancel-all-remaining-loans-560000-borrowers-who-attended-corinthian-colleges>.

¹⁸ 20 U.S.C. 1099c(e).

¹⁹ *Id.*

or Perkins Loans to borrowers in the event that the student borrower is unable to complete their program due to a school closure.²⁰

The *Higher Education Act* (HEA) expressly authorizes the Department to recoup financial losses from individuals who “exercise substantial control” over institutions, including owners, board members, CEOs, and other executives.²¹ Further, the HEA allows the Secretary of Education to determine “substantial control” as a person who, “directly or indirectly controls a substantial ownership interest in the institution,” or represents “substantial ownership interest in the institution.”²² To date there has never been an instance where the Department has exerted its authority to hold executives and owners personally liable. We appreciate that the Department has amended its practices with respect to signatories on those agreements, and “recently denied an institution’s application to be recertified to participate in the Federal financial aid programs after an entity owner refused to sign the institution’s Program Participation Agreement (PPA),”²³ but the Department can and should do more to hold these executives accountable.

In September 2017, the Commission on Institutions of Higher Education approved the sale of Bay State College to Ambow Education,²⁴ “a Chinese holding company based in the Cayman Islands.”²⁵ In December, Ambow Education received approval from its shareholders to sell all its China-based assets to Clover Wealth, an entity that coincidentally includes Ambow executives, according to federal securities filings.²⁶ The shareholders’ approval of the sale came after weeks of key staff layoffs at Bay State and before Bay State’s accreditation meeting with NECHE.²⁷ Our offices have received alarming reports that Bay State was working closely with Ambow Education to manipulate their financial responsibility score,²⁸ a metric used by ED to evaluate an institution’s financial responsibility,²⁹ to avoid ED’s scrutiny. If the Department does not exert its authority to hold Bay State College and Ambow Education owners and executives personally liable for Bay State’s failure, Bay State students and the federal government would be at risk of shouldering the financial burden of the college’s misconduct.

²⁰ Federal Student Aid, “Closed School Discharge,”

<https://studentaid.gov/manage-loans/forgiveness-cancellation/closed-school/>; Federal Student Aid, “Information about Debt Relief for Corinthian Colleges Students,” <https://studentaid.gov/announcements-events/corinthian>.

²¹ 20 U.S.C. 1099c(e).

²² 20 U.S.C. 1099c(e)(2).

²³ Letter from Department of Education to Senator Warren, July 12, 2022.

²⁴ The Commission on Institutions of Higher Education, “Bay State College Special Monitoring Public statement,” https://www.neche.org/wp-content/uploads/2018/12/Bay_State_College_Special_Monitoring_PUBLIC_statement.pdf.

²⁵ GBH News, “Following claims of fraud, Mass. attorney general gathers information about Bay State College,” Kirk Carapezza, October 26, 2022, <https://www.wgbh.org/news/education/2022/10/26/following-claims-of-fraud-mass-attorney-general-gathers-information-about-bay-state-college>.

²⁶ Boston Business Journal, “Shareholders of Bay State College owner approve \$12M sale of China-based assets,” Benjamin Kail, December 27, 2022, <https://www.bizjournals.com/boston/news/2022/12/27/bay-state-ambow-sale-china.html>.

²⁷ *Id.*

²⁸ On file with the Office of Senator Elizabeth Warren.

²⁹ Federal Student Aid, “Financial Responsibility Composite Scores,” <https://studentaid.gov/data-center/school/composite-scores>.

To understand how the Department continues to make good on its promise to defrauded borrowers, we request responses to the following questions by no later than February 22, 2023:

1. How many Bay State College students have applied for Borrower Defense discharge of their loans?
 - a. How many of these loans have been fully discharged?
 - b. How many applications for discharge have been denied?
 - c. How many applications are under review? For these loans, what is the average time that they have been under review?
2. Will the Department proactively act to provide Borrower Defense discharges to all Bay State students, regardless of their application status?
 - a. Will borrowers who attended Bay State College be eligible for automatic relief through the Borrower Defense discharge system, similar to the case of automatic cancellation associated with the fraudulent Corinthian Colleges?³⁰
3. Please describe ED's plan to support current students of Bay State College who wish to transfer their credits to another institution.
4. Please describe ED's plan to fully review the loans of all students defrauded by Bay State College in the event that students become eligible for closed school discharge.
5. Does ED plan to hold the owners and executives of Bay State College and Ambow Education personally and financially accountable for their actions involving defrauding students and the school's loss of accreditation?

Sincerely,



Elizabeth Warren
United States Senator



Ayanna Pressley
Member of Congress

³⁰ National Consumer Law Center, "Department of Education Announces It Will Cancel All Corinthian Colleges' Students' Federal Student Loans," press release, June 3, 2022, <https://www.studentloanborrowerassistance.org/department-of-education-announces-it-will-cancel-all-corinthian-colleges-students-federal-student-loans/>.