



OCT 3 1 2023

Mr. Brian Mueller
President
Grand Canyon University
3300 West Camelback Road
Phoenix, AZ 85017-3030

Sent Via UPS and electronic mail
Tracking #: 1Z37X7Y30103219672

Steven M. Gombos
Gombos & Leyton P. C.
11350 Random Hills Road, Suite 400
Fairfax, Virginia 22030

RE: Grand Canyon University ("GCU"): OPE-ID 00107400

Dear Mr. Mueller and Mr. Gombos:

This letter is to inform you that the U.S. Department of Education ("Department") intends to fine Grand Canyon University ("GCU") a total of \$37,735,000 based upon violations of the statutory and regulatory requirements outlined below. GCU participates in the federal student financial assistance programs authorized under Title IV of the Higher Education Act of 1965 ("HEA"), as amended, 20 U.S.C. §§ 1070 *et seq.* and 42 U.S.C. §§ 2751 *et seq.* ("Title IV, HEA programs"). The Department is taking this fine action pursuant to 20 U.S.C. § 1094(c)(1)(F) and 34 C.F.R. § 668.84, and 34 C.F.R. § 668.71(a)(4).

This fine action is based upon the Department's determinations as a result of an investigation conducted by the Department's Federal Student Aid Office of Enforcement regarding GCU's doctoral degree programs with a dissertation requirement (hereafter referred to as the "Doctoral Programs").¹ As discussed in detail below, the Department has concluded that GCU failed to meet the fiduciary standard of conduct required of all institutions participating in Title IV HEA programs by substantially misrepresenting the costs of certain doctoral degree programs to former, current, and prospective students. Specifically, GCU misrepresented those programs' total cost, including costs associated with GCU's continuation courses.² Therefore, as described below, the Department has determined that, due to the serious violations committed by GCU, a fine in the amount of \$37,735,000 is warranted.

¹ This fine action focuses only on the doctoral programs that have a dissertation component.

² "Continuation courses," which are sometimes referred to as "research continuation courses" or "dissertation continuation courses," are courses that most GCU doctoral students take to be able to continue to work on their dissertation after they have completed the other required coursework (which includes at least three dissertation courses) for their program.

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION

Administrative Actions and Appeals Service Group
830 First St., N.E. Washington, D.C. 20002-8019
StudentAid.gov

SUMMARY

Since at least 2017, GCU has told prospective and enrolling doctoral students that its Doctoral Programs will cost between \$40,000 and \$49,000 (depending on the program and year of enrollment), which represent the tuition and other institutional costs required to complete 60 credit hours. In actuality, less than 2% of the graduates of its Doctoral Programs complete with 60 credit hours; whereas more than 98% of graduates are charged additional tuition or fees for continuation courses. These additional costs are significant. Approximately 78% of GCU's doctoral students that graduated between 2017 and 2022 required an additional five or six three-credit courses, costing an additional \$10,000 to \$12,000 in tuition alone, and sometimes more. This increase represents an almost 25% premium when compared to GCU's written statements informing prospective and newly enrolled doctoral students of the cost of the program.

These misrepresentations were made in GCU's website, in its enrollment agreement, in the Net Price Calculator, and elsewhere in its marketing materials. In those communications to potential or enrolled students, GCU provided charts or other tables to show students what the "total cost" of their degree would be or told them the required number of credits and cost per credit. Those representations of financial charges were misleading, because over 98% of actual doctoral graduates would have to pay more (often substantially more) than these materials stated.

Since at least 2017, GCU has introduced a series of fine print disclosures to some of its enrollment contracts and other documents distributed to students that provide somewhat more accurate (although still misleading and incomplete) information about the number of required credits to complete the Doctoral Programs. Yet, these disclosures are insufficient to cure the substantial misrepresentations described in this letter for several reasons. First, they do not address or correct the significant misrepresentations about the cost of the program – a term that is plainly among the most material considerations for a prospective student. Second, while coming closer to providing complete information about credits and time required to obtain a degree, the disclosures still do not provide accurate information about their impact on cost. Finally, the disclosures are buried in dense documents, are much less prominent than the misrepresentations, and do not cure the "net impression" that the program will be less expensive and will require fewer credits than it actually does.

Since at least 2017, GCU knew or should have known that its representations bear little resemblance to reality for the vast majority of its graduates. In fact, internal emails indicate that GCU leadership has been aware since at least January 2017 that its disclosures regarding cost were incomplete or misleading. Yet, to this day, GCU's substantial misrepresentations persist.

BACKGROUND

GCU offers certificate programs, undergraduate and graduate degrees across over 300 mostly-online academic programs. GCU has an enrollment of over 100,000 students. In the 2021-22

award year GCU received \$1,104,169,332 in Title IV funding, which was the largest amount of funding received by any institution participating in the Title IV, HEA programs.

Documents that GCU produced to the Department indicate GCU's doctoral degree offerings have more than doubled since 2018 from 16 to 35 current doctoral degree programs with a dissertation requirement, which are in the fields of Business Administration, Education, and Philosophy/Psychology.³ As of October 19, 2023, over \$18 million in Title IV funds were disbursed to 1,344 first year students in GCU doctoral students during the 2022-2023 award year. GCU's total Title IV disbursements for all programs for the 2022-23 award year was approximately \$1.01 billion.⁴

As explained in Table 1, based upon data obtained from GCU on January 11, 2023 and from internal Department information, 7,547 students began their enrollment in GCU's Doctoral Programs between November 1, 2018⁵ and October 19, 2023. GCU and Departmental data indicate that those students paid at least \$122,321,068 in tuition.⁶

³ Based on a review of its catalogs, GCU offered 16 different doctoral degree programs with dissertations in 2018 (GCU Summer 2018 Academic Catalog, GCU-DOE-008727-008736), 16 in 2019 (GCU Summer 2019 Academic Catalog, GCU-DOE-043040-043049), 29 in 2020 (GCU Summer 2020 Academic Catalog, GCU-DOE-017413-017430), 33 in 2021 (GCU Summer 2021 Academic Catalog, GCU-DOE-017891-017911), 35 in 2022 (GCU Summer 2022 Academic Catalog, GCU-DOE-018395-018416), and 35 in 2023 (GCU Spring 2023 Academic Catalog, GCU-DOE-085371-085393). Two additional doctoral degree programs exist within the College of Nursing that do not contain a dissertation requirement (GCU Spring 2023 Academic Catalog, GCU-DOE-085481).

⁴ As of August 8, 2023, GCU's total disbursements of Pell Grants, TEACH Grants, IASGs, and Direct Loans for the 2022-23 award year are \$1.01 billion, which is associated with more than 101,000 students. Award year 2022-2023 disbursement data was obtained from the Department's data and is current as of August 8, 2023.

⁵ The Department has used November 1, 2018 as the starting point for analysis and student counts because that date is less than five years prior to the date of the issuance of this Notice of Intent to Fine, making any violations that occurred on or after that date within the five-year statute of limitations as required by 28 U.S.C. § 2462.

⁶ GRAND CANYON UNIVERSITY, Recipient Data 2nd RFI ED 1-11-2023.

Table 1. New Enrollments (November 1, 2018 through October 19, 2023)

	November 1, 2018- June 30, 2019⁷	Award Year (AY) 19-20⁸	AY 20-21⁹	AY 21-22¹⁰	AY 22-23¹¹	AY 23-24¹²	TOTALS
New Enrollment	1,244	1,887	1,622	1,357	1,080	367	7,547

The evidence collected by the Department indicates that, since 2017, GCU has represented in its enrollment agreement contracts, website, and other locations, that all but two¹³ of the current

⁷ GRAND CANYON UNIVERSITY, Recipient Data 2nd RFI ED 1-11-2023.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Award year 2022-2023 enrollment data for first-time doctoral students was obtained from the Department's data and is current as of October 19, 2023. The data indicates 1,344 students across all Doctoral Programs who received a first Direct Loan disbursement in the 22-23 Award Year. The Department does not have program specific information to identify the number of students who enrolled in Doctoral Programs with a dissertation component for the 22-23 or 23-24 Award Years. To account for this, the Department reduced the total number of students (1,344) by 19.6%, which is the average number of students between November 1, 2018 and June 30, 2022 that enrolled in a doctoral program that did not have a dissertation component, to reach the final number, 1,080. *See* Enclosure A. (Student list consists of 1,344 students whereas Table 1 has 1,080 students (19.6% less than 1,344) due to the fact we could not identify which specific students were in doctoral programs with a dissertation component.)

¹² Award year 2023-2024 enrollment data for first-time doctoral students was obtained from the Department's data and is current as of October 19, 2023. The data indicates 456 students across all Doctoral Programs who received a first Direct Loan disbursement in the 23-24 Award Year. The Department does not have program specific information to identify the number of students who enrolled in Doctoral Programs with a dissertation component for the 23-24 Award Year. To account for this, the Department reduced the total number of students (456) by 19.6%, which is the average number of students between November 1, 2018 and June 30, 2022 that enrolled in a doctoral program that did not have a dissertation component, to reach the final number, 367. *See* Enclosure A. (Student list consists of 456 students whereas Table 1 has 367 students (19.6% less than 1,344) due to the fact we could not identify which specific students were in doctoral programs with a dissertation component.)

¹³ Two of the current doctoral degree offerings (Doctor of Philosophy in Counselor Education and Supervision (with either Qualitative or Quantitative Research) have a 65-credit requirement. GCU-DOE-085387.

Doctoral Programs that require dissertations can be obtained by completing 60 credit hours (or 65 credit hours for the other two programs), which it tells prospective students equates to 39-43 months, and costs between \$40,000 and \$49,805 during the years under review.

In fact, when the Department analyzed GCU's outcome data for students enrolled in its Doctoral Programs from 2011 through July 2022, the reality is that almost no students are able to complete their doctoral program within the represented number of credits, resulting in increased cost and time for students to complete their programs. Specifically, based on GCU's own data and as detailed in Table 2 below, fewer than 2% of 1,858 graduates completed their programs within the cost that GCU advertises.¹⁴ This is because subsequent "continuation courses" (which increase students' cost, time to complete, and the number of credits they obtain before graduating) are, for more than 98% of graduates, a necessary component of GCU Doctoral Programs. GCU would have known that when it made the representations related to cost described above. These continuation courses are necessary because almost all doctoral students are not able to complete their dissertation within 60 credits and are required to take, and pay for, "continuation courses" to maintain their enrollment, interact with GCU faculty about their dissertation, and work toward the completion of their doctoral degree. GCU's data further shows that almost 78% of graduates took five or six continuation courses (15 to 18 additional credits,¹⁵ taking 60 to 72 additional weeks to complete) totaling roughly between \$10,000 and \$12,000 in additional costs compared to GCU's representations about cost since 2017.¹⁶

¹⁴ This analysis was conducted by economists in the Department and was based upon a spreadsheet produced by GCU related to its doctoral student outcomes from 2011 to 2022. *See* GRAND CANYON UNIVERSITY, GCU-FTC-008130. The calculation reflects "Doctoral Studie" [sic] students with a "Graduated" status whose last year of attendance was 2020, 2021, or 2022, and who enrolled in a program with a dissertation component, which includes Business Administration, Education, and Philosophy/Psychology. The doctoral programs related to Education Specialist and Nursing Practice were excluded because they do not have a dissertation component.

¹⁵ Until recently, credit was only given for the first five continuation courses taken, all those beyond the fifth continuation course were zero credit, non-Title IV eligible courses. GCU Summer 2022 Academic Catalog, GCU-DOE-018395-018416.

¹⁶ Continuation Courses I-V are Title IV eligible 3-credit classes, Continuation Courses VI and beyond were 0 credit, non-Title IV eligible classes. During the pendency of the investigation, GCU updated its Continuation Courses, as of January 2023, courses I-IX are 3-credit, Title IV eligible courses. GCU Spring 2023 Academic Catalog, GCU-DOE-085371-085393.

Table 2. Continuation Courses Taken by 1,858 Graduates between 2011 and 2017¹⁷

Number of Continuation Courses (Enrollments from 1/2011 – 7/2022)	Percentage of Graduates	Additional Time	Additional Tuition/Institutional Cost
0	1.7%	NA	NA
1	2.1%	12 Weeks	\$2,106
2	5.5%	24 Weeks	\$4,212
3	6.3%	36 Weeks	\$6,318
4	6.7%	48 Weeks	\$8,424
5	42.9%	60 Weeks	\$10,530
6+	34.8%	72+ Weeks	\$12,636+

An analysis of recently-enrolled GCU Doctoral Program students, detailed in Table 3a, shows that these trends continue. As of January 11, 2023, fewer than 3% of students who had enrolled between July 2017 through June 2022 graduated and 63% had withdrawn. Of those that had graduated, over 90% took at least one continuation course.¹⁸ The data also shows that more than 63% of the students in this cohort have withdrawn from the program.

Table 3a. Status & Outcomes for July 1, 2017 through June 30, 2022 Enrollments¹⁹

Enrollments from 7/1/2017-6/30/2022	Active	Graduated	Withdrawn
Enrollment Status (as of 01/11/23)	3,125	239	5,790
Percentage of Enrollment	34.1%	2.6%	63.3%
Number With More Than 60 Credits	815	217	302
Percentage With More Than 60 Credits	26.1%	90.8%	5.2%

¹⁷ This analysis was conducted by economists in the Department and was based upon a spreadsheet produced by GCU related to its doctoral student outcomes from 2011 to 2022. *See* GRAND CANYON UNIVERSITY, GCU-FTC-008130.

¹⁸ This analysis was conducted based upon a spreadsheet produced by GCU. *See* GRAND CANYON UNIVERSITY, Recipient Data 2nd RFI ED 1-11-2023. The calculation reflects students in doctoral programs with a dissertation component that enrolled between July 1, 2017 and June 30, 2022. This data reflects the number of students that met those criteria, their credits, and their enrollment status.

¹⁹ *Id.*

The Department presented this data to GCU in a letter dated May 12, 2023 (“Notice Letter”).²⁰ GCU responded to that letter on June 21, 2023 (“Response Letter”).²¹ While GCU contested various statements made in the Department’s letter, it did not contest these numbers.²²

When looking at students who enrolled in the previous five years, as detailed in Table 3b, 3,562 students (58.3%) had withdrawn as of January 11, 2023.²³

Table 4b. Status & Outcomes for November 1, 2018 through June 30, 2022 Enrollments²⁴

Enrollments from 11/1/2018-6/30/2022	Active	Graduated	Withdrawn
Enrollment Status (as of 01/11/23)	2,512	36	3,562
Percentage of Enrollment	41.1%	0.6%	58.3%
Number With More Than 60 Credits	315	29	45
Percentage With More Than 60 Credits	12.5%	80.6%	1.3%

I. GCU MADE SUBSTANTIAL MISREPRESENTATIONS TO FORMER, CURRENT, AND PROSPECTIVE STUDENTS RELATED TO THE COSTS OF ITS DOCTORAL PROGRAMS

A. Applicable Regulations

Institutions may not make substantial misrepresentations “directly or indirectly to a student, prospective student or any member of the public, or to an accrediting agency” regarding the nature of their educational programs, the nature of their financial charges, or the employability of their graduates.²⁵ Under Title IV, a misrepresentation is defined as “[a]ny false, erroneous or misleading statement,” that an institution or its representative makes directly or indirectly to a

²⁰ Department of Education Ltr. Dated May 12, 2023.

²¹ GCU Ltr. Dated June 21, 2023.

²² *Id.*

²³ This analysis was conducted based upon a spreadsheet produced by GCU. See GRAND CANYON UNIVERSITY, Recipient Data 2nd RFI ED 1-11-2023. The calculation reflects students in doctoral programs with a dissertation component that enrolled between November 1, 2018 and June 30, 2022. This data reflects the number of students that met those criteria, their credits, and their enrollment status.

²⁴ *Id.*

²⁵ 34 C.F.R. §§ 668.71-74.

student, prospective student, or a member of the public.²⁶ A misrepresentation rises to the level of a “substantial misrepresentation” if the misrepresentation is one “on which the person to whom it was made . . . could reasonably be expected to rely, or has reasonably relied, to that person's detriment.”²⁷

A “misleading statement” includes “any statement that has the likelihood or tendency to mislead under the circumstances.”²⁸ The Federal Trade Commission’s (“FTC”) exercise of its authority regarding deceptive acts or practices informs the Department’s interpretation of the HEA’s substantial misrepresentation provision and the implementing regulations.²⁹ In evaluating claims of deception under the FTC Act, courts have specifically rejected “fine print notices” or disclaimers intended to preclude liability where a “solicitation may be likely to mislead by virtue of the net impression it creates even though the solicitation also contains truthful disclosures.”³⁰ Other courts have used the “net impression” analysis to find that advertisers who present the atypical outcome as the norm may be liable for misleading or deceptive practices.³¹ As an

²⁶ 34 C.F.R. § 668.71(c).

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* See also “Student Assistance General Provisions, Proposed Rule,” 81 F.R. 39340 (June 16, 2016) (“[t]he Department's substantial misrepresentation regulations (34 CFR part 668 subpart F) were informed by the FTC's policy guidelines on deception.”).

³⁰ See, e.g., *FTC v. Cyberspace.com LLC*, 453 F.3d 1196, 1200 (9th Cir. 2006) (rejecting defendant’s disclaimers because, among other things, consumers were unlikely to read these “fine print notices” because they were not prominent); see also *In re Pom Wonderful LLC*, 155 F.T.C. 1, 12 (2013) (finding that the “qualifying language” did not “materially alter the overall net impression” created by the advertisements and noting that “the Commission examines the entire advertisement and assesses the overall “net impression” it conveys”), *aff’d* 777 F.3d 478 (D.C. Cir. 2015). See also *CFPB v. Aria*, 54 F.4th 1168, 1170 (9th Cir. 2022) (affirming district court’s grant of summary judgment and analysis that “the net impression created by Aria’s solicitation packets [was] likely to mislead reasonable consumers” despite Aria’s argument that “a reasonable student could not have been deceived after reviewing the entire solicitation packet”).

³¹ See, e.g., *Illinois v. Alta Colleges, Inc.*, 2014 WL 4377579, *2 (N.D. Ill., Sept. 4, 2014) (denying defendant’s motion to dismiss where plaintiff alleged Westwood violated the CFPA by misrepresenting to potential students the cost, accreditation, and selectivity of Westwood, despite knowing most students would leave with significant debt and without a degree); *In re Intuit, Inc.*, 2023 FTC LEXIS 18, *31 (Jan. 31, 2023) (denying FTC’s motion for summary judgment, but noting that if Intuit conveyed to “at least a significant minority of reasonable consumers” that they could file their taxes for free with TurboTax, when in fact that was not the case, the ads created a deceptive “net impression”); See also *Florida Coastal School of Law*); See also *Florida Coastal School of Law, Inc. v. Cardona*, 2021 WL 3493311, *11 (M.D. Fla. Aug. 9, 2021) (denying FCSL’s motion for a preliminary injunction and finding that the Department

example, in *FTC v. DeVry Education Group, Inc.*, FTC alleged that defendant's advertisements created the false impression that graduates earned 15% more than other bachelor's degree graduates when, in fact, almost no graduates did so. The court denied defendant's motion to dismiss and, in doing so, the court held that "advertisers can be held liable not only for making express false representations but also for misleading consumers through implications" and for making "unsubstantiated" representations.³²

B. GCU's Representations Regarding GCU's Doctoral Programs Were False or Omitted Material Information

Evidence demonstrates that GCU made substantial misrepresentations to former, current, and prospective doctoral students regarding the cost of its online Doctoral Programs by leading prospective students to believe that they could obtain a doctorate at a significantly lower cost than they would actually pay. Those misrepresentations are material and prominent, and a prospective or enrolling student could reasonably be expected to rely on them to their detriment. Despite some fine print disclaimers and modifications within the past twelve months, the Department determined that GCU made consistent misrepresentations in its enrollment agreement contracts, catalogs, policy handbooks, on its website, and even in the "Net Price Calculator" document provided to students upon or after enrollment.³³

1. Website and Marketing Materials

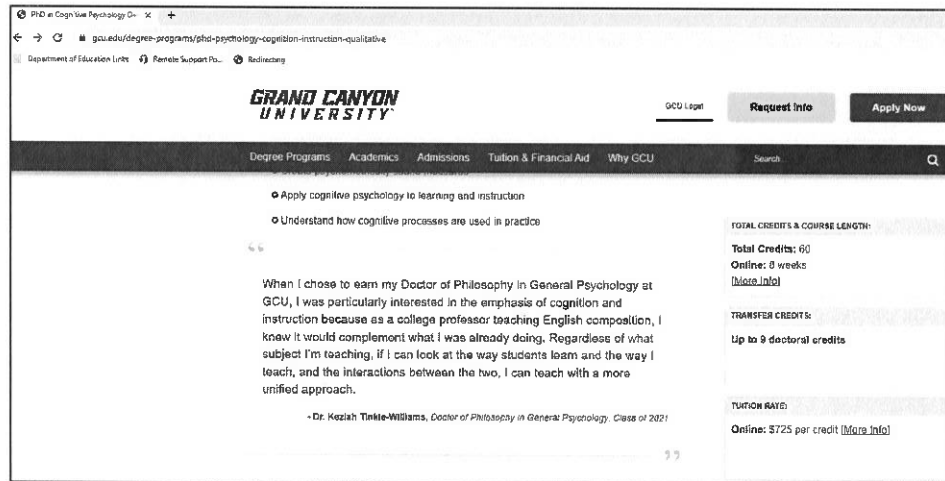
GCU's website provides information for students considering its programs, including the Doctoral Programs. Its current web page for the "PhD in Psychology – Cognition and Instruction – Cognitive" is representative of the information provided on the web pages for these Doctoral Programs. The pages include key information for students including the number of credits required and the cost per credit.³⁴ The web page provides the following information:

of Education could rationally conclude FCSL made substantial misrepresentations when FCSL stated that it was in compliance with ABA standards when in fact the ABA had noted multiple significant deficiencies).

³² 2016 WL 6821112, *3-4 (C.D. Cal. May 9, 2016).

³³ Subsequent to receiving the August 16, 2023 letter setting forth the results of the Department's investigation, GCU produced additional responsive documents to the Department on September 18, 2023. However, these documents do not change the Department's analysis or conclusions. Where applicable, the additional documents are discussed below. GCU Ltr. dated September 18, 2023.

³⁴ See <https://www.gcu.edu/degree-programs/phd-psychology-cognition-instruction-qualitative#>



The informational boxes on the side of the page, which provide key information for prospective students, state that the website states that “Total Credits” is 60, and the “Tuition Rate” is \$725 per credit. This would lead to a tuition cost of \$43,500.

Both of these boxes contain a link for “More Info.” Neither of those further links provides any information about continuation courses or their cost. In fact, the “More Info” page for the total credits simply expands upon the 60 credits previously disclosed by listing them, including three dissertation courses that are included within the 60 credits. The “More Info” link for the “Tuition Rate” takes one to a general GCU tuition and costs page.³⁵ Following the link to dissertation courses, the reader is once again informed that these programs require 60 credits at a cost of \$725 per credit.³⁶

Once at this further page, the reader has the choice to select a link for a “Net Price Calculator.”³⁷ In order to use this tool, the reader is required to provide personal information to GCU, including the reader’s age, housing, family size, income, whether the reader plans to apply for financial aid, etc. Even if this tool were to yield more accurate information about cost (which is unknown), the requirement to provide personal information to access the “Net Price Calculator” tool could reasonably be seen as a barrier to obtaining additional information. Thus, the “Net Price Calculator” tool cannot be viewed as a reasonable qualification of GCU’s prior representations, even if the tool might eventually provide students, prospective students, or the general public more accurate information about additional costs.

³⁵ See <https://www.gcu.edu/tuition-and-financial-aid#h-tuition-and-fees>

³⁶ See <https://www.gcu.edu/tuition/online-evening> (A PDF capture of GCU’s website on April 19, 2023 shows an advertised cost of \$715 per credit. The new higher amount is currently advertised on GCU’s website).

³⁷ See <https://www.gcu.edu/sites/default/files/media/documents/npc/index.html>

2. Application for Admission/Enrollment Contract

GCU's standard Application for Admission, which consists of approximately 15 pages, contains the three-page GCU enrollment agreement contract relevant to a prospective student's chosen doctoral program. In response to the Department's requests for "all . . . enrollment materials referring or relating to any of [GCU's] graduate programs,"³⁸ GCU produced over 100 enrollment agreement contracts representing the versions used between 2017 and 2023 for 16 to 35 Doctoral Programs (depending on the year) in the fields of Business Administration, Education, and Philosophy/Psychology.³⁹ These enrollment agreements each state a precise cost for "Total Program Cost" or "Total Program Tuition and Fees." The cost disclosed ranges by program, from \$40,450 (see example 1 below⁴⁰) to \$49,805 (see example 2 below⁴¹).

³⁸ 1st RFI ED 6-17-2022.

³⁹ Over the course of its three productions and response, GCU produced approximately 318 enrollment agreements. The 318 enrollment agreements included redacted agreements, subsequently produced unredacted agreements, erroneously produced agreements, agreements outside the relevant time period, and duplicate agreements.


⁴⁰ GCU-DOE-000148.

⁴¹ GCU-DOE-085843.

Example 1:

Doctor of Business Administration with an Emphasis in Data Analytics

Enrollment Agreement



Student Name	SSN
Street Address	
City	State Zip
Start Date	

Required Program Major Courses	Credits
RES-811 Introduction to Advanced Graduate Studies and Scholarship	3
DBA-820 Emerging Issues in Financial Management	3
MGT-820 Using Business Analytics for Competitive Advantage	3
DBA-831 Analytic Foundations for Business Leaders	3
RES-850 Foundations for Research	3
RSD-851 Residency: Dissertation	6
DBA-833 Predictive Modeling	3
RES-861 Analysis of Existing Research	3
DBA-815 Economics for Business Decisions	3
DBA-835 The Sustainable Future	3
RES-866 Approaches to Research Design and Data Analysis	3
RES-846 Statistics	3
RSD-881 Residency: Presentation of Progress or Results	3
DBA-837 Prescriptive Modeling for Business Decisions	3
DBA-839 Enterprise Data Complexity	3
RES-880 Formalizing the Research Prospectus	3
DBA-886 Developing the Research Proposal	3
DBA-955 Dissertation I	3
DBA-960 Dissertation II	3
DBA-965 Dissertation III	3
Required Program Major Course Total Credits	60

A minimum of 60 credits are required for completion of this program of study.

If taking one course at a time, this program will take a minimum of 39 months. Students with transfer credit that applies to this program will shorten the time to completion from that stated on this enrollment agreement.


Total Program Credits: 60
 Cost/Credit Hour: \$640
 Book Costs: \$2174
 Learning Management Service Fee: \$400
 Graduation Fee: \$150
Total Program Cost: \$40850 ←

Program cost is estimated based on current tuition rates and fees.
 Book costs are based on an average. Costs may increase or decrease depending on electronic availability or publishers' book costs. A one-time Learning Management Service Fee will be charged to new students only.
 Students continuing from one degree program to another with Grand Canyon University will only be charged this fee for the first program.

Example 2:

Doctor of Philosophy in Counselor Education and Supervision (Quantitative Research)

Enrollment Agreement



Student Name	_____		SSN	_____
Street Address	_____			
City	AZ	State	_____	Zip
Start Date	_____			

Program Major:	65 credits
Total Degree Requirements:	65 credits
Required Program Major Courses	Credits
RES-815 Introduction to Research	3
RES-820D The Literature Landscape: Counselor Education and Supervision	3
PCE-801 Ethics, Laws, and Multicultural Issues	3
PCE-803 Advanced Integrated Theories and Practices	3
PCE-905 Counselor Education and Supervision Practicum	2
RES-831 Foundations of Research Design 1	3
RES-851 Residency: Dissertation	3
RES-832 Foundations of Research Design 2	3
PCE-806 Clinical Supervision	3
PCE-921 Advanced Internship II: Supervision	2
PCE-905 Pedagogy in Counselor Education	3
PCE-928 Advanced Internship I: Teaching	2
RES-842 Designing a Quantitative Study 1	3
RES-844 Designing a Quantitative Study 2	3
PCE-804 Leadership and Social Justice	3
PCE-834 Special Topics In Counseling Education and Supervision	3
PCE-922 Advanced Internship III	2
RES-884 Residency: The Quantitative Dissertation	3
PCE-955 Dissertation I	3
RES-874 Quantitative Data Collection and Statistical Mechanics	3
PCE-950 Dissertation II	3
RES-881 Quantitative Data Analysis, Results, and Findings	3
PCE-965 Dissertation III	3
Required Program Major Course Total Credits	65

A minimum of 65 credits are required for completion of this program of study. If taking one course at a time, this program will take a minimum of 43 months. Students with transfer credit that applies to this program will shorten the time to completion from that stated on this enrollment agreement.

Total Program Credits: 65
Cost Per Credit: \$715
Learning Service Management Fee Per Program: \$550
Graduation Fee Per Program: \$150
Course Fees: \$2,630
Total Program Tuition and Fees: \$49,805

Estimated Additional Costs
 Book Costs: \$650

Program cost is estimated based on current tuition rates and fees.
 Costs for courses that require students to purchase a print textbook are based upon retail pricing provided by publishers and are subject to change. Costs for courses where materials are provided digitally are based upon the standard Canyon Connect fees. Costs may increase or decrease depending on electronic availability or publishers' book costs. A one-time Learning Management Service Fee will be charged to new students only. Students continuing from one degree program to another with Grand Canyon University will only be charged this fee for the first program.

Significantly, these enrollment agreements also disclose various other fees, including a graduation fee, learning management service fee, and in some cases, lists “Estimated Additional Costs” that only lists a charge for books.⁴² However, the “Total Program Tuition and Fees” does not include information about continuation courses and their cost. The language below the calculation notes that the “Program cost is estimated based on current tuition rates and fees”, implying a change could come if GCU raised tuition or fees, but it does not note that students will almost certainly incur additional costs related to continuation courses.

Most of the enrollment agreements produced contain a disclosure in small print on a subsequent page of the document explaining that “on average, doctoral students who graduated required 5.2 continuation courses to complete their doctoral program.” The record is not clear on when this disclosure was added to the enrollment agreements.⁴³

College of Doctoral Studies Disclaimer

Graduation requirements include earning the total number of credits required by the program, meeting content requirements, and approval of a dissertation by the committee and the Dean as demonstrated by a signed D-80 document (See the University Policy Handbook). Students may need to take continuation courses that provide students with additional time for completing all the content and process requirements of the dissertation until officially approved or until the maximum time allowed per program policy has been reached. As of March 2017, since program inception, on average, doctoral students who graduated required 5.2 continuation courses to complete their doctoral degree.

Even with the “College of Doctoral Studies Disclaimer” disclosure, the cost of continuation courses is not mentioned anywhere on this page, nor anywhere else, in this or any of the other student enrollment contracts provided by GCU. GCU does not state that the 5.2 continuation courses mentioned will increase the “Total Program Cost” or “Total Program Tuition and Fees” set forth on the first page of the enrollment agreements.

⁴² See, e.g., GCU-DOE-000028-000029; GCU-DOE-000172-000173; GCU-DOE-000174-000175; GCU-DOE-000148-000149; GCU-DOE-084266-084267; GCU-DOE-084268-084269; GCU-DOE-084270-084271; GCU-DOE-084272-084273; GCU-DOE-084274-084276; GCU-DOE-084277-084279; GCU-DOE-084280-084282; GCU-DOE-084283-084285; GCU-DOE-084289-084291; GCU-DOE-084526-084528; GCU-DOE-084529-084531; GCU-DOE-085294-085296; GCU-DOE-085297-085299; GCU-DOE-085300-085302; GCU-DOE-085806-085808; GCU-DOE-085809-085811; GCU-DOE-085812-085814; GCU-DOE-085815-085817; GCU-DOE-085818-085820; GCU-DOE-085821-085823; GCU-DOE-085824-085826; GCU-DOE-085827-085829; GCU-DOE-085830-085832; GCU-DOE-085833-085835; GCU-DOE-085840-085842; GCU-DOE-085843-085845; GCU-DOE-085846-085848; GCU-DOE-085849-085851; GCU-DOE-085852-085854; GCU-DOE-085855-085857; GCU-DOE-085858-085860; GCU-DOE-085861-085863; GCU-DOE-085864-085866; GCU-DOE-085867-085869.

⁴³ The Department received inconsistent enrollment agreements from GCU. A 2020 enrollment form with an effective date of July 9, 2020, was produced to the Department (GCU-DOE-000139-000141) without a College of Doctoral Studies 5.2 Disclaimer, but among the documents GCU produced for this investigation on March 14, 2023, there is an exhibited enrollment agreement containing a 5.2 Disclaimer mentioning 2017 on a form with a 2016 “effective date” that was purportedly signed on January 2, 2018 and a written “Total Program Cost” of \$41,340. GCU-DOE-091942-43. As discussed below, GCU later stated that a number of enrollment agreements were produced in error.

On August 16, 2023, the Department sent a letter to GCU setting forth the determinations made as a result of the Department's investigation and made GCU aware that the Department intended to initiate a fine action. In response to that letter, on September 18th GCU produced additional documents, including enrollment agreements/applications (the "September 2023 Production"). GCU's cover letter accompanying the documents stated that GCU's previous enrollment agreements and applications were "produced in error."⁴⁴ The newly-produced enrollment agreements included unredacted versions (including previously redacted effective dates) of previous GCU productions that show some pre-dated our Requests for Information and some dating back as far as 2009. Those older enrollment agreements fall outside the relevant time period for the Department's calculation of GCU's violations. Many of the recently produced and unredacted enrollment agreements are within the relevant time period and do contain the identical, insufficient disclosure referring to the average 5.2 continuation courses needed to graduate that was contained in some of the previously produced enrollment agreements and is discussed in detail above. The additional documents produced in the September 2023 Production do not refute or otherwise address the misrepresentations discussed in the August 16, 2023 letter and do not provide evidence of disclosure related to any additional cost of the programs.

At two points during the Department's investigation, GCU appears to have updated its College of Doctoral Studies Disclaimers. While it is not clear exactly when GCU started using the updated disclaimers, they appear to have been introduced after June 17, 2022 when GCU received its first request for information from the Department.

On March 27, 2023, the Department learned of the first updated disclaimers when it received a partial response from GCU to one of the Department's requests for documents. The new disclaimer states the following:⁴⁵

College of Doctoral Studies Disclaimer

Graduation requirements include earning the total number of credits required by the program, meeting content requirements, and approval of a dissertation by the committee and the Dean as demonstrated by a signed D-80 document (See the University Policy Handbook). Students may need to take continuation courses that provide students with additional time for completing all the content and process requirements of the dissertation until officially approved or until the maximum time allowed per program policy has been reached. As of July 27, 2022, the average number of continuation courses for the 2,219 doctoral graduates since the first graduate in 2011, was 9.5 continuation courses (with passing grades) and a total program average time of 5.6 years.

However, as with the earlier version of the disclaimer, which noted an average of 5.2 continuation courses to complete the program, this updated language still does not disclose any additional tuition and fees resulting from the number of continuation courses required for graduation or note that there is additional cost at all.⁴⁶ The "total" cost presented on the previous page is not mentioned or explicitly qualified in the disclaimer.

⁴⁴ GCU Ltr. dated September 18, 2023, p. 1.

⁴⁵ GCU-DOE-084268.

⁴⁶ *Id.*

In its June 21, 2023 Response Letter, GCU provided to the Department, for the first time, another updated version of the disclaimers within an unsigned Doctoral Enrollment Application. The newest disclaimer states that the average number of continuation courses “since the first graduate in 2011, was 9.9 continuation courses (with passing grades) and a total program average time of 5.7 years.”⁴⁷

I acknowledge

Graduation requirements include earning the total number of credits required by the program, meeting content requirements, and approval of a dissertation by the committee and the Dean as demonstrated by a signed D-80 document (See the University Policy Handbook). Students may need to take continuation courses that provide students with additional time for completing all the content and process requirements of the dissertation until officially approved or until the maximum time allowed per program policy has been reached. As of December 31, 2022, the average number of continuation courses for the 2,440 doctoral graduates since the first graduate in 2011, was 9.9 continuation courses (with passing grades) and a total program average time of 5.7 years.

The enrollment agreement that this disclaimer accompanies still presents “Total Program Tuition and Fees” in the body of the agreement without any mention of additional costs for Continuation Courses.⁴⁸ The disclaimer above also fails to note that those courses will add to the cost of obtaining a degree.

3. Net Price Calculator

GCU claims in its June 21, 2023 Response Letter that it proactively informs students about continuation courses in a “Net Price Calculator.” According to GCU, that document is provided to students after they have engaged with a University Counselor, who inputs student-specific financial information into a GCU database (the Customer Relationship Manager, or CRM).⁴⁹ At that time, a “summary page” is sent to the student via email. GCU states that “Most GCU students receive the Net Price Calculator prior to signing an enrollment agreement, but if a student has not received the document before starting his or her first class, GCU’s CRM system notifies [an employee of GCU’s service provider] who is required to promptly deliver it to the student.”⁵⁰ Thus, GCU acknowledges here that some unspecified number of students enroll without receiving the Net Price Calculator. And as described above, a prospective student or member of the general public cannot receive the information contained in the Net Price Calculator unless they specifically provide personalized information. Even if one receives a

⁴⁷ GCU Ltr. dated June 21, 2023, Exhibit 7, p. 8.

⁴⁸ *Id.* at p. 7.

⁴⁹ GCU Ltr. Dated June 21, 2023, p. 14.

⁵⁰ *Id.*

copy, the statements made in the Net Price Calculator do not cure the misrepresentations about cost.

Among the Net Price Calculators produced to the Department, there are two types of disclosures about the potential need for additional courses and cost. Until 2022, GCU disclosed that the average graduate required 5.2 continuation courses, including information on cost:⁵¹

Doctoral Degree (DBA) Program with Continuation Courses (5th Edition) - 2022-2023

Displayed are estimates only, based on general information provided by the student. Official awards will be limited to each student's remaining Federal Student Aid eligibility. Additional fees not paid directly to the university such as Finger Print Clearance for Teacher Certification is not included in the calculation.

Federal Aid does not pay for Graduation Fees.

Student Reported External Aid: All financial sources reported below is aid the student is reporting and required to secure on their behalf, to be used during the duration of their program. If the student does not secure aid as indicated below, the cost for the academic program would increase by that amount.

GCU cannot include or provide any information regarding federal, state, or external programs available to students post-graduation.

Federal Student Aid is available to those who qualify and is recalculated annually.

Since program inception, on average, Doctoral learners who graduated required 5.2 continuation courses to complete their Doctoral degree. Continuation Courses*: \$2145 per course (1st 4 courses); \$500 per course (5th course and beyond)

Doctor of Business Administration (DBA) learners must complete five pre-requisite courses at the masters level earning a minimum 3.0 GPA or a passing grade if the institution does not use traditional A-F grading systems, prior to entering the DBA Program. If it is determined that all five pre-requisite courses must be taken via the Bridge Program to the DBA, please contact your Doctoral University Counselor for additional information. Students have the option to take an exam to fulfill some of these requirements.

Academic Year (AY) 2022 - 2023

Estimated Total	12	15	15	12	6	60
Credit Hours	12	15	15	12	6	60
Estimated Tuition	\$8,580.00	\$10,725.00	\$10,725.00	\$8,580.00	\$4,290.00	\$12,900.00
Canyon Connect Fee (Digital materials)	\$520.00	\$650.00	\$650.00	\$520.00	\$260.00	\$2,600.00
Learning Management System Fee	\$550.00	\$0.00	\$0.00	\$0.00	\$0.00	\$550.00
Course/Lab/Graduation Fees	\$0.00	\$1,050.00	\$1,050.00	\$0.00	\$150.00	\$2,250.00
Total Estimated Cost	\$9,650.00	\$12,425.00	\$12,425.00	\$9,100.00	\$4,700.00	\$48,300.00
Scholarships and Student Reported External Aid						
Total Estimated Scholarships and Student Reported External Aid	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Financial Aid						
Federal Loans (Direct/Stafford)	\$9,650.00	\$12,425.00	\$12,425.00	\$9,100.00	\$4,700.00	\$48,300.00
Total Estimated Federal Aid	\$9,650.00	\$12,425.00	\$12,425.00	\$9,100.00	\$4,700.00	\$48,300.00
Net Cost						
Estimated Net Cost	\$9,650.00	\$12,425.00	\$12,425.00	\$9,100.00	\$4,700.00	\$48,300.00
Total Estimated Federal Aid	\$9,650.00	\$12,425.00	\$12,425.00	\$9,100.00	\$4,700.00	\$48,300.00
Total Estimated Out of Pocket Cost (Credit)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

⁵¹ GCU-DOE-009936.

Starting in late 2022 (after the Department sent its first Request for Information to the school), GCU updated this disclosure to state that the average graduate required 9.5 continuation courses, including information on cost.⁵²

Doctor of Education in Organizational Leadership: Higher Education Leadership (Quantitative Research) vb12

Displayed are estimates only, based on general information provided by the student. Official awards will be limited to each student's remaining Federal Student Aid eligibility.

Additional fees not paid directly to the university such as Finger Print Clearance for Teacher Certification is not included in the calculation.

Federal Aid does not pay for Graduation Fees

Student Reported External Aid: All financial sources reported below is aid the student is reporting and required to secure on their behalf, to be used during the duration of their program. If the student does not secure aid as indicated below, the cost for the academic program would increase by that amount.

GCU cannot include or provide any information regarding federal, state, or external programs available to students post-graduation.

Federal Student Aid is available to those who qualify and is recalculated annually.

Since program inception, on average, Doctoral learners who graduated required 9.5 continuation courses to complete their Doctoral degree. Continuation Courses*: \$2,175 per course (not applicable for DNP). For more information please visit: <https://www.gcu.edu/degree-programs/doctoral-degree>

Academic Year (AY) 2022 - 2023

Estimated Costs	AY1	AY2	AY3	AY4	AY5	Total
Credit Hours	12	15	15	12	6	60
Estimated Tuition	\$8,700.00	\$10,875.00	\$10,875.00	\$8,700.00	\$4,350.00	\$43,500.00
Canyon Connect Fee (Digital materials)	\$540.00	\$675.00	\$675.00	\$540.00	\$270.00	\$2,700.00
Learning Management System Fee	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Course/Lab/Graduation Fees	\$0.00	\$1,315.00	\$1,315.00	\$0.00	\$150.00	\$2,780.00
Total Estimated Cost	\$9,240.00	\$12,865.00	\$12,865.00	\$9,240.00	\$4,770.00	\$48,980.00

This appears to be the first time a student is notified in writing of the cost of continuation courses. However, even this disclosure does not cure the incorrect net impression that students are given about cost – that the program described immediately above, for example, will cost \$48,980.

Most simply, and most significantly, the boxed, grey-highlighted representation of “**Total Estimated Cost**” (emphasis added) is \$48,980. While this comes after the disclosure that the **average** graduate required up to 9.5 continuation courses, and a disclosure of the cost per course, the “Total Estimated Cost” that follows does not include **any** cost for continuation courses.

Although GCU informs prospective (or already enrolled) students that the average student takes continuation courses and notes the cost per course, it omits those costs from the “Total Estimated Cost” that is prominently disclosed. It does not mention, even with an asterisk or any type of qualification to the “Total Estimated Cost” line, that this cost does not include the cost of the continuation courses that graduates are virtually guaranteed to need. This is true even though that cost breaks out “Estimated Tuition” and includes various relatively small, incidental costs such

⁵² GCU Ltr. Dated June 21, 2023, Ex. 6-1.

as “Canyon Connect Fee” and “Course/Lab/Graduation Fees.” As such, it would be reasonable for a prospective (or already-enrolled) student to believe that **all** anticipated costs are included in the “Total Estimated Cost” calculation.

In addition, GCU fails to note that those costs do not factor into the “Estimated Tuition” for the grey-highlighted “Total Estimated Cost” even though it affirmatively notes that the calculation excludes other fees (e.g., “Finger Print Clearance for Teacher Certification”). This further supports the conclusion that a reasonable student could conclude “Total Estimated Cost” was in fact “Total.”

Further, while GCU makes various disclaimers about the “average” number of continuation courses, its overall “Total Estimated Cost” bears almost no resemblance to the reality for its students. GCU knew that reality – that fewer than 2% of students completed their dissertation for the “Total Estimated Cost” disclosed.

Finally, the disclosure omits another fact that, until recently, was significant - that federal student aid was unlikely to cover the cost of at least some of the continuation courses. Continuation courses offered for zero credits were required for approximately 34% of GCU doctoral graduates until GCU changed its policy in 2023. Zero credit courses are not eligible for federal student aid. In contrast, GCU did disclose that federal student aid does not pay Graduation Fees. Based upon the disclosures that GCU makes regarding what federal student aid does not cover, a reasonable student might have concluded that the other costs of the program could, in fact, be covered by federal student aid. When zero credit courses were offered, that was not true, raising the possibility that a student could be near the end of their course of study and only then learn that they had to come up with out-of-pocket funds to finish. This would almost certainly be a material fact for many students or prospective students considering enrollment in GCU’s Doctoral Programs.

4. Academic Catalogs

In a passing comment in GCU’s June 21, 2023 Response Letter, GCU references its lengthy policy handbooks and academic catalogs as an example of information that may be provided to students.⁵³ However, these documents contain only limited information about the cost of obtaining a doctoral degree. The 2021 versions of these documents are 211⁵⁴ and 484⁵⁵ pages long, respectively, and contain a wide variety of general information related to the school and the program.

⁵³ GCU Ltr. Dated June 21, 2023, p. 6.

⁵⁴ GCU-DOE-037899-038109.

⁵⁵ GCU-DOE-036347-036830.

On page 164 of the 2021 policy handbook, GCU includes information about the credits and costs per credit for a doctoral degree. It notes that the cost per credit for a dissertation is \$695 and includes a reference to “dissertation courses 966-970.”⁵⁶ A prospective student would have to turn to the 484-page course catalog to learn that courses 966-970 are continuation courses, and therefore may be required in addition to the 60 required credits generally advertised as needed for completion. The 484-page course catalog describes those courses as continuation courses and states that “[d]octoral learners who did not complete their dissertation in DBA-965 must take one or more of the following in order to complete their dissertation.”⁵⁷ The relevant parts of the policy handbook⁵⁸ and catalog⁵⁹ are copied below:

GCU Policy Handbook - Spring 2021	
Non-Traditional Campus	
Nursing Programs	\$550/credit
Advanced Practice Nursing Programs	\$695/credit
Online and Professional Studies (all programs other than those listed above)	\$550/credit
Active Duty and Active Reserve Military	\$400/credit
Doctoral Programs - (includes dissertation courses 966-970)	\$695/credit

Per GCU's Spring 2021 Catalog, DIS 966-970		
<i>Doctoral learners who did not complete their dissertation in DIS-965 must take one or more of the following in order to complete their dissertation:</i>		
<u>DIS-966</u> ⁶⁰	Research Continuation I	3 credits
<u>DIS-967</u> ⁶⁰	Research Continuation II	3 credits
<u>DIS-968</u> ⁶⁰	Research Continuation III	3 credits
<u>DIS-969</u> ⁶⁰	Research Continuation IV	3 credits
<u>DIS-970</u> ⁶⁰	Research Continuation V	3 credits

The catalog does not inform students that 98% of doctoral graduates require continuation courses. Furthermore, because this information is buried deep in long catalogs and handbooks, and even requires cross-referencing to fully capture cost information, these documents do not cure the misrepresentations about cost contained on GCU’s website, in its enrollment agreement, in the Net Price Calculator, and elsewhere in its marketing materials.

5. Doctoral Disclaimers Acknowledgement Form

In its Response Letter, GCU also refers to a “Doctoral Disclaimers Acknowledgement Form,” and explains “[u]ntil recently, each doctoral student also received a version of the Doctoral Disclaimers Acknowledgement” and it “was automatically sent as soon as a student registered for the first class in a doctoral program.”⁶⁰ While GCU produced two copies of the signed form

⁵⁶ GCU-DOE-038062.

⁵⁷ GCU-DOE-036411.

⁵⁸ GCU-DOE-038062.

⁵⁹ GCU-DOE-036411.

⁶⁰ GCU Ltr. Dated June 21, 2023, p.15.

as excerpted below (one from 2017⁶¹ and an identical one from 2021⁶²), it is not clear from the documents produced how many students signed these forms during the relevant time period.

GRAND CANYON UNIVERSITY
Doctoral Disclaimers Acknowledgement

In the third year of the program of study, doctoral learners progress from standard content-based courses to dissertation courses. The transition to doctoral level research, independent scholarship, and progression through the dissertation courses and milestones is unique to doctoral pedagogy. During this transition, the doctoral learner gradually assumes more responsibility for their progress and development as independent

- ❑ **An essential element of being a doctoral learner is taking ownership of your research, learning to be an independent scholar, and writing of the dissertation. GCU cannot determine the final time to completion, as so much of that is unique to the plan and dissertation the learner has laid out, and the rate at which the work is done by the learner. The program allows learners the opportunity to finish within the listed 60 credits. But this is an opportunity, not a promise, as many learners will need additional time and continuation courses to complete an approved dissertation. Research Continuation I-V are standard 3-credit classes as they provide the same content and instructional support as the previous 60 credits of coursework. Learners who need additional time beyond Research Continuation V can repeatedly take a Dissertation Research Continuation course, which is 0 credits but has a small fee attached.**
- ❑ **Since program inception, on average, doctoral students who graduated required 5.2 continuation courses to complete their degree.**
- ❑ **For more information about continuation courses and graduation requirements please speak with your Student Services Counselor. Also review the College of Doctoral Studies section of the Academic Catalog and the Doctoral Graduation Requirements in the University Policy Handbook. Both can be found at <https://www.gcu.edu/academics/academic-policies.php>.**

Student GCU Email Address: _____
Name: _____ GCU Student ID: _____
Student E-Signature: _____ GCU E-Signature Date: _____

Regardless, this form, too, fails to remedy GCU’s substantial misrepresentations regarding cost; in fact, it arguably contributes to them. The form does note that the 60-credit finish is “an opportunity, not a promise” and, on average, “doctoral students who graduated required 5.2 continuation courses to complete their degree.”⁶³ It also informs students that there are five potential continuation classes and suggests they are distinct from the “previous 60 credits of coursework.”⁶⁴ However, the disclaimer does not state that these five classes involve additional tuition and will increase the cost of the program. Confusingly, it does acknowledge additional cost for continuation courses required after the first five, which it notes “have a small fee

⁶¹ GCU-DOE-027978-027979.

⁶² GCU-DOE-009209.

⁶³ GCU-DOE-027978.

⁶⁴ *Id.*

attached.”⁶⁵ In this document, GCU again fails to address that continuation courses, on average, materially increase students’ costs (and time) to complete their doctoral program.⁶⁶ Nor does it disclose that zero credit courses are not eligible for federal financial aid and must be paid out of pocket – a fact that presumably could make the costs impossible for some students to manage.⁶⁷

6. E-mail Template Enclosure and Link to Welcome Video

In its June 21, 2023⁶⁸ and September 18, 2023⁶⁹ document productions, GCU produced a template of a welcome email that GCU states it sends to doctoral students “[o]ne week before a student starts classes” and discusses national timing averages.⁷⁰ The exhibited template instead links to an eight year old YouTube presentation entitled “Welcome to Your Doctoral Journey” by the long-time Dean of the College of Doctoral Studies, Dr. Michael Berger.⁷¹ In the video, Dr. Berger represents to new students that the average number of continuation courses needed to graduate is three.⁷² This statement contradicts GCU’s current and past disclaimers, which state that the average number of continuation courses required is 5.2 (published at least between 2018 and 2022), 9.5 (published at least in late 2022 and in 2023), and 9.9 (published in 2023). Even ignoring this factual error, the costs of the courses is not addressed in the video. As a result, it does not correct or mitigate the substantial misrepresentations about total cost, made in writing, that are already addressed in this letter.

⁶⁵ *Id.*

⁶⁶ For example, the 2020 Enrollment Agreement for a Doctor of Education in Organizational Leadership: Special Education (Qualitative Research) sets forth “Total Program Tuition and Fees” of \$43,720. Students who take five or six continuation courses incur an additional (approximately) \$10,000 in tuition, which represents a 23% increase over GCU’s represented “Total Program Tuition and Fees.” GCU-DOE-000446.

⁶⁷ Continuation Courses I-IV are Title IV eligible 3-credit classes, Continuation Courses V and beyond were 0 credit, non-Title IV eligible classes. During the pendency of the investigation, GCU updated its Continuation Courses, as of January 2023, courses I-IX are 3-credit, Title IV eligible courses.

⁶⁸ GCU Ltr. Dated June 21, 2023, Ex. 4-1.

⁶⁹ GCU-DOE-109104.

⁷⁰ GCU Ltr. Dated June 21, 2023, p. 16.

⁷¹ The text on page 16 of GCU’s Ltr. Dated June 21, 2023, represents Exhibit 4 to be a video entitled “Time to Earn a Doctorate”. The active link produced to the Department within the exhibit is a different video presentation by Dr. Berger. Both videos (eight years old and six years old) contain outdated data and are unhelpful to students as to the costs of continuation courses.

⁷² GCU Ltr. Dated June 21, 2023, Ex. 4-1, video at 2 minutes and 10 seconds.

7. GCU Was Aware as Far Back as 2017 That it Was Not Fully Informing Students About the Cost of its Doctoral Programs

GCU produced internal emails sent to Dr. Michael Berger in January 2017 discussing the need to update student disclosures to reflect accurate information about continuation courses.⁷³

From: Nikki Mancuso
Sent: Tuesday, January 17, 2017 2:20 PM
To: Michael Berger <[REDACTED]>
Subject: RE: Graduates and continuation courses needed for this past year

Yes:
It is getting Dan 5 the grads and continuation data so he can determine what we should update this verbiage to show:
** On average, doctoral students who graduated during the 2014/15 academic year required 5.25 continuation courses to complete their degree.*
Continuation Courses... \$1925 per course (1st 5 courses); \$500 per course (6th course and beyond)*

Nikki Mancuso, MAOM
Senior Vice President, College of Doctoral Studies

Grand Canyon University
3300 W. Camelback Road Phoenix, AZ 85017
1-800-800-9776
[REDACTED]

From: Michael Berger
Sent: Tuesday, January 17, 2017 2:19 PM
To: Nikki Mancuso <[REDACTED]>
Subject: RE: Graduates and continuation courses needed for this past year

Can you remind me what this is?
Michael Berger, EdD
Dean
College of Doctoral Studies
Grand Canyon University
[REDACTED]

From: Nikki Mancuso
Sent: Tuesday, January 17, 2017 1:40 PM
To: Michael Berger <[REDACTED]>
Subject: Graduates and continuation courses needed for this past year

Hi Michael,
When do you plan to get this data?

Nikki Mancuso, MAOM
Senior Vice President, College of Doctoral Studies

This email includes suggested disclosures on “grads and continuation data” is needed to “update the verbiage,” about the average need for 5.2 continuation courses, **and also inform them of the cost of those courses.**⁷⁴

⁷³ GCU-DOE-102255-102259.

⁷⁴ GCU-DOE-102259.

While GCU did include the information about 5.2 continuation courses in some of its enrollment materials, **the cost information in the suggested “verbiage” does not appear in any of the enrollment agreements produced by GCU and in use from 2017 to the present.**

An email from August 10, 2017, reflects that, at that time, GCU leadership was still discussing “data we are considering adding to the Disclaimers and Disclosures.”⁷⁵

From: Michael Berger
Sent: Thursday, August 10, 2017 11:35 AM
To: Dan Steimel [REDACTED] Chris Linderson [REDACTED] Nikki Mancuso [REDACTED]
Cc: Hank Radda [REDACTED]
Subject: Possible doctoral disclaimer updates

Hi all,

So Brian McGuire ran some up to date data on our graduates. Based on 395 that are fully graduated, here are some statements which are supported by the data that we are considering adding to the Disclaimers and Disclosures. As of August 2017:

1. 27% of our graduates completed in 48 months (4 years) or less.
2. 52% of our graduates completed in 56 months (4.5 years) or less.
3. 55% of our graduates completed in five continuation courses or less.
4. 30% of our graduates completed in three continuation courses or less.
5. 13% of our graduates completed in one or zero continuation courses.
6. 7% of our graduates completed needing zero continuation courses.

Currently, what we have is (see attached):
As of March 2017, since program inception, on average doctoral students who graduated required 5.2 continuation courses to complete their doctoral degree.
We are considering of adding some or all of the above. What do you think?
Thanks!
Michael
Michael Berger, EdD
Dean
College of Doctoral Studies
Grand Canyon University

As discussed above, some versions of the enrollment agreements that GCU produced contained a disclaimer that “doctoral students who graduated required, on average, 5.2 continuation courses.” Those disclosures currently do not expressly call out added cost in spite of the fact that this addition was suggested as far back as January 2017. In late 2022, GCU updated the enrollment agreements to state that the average number of continuation courses needed by doctoral students was 9.5, and in 2023 again changed the disclaimer to state that the average is now 9.9 continuation courses. Even in those recently revised disclaimers, GCU fails to disclose the additional cost of the continuation courses.

GCU’s Net Price Calculator, which according to GCU not all students receive before starting classes, does include the cost-related information in the January 2017 email. However, as set forth in Section B.3 above, the price calculator’s “Total Estimated Cost” excludes them. As a result, even for the students who received a link to the Net Price Calculator before enrolling,

⁷⁵ GCU-DOE-102301.

those statements do not cure the substantial misrepresentations about cost otherwise set forth in the Net Price Calculator, the enrollment documents, and elsewhere.

C. GCU Committed Substantial Misrepresentations in Violation of 34 C.F.R. § 668.71

As set forth above, there is substantial evidence (defined in the context of an agency’s finding of fact as “more than a mere scintilla [and] relevant evidence as a reasonable mind might accept as adequate to support a conclusion”)⁷⁶ that GCU made substantial misrepresentations about the true cost of its doctoral degree programs that required dissertations. GCU made such misrepresentations when it informed students in writing about “Total Program Cost” (enrollment agreement), “Total Program Tuition and Fees” (enrollment agreement), and “Total Estimated Cost” (Net Price Calculator) that it knew bore little or no resemblance to the true cost for actual graduates. These misrepresentations are also reinforced on GCU’s website. These misrepresentations relate to both the nature of GCU’s educational program and its financial charges, and therefore fall squarely within the misconduct proscribed by the HEA and its implementing regulations.⁷⁷ GCU’s students could reasonably be expected to rely on those misrepresentations to their detriment.

Significantly, all of the enrollment agreements produced by GCU that were used between 2017 through 2023 contain this substantial misrepresentation. Because all students would presumably have been provided and/or signed an enrollment agreement, it is reasonable to conclude that 7,547 students who enrolled in a doctoral program during the five years covered by the Department’s investigation were subject to the misrepresentation and could reasonably be expected to have relied upon it to their detriment.

The limited disclaimers that GCU included in its Enrollment Agreement, Net Price Calculator, and Doctoral Disclaimers Acknowledgement do not change the conclusion that a substantial misrepresentation occurred.⁷⁸ In analyzing whether a statement has “the likelihood or tendency to mislead under the circumstances”⁷⁹ for purposes of a misrepresentation or deception claim, courts “look at the totality of the practice” or the “net impression” in determining how a

⁷⁶ *Visiting Nurse Ass'n Gregoria Auffant, Inc. v. Thompson*, 447 F.3d 68, 72 (1st Cir.2006) (quoting *Richardson v. Perales*, 402 U.S. 389, 401 (1971)).

⁷⁷ 34 C.F.R. § 668.71(b).

⁷⁸ However, as discussed below, the presence of a disclaimer may be considered when determining the amount of the fine.

⁷⁹ 34 C.F.R. § 668.71.

reasonable person would respond to a representation.⁸⁰ In evaluating claims of deception under the FTC Act, courts have specifically rejected “fine print notices” or disclaimers intended to preclude liability where a “solicitation may be likely to mislead by virtue of the net impression it creates even though the solicitation also contains truthful disclosures.”⁸¹ Other courts have used the “net impression” analysis to find that advertisers who present the atypical outcome as the norm may be liable for misleading or deceptive practices.⁸² A prospective student could easily have concluded, based upon GCU’s representations, that a doctoral degree with a dissertation component from GCU could cost between \$42,000 and \$48,000, as clearly stated in the enrollment agreement and stated or suggested by all other sources of information produced to the

⁸⁰ See, e.g., “Student Assistance General Provisions, Proposed Rule,” 81 F.R. 39342 (June 16, 2016) (citing with approval to the FTC Policy Statement on Deception and noting that “[t]he FTC looks at the totality of the practice when determining how a reasonable recipient of the information would respond. If a representation is targeted to a specific audience, then the FTC determines the effect of the practice on a reasonable member of that group. The Department similarly considers the totality of circumstances in which the statement or omission occurs, including the specific group at which a statement or omission was targeted, to determine whether the statement or omission was misleading under the circumstances”). The Department looks to FTC deception precedent in interpreting the HEA’s substantial misrepresentation provision and the implementing regulations. *Id.* See also “Student Assistance General Provisions, Proposed Rule,” 81 F.R. 39340 (June 16, 2016) (“[t]he Department’s substantial misrepresentation regulations (34 CFR part 668 subpart F) were informed by the FTC’s policy guidelines on deception.”).

⁸¹ See, e.g., *FTC v. Cyberspace.com LLC*, 453 F.3d 1196,1200 (9th Cir. 2006) (rejecting defendant’s disclaimers because, among other things, consumers were unlikely to read these “fine print notices” because they were not prominent); see also *In re Pom Wonderful LLC*, 155 F.T.C. 1, 12 (2013) (finding that the “qualifying language” did not “materially alter the overall net impression” created by the advertisements and noting that “the Commission examines the entire advertisement and assesses the overall “net impression” it conveys”), *aff’d* 777 F.3d 478 (D.C. Cir. 2015). See also *CFPB v. Aria*, 54 F.4th 1168, 1170 (9th Cir. 2022) (affirming district court’s grant of summary judgment and analysis that “the net impression created by Aria’s solicitation packets [was] likely to mislead reasonable consumers” despite Aria’s argument that “a reasonable student could not have been deceived after reviewing the entire solicitation packet”).

⁸² See, e.g., *Illinois v. Alta Colleges, Inc.*, 2014 WL 4377579, *2 (N.D. Ill., Sept. 4, 2014) (denying defendant’s motion to dismiss where plaintiff alleged Westwood violated the CFPA by misrepresenting to potential students the cost, accreditation, and selectivity of Westwood, despite knowing most students would leave with significant debt and without a degree); *In re Intuit, Inc.*, 2023 FTC LEXIS 18, *31 (Jan. 31, 2023) (denying FTC’s motion for summary judgment, but noting that if Intuit conveyed to “at least a significant minority of reasonable consumers” that they could file their taxes for free with TurboTax, when in fact that was not the case, the ads created a deceptive “net impression”); See also *Florida Coastal School of Law*); See also *Florida Coastal School of Law, Inc. v. Cardona*, 2021 WL 3493311, *11 (M.D. Fla. Aug. 9, 2021) (denying FCSL’s motion for a preliminary injunction and finding that the Department of Education could rationally conclude FCSL made substantial misrepresentations when FCSL stated that it was in compliance with ABA standards when in fact the ABA had noted multiple significant deficiencies).

Department by GCU. Because this is true for less than 2% of graduates, and GCU was aware of this fact, the statements constitute substantial misrepresentations.

II. GCU FAILED TO ACT IN THE NATURE OF A FIDUCIARY IN ITS ADMINISTRATION OF TITLE IV

The evidence set forth above also indicates that GCU failed to act in the nature of a fiduciary in its administration of Title IV. Pursuant to 34 C.F.R. § 668.82(a), (b), an institution “acts in the nature of a fiduciary in the administration of the Title IV, HEA programs,” such that to participate the institution “must at all times act with the competency and integrity required of a fiduciary.” “A fiduciary has ‘an affirmative duty of utmost good faith, and full and fair disclosure of all material facts, as well as an affirmative obligation to employ reasonable care to avoid misleading’ the beneficiary of the fiduciary duty.”⁸³ Black’s Law Dictionary defines “fiduciary duty” as “[a] duty of utmost good faith, trust, confidence, and candor owed by a fiduciary . . . to the beneficiary. . . .”⁸⁴

Substantial evidence demonstrates that GCU committed substantial misrepresentations to each of the 7,547 students who enrolled in the relevant Doctoral Programs at GCU between November 1, 2018 and October 19, 2023. Each of these students would have been subjected to GCU’s substantial misrepresentations at least once, and probably multiple times, including through the school’s website, the enrollment agreement, and/or the Net Price Calculator. These misrepresentations related to financial charges, a material factor for students considering enrollment, and caused many of them to incur charges well beyond what was represented. Each of these students would have been subjected to the same substantial misrepresentation upon enrollment, regardless of whether they graduated, withdrew, or are still enrolled, and regardless of how many credits they have completed or how much they have incurred in loans or paid tuition to GCU. In making these widespread substantial misrepresentations, GCU failed to adhere to the fiduciary standard required of a Title IV participant.

III. GCU’S DEFENSES DO NOT CHANGE THE DEPARTMENT’S DETERMINATIONS

On May 12, 2023, FSA’s Investigations Group sent GCU a summary of the evidence gathered as of that date and indicated that it was considering a referral to the Department’s Administrative Actions and Appeals Service Group (“AAASG”) for possible administrative action. GCU responded on June 21, 2023 (the “Response Letter”). The school noted that it “is committed to continuous improvement” and that “[i]n October 2022, GCU implemented significant enhancements to the already robust disclosures discussed throughout this Response.”⁸⁵ The

⁸³ See *Sec. & Exch. Comm’n v. Cap. Gains Res. Bureau, Inc.*, 375 U.S. 180, 194 (1963) (emphasis added).

⁸⁴ Black’s Law Dictionary (11th ed. 2019).

⁸⁵ GCU Ltr. Dated June 21, 2023, p.17, ¶ 1.

statements and defenses set forth in GCU's Response Letter and in other letters and arguments provided after the August 16, 2023 letter do not warrant a change in the conclusions set forth in this notice of the Department's intent to impose a fine for these violations by GCU. We will address here the following claims raised by GCU: (1) that the Eleventh Circuit has already rejected the Department's claims; (2) that the Department must prove individualized student reliance to establish a substantial misrepresentation; (3) that it would be unreasonable for prospective doctoral students to expect that additional continuation courses would be free; (4) that additional documents, including enrollment agreements, contains accurate disclosures; and, (5) that the disclosures are, at worst, confusing, which GCU claims is not a violation of the substantial misrepresentation prohibition.

First, GCU claims in its Response Letter that the Eleventh Circuit's recent decision in *Young v. Grand Canyon Univ., Inc.*, 57 F.4th 861 (11th Cir. 2023), and the underlying District Court case it reversed in part, addressed and rejected the Department's position that GCU has made substantial misrepresentations to prospective and current doctoral students.⁸⁶ That case is distinguishable from this matter for several reasons.

- First, the plaintiff in *Young* did not claim that GCU misrepresented the cost of its doctoral program. Representations about cost are the focus of the evidence discussed here.
- Second, the *Young* plaintiff did not plead (or presumably know) that virtually none of GCU's doctoral students graduate within the advertised number of credits or, relevant here, the cost required to obtain those credits.
- Third, the *Young* plaintiff's misrepresentation claim required evidence of intent. As that court explained, "Mr. Young's ACFA claim is based on allegations that he relied on Grand Canyon's **intentional** misrepresentations to his own detriment."⁸⁷ The Department substantial misrepresentation claim does not require evidence of intent (although the emails described above support that the misrepresentations were knowing.)
- Fourth, the *Young* court dismissed the plaintiff's claims for intentional misrepresentation and under the Arizona Consumer Fraud Act because his "generalized assertions" did not contain sufficient specificity "to satisfy the who, what, when, where and how required by Rule 9(b)."⁸⁸ This rule and standard is not applicable to the Department's action. Even if it were, the Department's investigation uncovered specific facts as to all of the standards required by Rule 9(b).

⁸⁶ GCU Ltr. Dated June 21, 2023, pp. 3-4.

⁸⁷ *Young v. Grand Canyon Univ., Inc.*, 57 F.4th at 875 (emphasis added).

⁸⁸ *Id.* at 876.

- Fifth, the *Young* plaintiff alleged breach of contract based on his enrollment agreement. The Eleventh Circuit dismissed this claim after concluding that the plaintiff “fails to point to any provision in any of the relevant documents promising that a student will complete his doctoral degree program in 60 (and no more than 60) credit hours.”⁸⁹ The evidence discussed in this letter is not based upon breach of a promise regarding a set number of credits; rather, it is based on GCU’s clear representations about “Total Program Cost”, “Total Program Tuition and Fees”, and “Total Estimated Cost.” The Eleventh Circuit was not presented with these facts or legal claims, and consequently did not rule on them.

Second, GCU inaccurately claims the Department must show actual reliance by each student to establish a substantial misrepresentation under 34 CFR § 668.71.⁹⁰ GCU claims that “[u]nder the Department’s regulations, a misrepresentation does not become a substantial misrepresentation (and thus actionable) without establishing that a student (1) reasonably relied on the misrepresentation, and (2) the reliance caused the student harm. GCU contends that this requires a detailed assessment of each student’s individual circumstances.”⁹¹ GCU misstates the relevant legal standard. Under 34 C.F.R. § 668.71(c), the Department need not demonstrate actual reliance by any individual student. Rather, the regulation defines substantial misrepresentation to include “[a]ny misrepresentation, including omission of facts as defined under § 668.75, **on which the person to whom it was made could reasonably be expected to rely**, or has reasonably relied, to that person’s detriment.” (emphasis added). As discussed throughout this letter, a prospective student could reasonably be expected to rely, to their detriment, on GCU’s written statements regarding how much it would cost them to earn a degree.

GCU also argues that it would be unreasonable for students to expect that continuation courses, when disclosed, would be free. The Department disagrees; A student could be reasonably expected to rely on GCU’s written disclosure of representations regarding “Total Estimated Costs,” “Total Program Cost,” and “Total Program Tuition and Fees,” none of which included the cost of a single continuation course.

GCU provided nine exhibits to its Response Letter containing affidavits, additional disclosures, and training materials, and, as discussed above, provided additional versions of enrollment agreements in September 2023. However, none of those materials reflect an accurate disclosure of cost to prospective or current doctoral students. As a result, the information contained in those exhibits does not change the determinations outlined in this letter.

In meetings with the Department after GCU received the Department’s August 16, 2023 letter, GCU argued that *Association of Private Sector Colleges and Universities v. Duncan*, 681 F.3d

⁸⁹ *Id.* at 871.

⁹⁰ GCU Ltr. Dated June 21, 2023, p. 14, ¶ 1.

⁹¹ *Id.*

427 (2012) supports its argument because GCU claims it stands for the proposition that a confusing statement is not a substantial misrepresentation under the HEA. GCU claims that its statements are, at worst, confusing and not deceitful and, that case, and subsequent changes to the language of 34 C.F.R. § 668.71, makes clear that a confusing statement is not a violation. However, GCU's reliance on *Duncan* is misguided. First, the Department does not contend that GCU's statements are merely "confusing." For the reasons set forth in this letter, the Department has determined that GCU's representations related to cost of its Doctoral Programs are "false, erroneous, or misleading" and have the "likelihood or tendency to deceive under the circumstances."⁹² Second, the *Duncan* court addressed an earlier version of 34 C.F.R. § 668.71(c) and vacated that regulation to the extent that it defined a misrepresentation as including "**true and nondeceitful** statements that have only the tendency or likelihood **to confuse**."⁹³ Here, again, GCU's statements are not true, not nondeceitful, and not merely "confusing." They are false, erroneous, or misleading. Third and finally, even the *Duncan* court expressly noted that a misrepresentation under the HEA prohibits statements that have the tendency or likelihood to deceive, stating:

We do not take Appellant to be challenging the Department's interpretation that the HEA reaches "misleading statement[s]," insofar as that term encompasses "any statement," **truthful or otherwise, "that has the likelihood or tendency to deceive."** 34 C.F.R. § 668.71(c) (2011); *see also* Appellant's Br. at 42–44. Nor do we see how Appellant could challenge that aspect of the Misrepresentation Regulations. At *Chevron* step one, **as we have already noted, a misrepresentation can be a true statement that is deceitful.**⁹⁴

None of the responses, information, or documents provided by GCU in response to the Department's multiple letters gives rise to any basis to alter or change the Department's determination that GCU committed substantial misrepresentations as discussed above.

ANALYSIS OF FINE ASSESMENT

The HEA states that "the Secretary may impose a civil penalty. . . for each violation or misrepresentation" upon concluding that "an eligible institution . . . has engaged in substantial misrepresentation of the nature of its education program, its financial charges, and the

⁹² 34 C.F.R. § 668.71(c).

⁹³ *Duncan*, 681 F.3d at 452-53 (emphasis added).

⁹⁴ *Id.* at 453 (emphasis added). *See also* 81 F.R. 75945 (Nov. 1, 2016) ("[w]e disagree that the substantial misrepresentation standard would not necessarily capture institutional misconduct that did not involve untrue statements. As revised in these final regulations, § 668.71(c) defines a "misrepresentation" as including not only false or erroneous statements, but also misleading statements that have the likelihood or tendency to mislead under the circumstances. The definition also notes that omissions of information are also considered misrepresentations. Thus, a statement may still be misleading, even if it is true on its face").

employability of its graduates.”⁹⁵ A fine action must be commenced within five-years of when the claim accrued.⁹⁶ The term “accrued” has been interpreted to mean the “date of the violation giving rise to the penalty and each instance of a misrepresentation is a separate violation” for purposes of the statute of limitations.⁹⁷ Unlike a liability, which corresponds to the amount of federal student aid program funds that an institution improperly received or disbursed and therefore must repay, “the purpose of a fine is to punish the institution for its misconduct and to deter that school, as well as other institutions similarly situated, from committing similar violations in the future.”⁹⁸

Currently, the Department may impose a fine of up to \$67,544 per violation against an institution (or third-party servicer) that engages in substantial misrepresentation.⁹⁹ As clearly stated in the language of the HEA, and supported by OHA cases, a separate fine may be assessed for *each* violation.¹⁰⁰ The word “violation” encompasses each instance of a misrepresentation made to students.¹⁰¹ As the Secretary explained in *In the Matter of Bnai Arugath Habosem*, Docket No.

⁹⁵ 20 U.S.C. § 1094(c)(3)(B). The implementing regulations can be found at 34 C.F.R. § 668.84.

⁹⁶ *In the Matter of Lincoln University*, Decision of the Secretary, Docket No. 13-68-SF (April 25, 2016) (finding that statute requires proceedings to enforce a fine or civil penalty must be initiated within five years from the date that the claim first accrued).

⁹⁷ *U.S. Sec. & Exch. Comm'n v. e-Smart Techs., Inc.*, 31 F. Supp. 3d 69, 88 (D.D.C. 2014) (“Each time e-Smart and Defendants filed a new 10-KSB, they made their misrepresentations anew, violated the statute anew, and exposed themselves to liability anew. The fact that e-Smart had published the same falsehoods for years prior is immaterial.”).

⁹⁸ *In the Matter of Bnai Arugath Habosem*, Decision of the Secretary, Docket No. 92-131-ST (August 24, 1993) at p. 2.

⁹⁹ 34 C.F.R. § 668.84(a)(1). As required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which amended the Federal Civil Penalties Adjustment Act of 1990, the maximum fine increases annually to adjust for inflation.

¹⁰⁰ 20 U.S.C. § 1094(c)(3)(B); *In the Matter of Bnai Arugath Habosem*, Decision of the Secretary, Docket No. 92-131-ST (August 24, 1993) (“continuing violations of the same regulatory prohibition [for ineligible disbursements] should not be considered a single violation, but multiple violations of the same prohibition.”); *In re North Carolina Academy of Cosmetic Art*, Decision of the Secretary, Docket Nos. 98-123-EA and 98-129-ST (December 12, 2000) (imposing maximum fines per instance for falsifying attendance and financial aid records for a total of \$225,000 for nine students); *In the Matter of Demarge College*, Docket No. 04-49-SF (July 10, 2010) (approving maximum fine amount for 39 sustained violations of Title IV for a total fine of \$1,072,500).

¹⁰¹ *In the Matter of Bnai Arugath Habosem*, Decision of the Secretary, Docket No. 92-131-ST (August 24, 1993) (deciding that “continuing violations of the same regulatory prohibition should not be considered a single violation, but multiple violations of the same prohibition”).

92-131-ST (August 24, 1993), anything short of a separate fine for each violation “would result in an institution having no incentive to correct existing violations.”¹⁰²

In determining the fine amount, the Department considers the appropriateness of the fine with respect to two factors. First, the size of the institution, and second, the gravity of the violation, failure, or misrepresentation.¹⁰³

Number of Violations: To determine the number of violations in this case, the Department reviewed the number of students who enrolled during the period in which GCU made the misrepresentations. Based upon data obtained from GCU and from internal Department information, approximately 7,547 students began their enrollment in GCU’s Doctoral Programs between November 1, 2018 and October 19, 2023. Each of those enrollments constitute a separate violation because they were each subjected to GCU’s substantial misrepresentations at least once, when they signed an enrollment agreement. Students may have been subjected to the misrepresentation at other times as well, including on the school’s website, and the Net Price Calculator. Furthermore, given the centrality of price as a factor, and the falsity of GCU’s statements about price, there is a reasonable expectation that each student relied upon the misrepresentation to their detriment, regardless of whether they graduated, withdrew, or are still enrolled, and regardless of how many credits they have completed or how much they have incurred in loans or paid tuition to GCU. Based upon that analysis, the Department has determined that GCU committed a substantial misrepresentation at least 7,547 times between November 1, 2018 and October 19, 2023.

Size of the Institution: The size of an institution is not a mitigating factor for purposes of calculating the fine if the institution’s Title IV funding is above the median funding levels for the Title IV, HEA programs in which it participates.¹⁰⁴ There can be no question that GCU is a large institution in the Title IV program – in fact, measured by funding levels, it is the largest.

The median funding levels for the 2021-22 award year for institutions participating in the Federal Pell Grant Program, Federal Direct Loan Program, and Campus-Based Programs are \$1,577,089, \$2,196,429, and \$272,724, respectively. According to Department records, in the 2021-22 award year, students enrolled at GCU received approximately \$180,052,343 in Federal Pell Grant funds, \$904,936,254 in Federal Direct Loan funds and \$7,999,215 in Campus-Based funds. Even if the analysis for determining an institution’s size for purposes of determining an appropriate fine amount focused only on the GCU doctoral programs, which it does not, and used only the amount of Title IV funds disbursed to students solely for institutional costs (e.g., tuition and

¹⁰² *In the Matter of Bnai Arugath Habosem*, Docket No. 92-131-ST.

¹⁰³ See 20 U.S.C. § 1094(c)(3)(B)(ii).

¹⁰⁴ *In the Matter of Bnai Arugath Habosem*, Decision of the Secretary, Docket No. 92-131-ST (August 24, 1993) (finding that Bnai was not a “small school” for purposes of mitigating a fine because it received above the median funding level in the Pell Grant program).

fees), which it does not, GCU disbursed approximately \$15,537,888 to students for institutional costs in those programs during the 2021-2022 award year, again making its funding well above the median for Title IV schools in the 2021-22 award year. As a result, the “size of the institution” does not warrant mitigation of the fine in this instance.

Gravity of the Offense: The gravity of GCU’s violations is significant. GCU misrepresented a key material term – cost – to every student enrolling in its Doctoral Programs and to all prospective students considering enrolling in these programs, over 5 years. The additional costs for the almost 78% of graduates who needed at least 5 continuation courses to complete the program resulted in roughly \$10,000 to \$12,000 in additional tuition costs alone, approximately a 25% increase from the total program costs GCU represented to prospective students. This misrepresentation relates to a term that is likely to be central to students’ decision, and one upon which they could reasonably be expected to rely to their detriment, when choosing to enroll at GCU. This misrepresentation also contributes to potential harm to the Title IV program itself, as students are ultimately required to pay more than was advertised to actually obtain a degree. This involves the commitment of additional Title IV funds and may cause more students to withdraw without obtaining a degree. Further, email evidence indicates that GCU was aware of misrepresentations and omissions in its representations about cost.

GCU took some efforts to remediate the violation by adding information about continuation courses to its disclosures. However, as noted above and discussed in this letter, those updates were not sufficient. Even with those additions, a reasonable student could conclude that the “total cost” advertised by GCU would in fact be the total cost.

That said, some mitigating factors are present. Most significantly, the violations identified impacted only GCU’s doctoral dissertation programs, which enroll fewer than 5% of GCU students who receive Title IV benefits. In addition, GCU generally cooperated with the Department’s investigation, and, as noted above, has taken some steps through the years to update its disclosures.

The maximum fine available to the Department is \$509,754,568 – a \$67,544 fine for each of the 7,547 violations identified. After considering the size of GCU, the gravity of the violations, and the mitigating factors, the Department intends to impose a fine of \$37,735,000 - a \$5,000 fine for each of the 7,547 violations. A \$5,000 fine per violation represents approximately 7.5% of the maximum allowable fine under the HEA. This significant reduction primarily reflects the fact that the violations identified did not impact all of GCU’s programs and students, but rather were confined to doctoral programs requiring a dissertation.

The fine of \$37,735,000 will be imposed on November 20, 2023, unless I receive, by that date, one of the following: 1) a request for a hearing to be conducted by the Office of Hearings and Appeals; or 2) written material indicating why the fine should not be imposed.

If GCU chooses to request a hearing or submit written material, you must write to me at:

Mr. Brian Mueller, President
Grand Canyon University
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Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid
830 First Street, NE
UCP-3, Room 92G4
Washington, DC 20002-8019

If GCU requests a hearing, the case will be referred to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of GCU's case to a hearing official who will conduct an independent hearing. GCU is entitled to be represented by counsel during the proceedings. If GCU does not request a hearing but submits written material instead, the Department will consider that material and notify GCU of the amount of the fine, if any, that will be imposed.

Any request for a hearing or written material that GCU submits must be received by November 20, 2023; otherwise, the \$37,735,000 fine will be effective on that date.

If you have any questions or seek any additional explanation of GCU's rights with respect to this action, please contact Lauren Pope of my staff at [REDACTED]

Sincerely,

[REDACTED]
Susan D. Crim, Director
Administrative Actions and Appeals Service Group
U.S. Department of Education

Enclosure A

cc: Dr. Barbara Gellman-Danley, President, Higher Learning Commission, via [REDACTED]
Mr. Kevin LaMountain, Executive Director, Arizona State Board for Private Postsecondary Education, via [REDACTED]
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.gov