

EXHIBIT 2

Supplemental Declaration of Clark D. Elwood

I, Clark D. Elwood, hereby state and declare as follows:

1. I currently serve as the Executive Vice President, Chief Administrative and Legal Officer of ITT Educational Services, Inc. ("ITT"). I submit this Supplemental Declaration in support of the Motion for Summary Judgment filed by the Career College Association d/b/a Association of Private Sector Colleges and Universities ("APSCU") on March 18, 2011 and in support of APSCU's opposition to Defendants' Motion To Dismiss, Or In The Alternative, For Summary Judgment in *Career College Association d/b/a Association of Private Sector Colleges and Universities v. Duncan et al.*, Case Number 1:11-cv-00138 (D.D.C.). I have personal knowledge of the facts set forth herein and, if called to testify, I could and would testify competently thereto.

2. ITT is a postsecondary education school that has more than 125 campuses in more than 38 States and, combined with its online programs, educates more than 80,000 students each year in fields such as Information Technology, Electronics Technology, Drafting and Design, Business, Criminal Justice, and Health Sciences. ITT has been educating students as part of the higher education community since 1969.

3. ITT is a "proprietary institution of higher education" within the meaning of 20 U.S.C. § 1002(b) and therefore an "institution of higher education" within the meaning of 20 U.S.C. § 1001. ITT is thus eligible to participate in federal financial assistance programs under Title IV of the Higher Education Act.

4. One of the requirements for Title IV eligibility under 20 U.S.C. § 1001 is that ITT be "legally authorized" under state law "to provide a program of education beyond secondary education." 20 U.S.C. § 1001(a)(2).

5. On October 29, 2010, the U.S. Department of Education promulgated new regulations—effective July 1, 2011—purporting to define this “state authorization” requirement in § 1001(a)(2). *See* 75 Fed. Reg. 66,831, 66,946-66,947 (2010) (promulgating 34 C.F.R. § 600.9). The new regulation imposes two new requirements for an institution to be “legally authorized” under § 1001(a)(2). First, the State authorizing the institution must have “a process to review and appropriately act on complaints concerning the institution.” 34 C.F.R. § 600.9(a)(1). Second, the institution must be affirmatively authorized by the State “by name.” *Id.* § 600.9(a). Additionally, the new regulation provides:

If an institution is offering postsecondary education through distance or correspondence education to students in a State in which it is not physically located ..., the institution must meet any State requirements for it to be legally offering postsecondary distance or correspondence education in that State. An institution must be able to document to the Secretary the State’s approval upon request.

Id. § 600.9(c).

6. In order to ensure that ITT is “legally authorized” by July 1, 2011 in each of the States that the new regulations require it to be authorized by, ITT has incurred—and will continue to incur—significant expenses. It has incurred and is continuing to incur expenses undertaking the following activities:

- (a) researching the relevant state regimes to determine whether they meet the “complaint” process requirement of § 600.9(a)(1) and whether they have authorized ITT “by name” in a manner consistent with the new regulations;
- (b) working with state regulators to attempt to ensure that the States put in place systems that comply with the new regulations;
- (c) completing and submitting new applications and other paperwork necessary to obtain the mandated state “authorizations”;
- (d) determining whether States in which ITT’s students reside impose any requirements for ITT to be legally offering distance education in those States;

(e) completing and submitting new applications and other paperwork necessary to obtain the mandated distance learning “authorizations”; and

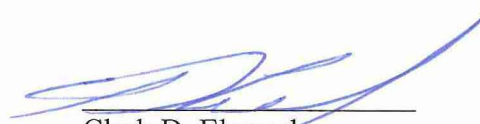
(f) documenting ITT’s compliance with state authorization requirements and ITT’s efforts to obtain state authorization in a timely fashion.

7. Even if the Department of Education were to grant waivers to individual States such that those States would not have to comply with the Department’s new state authorization regulations until July 1, 2013, ITT would still incur substantial compliance costs between now and the time any waiver is granted by the Department, in addition to any costs of complying with the deferred state authorization obligations.

8. These significant costs that ITT has incurred, is incurring, and will incur are directly attributable to the new state authorization regulations.

I hereby declare under penalty of perjury that the forgoing is true and correct.

Dated: March 30, 2011


Clark D. Elwood