

Zenith is pleased the monitor's latest report did not find any violations of accreditor standards, state, or federal laws or the Conduct Provisions that Zenith agreed to with the U.S. Department of Education. The report also does not allege that Zenith is doing anything misleading or unfair. However, the monitor's latest report contains several apparent misunderstandings of Zenith's business practices and regulatory requirements that Zenith feels compelled to address.

For example, the monitor notes that Pennsylvania law requires enrollment agreements to include the Pennsylvania-approved program title, and recommends "pre-printed forms because of the risk of inserting incorrect information [and] violating a state regulatory requirement." But Zenith's initial enrollment agreements are already processed through an electronic system that automatically pre-populates the program titles as appropriate.¹

The monitor also raises concern about a statement that Zenith's Dispute Resolution Policy is "provided at the time of enrollment," because, the monitor says, that policy is not included in the enrollment agreement or in an addendum. Yet, the policy is included in the catalog, which is provided at the time of enrollment.

In addition, the monitor asserts that a schedule of tuition, fees, program length and credit hours "could and should" be used to pre-populate the online enrollment agreement. While that's not a compliance requirement, it is good practice, and we use a similar table specifically for that purpose.

The monitor also states that the enrollment agreement contains a "cancellation" policy inconsistent with the catalog's "withdrawal" section. However, the cited "cancellation" language has never existed in any Zenith enrollment agreement, including for WyoTech Blairsville—the focus of this report. It appears the monitor identified this language in an old, outdated agreement that was used by WyoTech's former owner, but never by Zenith. The actual WyoTech Blairsville enrollment agreement includes withdrawal language consistent with the catalog and Conduct Provisions.

The monitor suggests Zenith ought to state payment terms that "comply with Federal truth-in-lending and State retail installment requirements," and that the enrollment agreement "must be amended" if interest or finance charges are assessed. Adding that inapplicable language would only create student confusion. As has already been shown, Zenith doesn't have an institutional loan program, interest, or finance charges on student accounts in the first place.

The monitor also expresses concern about whether setting up a living expense allowance account can benefit students or provide "budgetary assistance." With a living expense allowance, the school holds and disburses cash stipends created through excess loan funds on a periodic basis rather than in a lump sum. Zenith has found through experience that not all students would, as the monitor suggests, "put any excess funds in an interest-bearing bank account or some other kind of investment instrument." Regardless, Zenith does not hold any

¹ The monitor suggests that Zenith should say it can "expel a student," rather than "discontinue a student's training" to avoid the interpretation that a student could remain "in the school" but "would no longer be taught." The monitor also notes a statute banning implied guarantees of employment in considering Zenith's wholly factual statement that its programs "**are designed for** the graduate's employment upon graduation." But saying a program is designed for employment and guaranteeing that a graduate will be employed are two different things. Indeed, designing programs that lead to employment is not only part of our mission, it's the very reason for our existence. While we appreciate the monitor's attention to detail, we agree that these are simply examples of personal preference, rather than actual compliance concerns.

type of credit balance for periodic distribution based on the monitor's cited provision alone. Any such arrangement would have to be specifically reaffirmed by the student, in writing, prior to holding funds in this way.

In addition, the monitor fails to understand students may initiate an inquiry or complaint by contacting someone on site at the school, and may also contact the Zenith corporate Student Services department. The monitor cites both of these alternative provisions and asserts that "one would think a complaint would be resolved more quickly if the student could file a complaint with someone on site at the school," and concludes that these two provisions are "in conflict." However, the two are not mutually exclusive. Zenith prides itself on offering students multiple paths and options for dispute- or inquiry-resolution, and there is no reason to conclude that making more than one alternative available establishes a "conflict."

Similarly, the monitor is concerned that the enrollment agreement states students "*may request completion/graduation rate information,*" from the campus, while the Conduct Provisions "make Zenith's providing this information mandatory." Again, the two are not mutually exclusive. Zenith does provide completion and graduation information to prospective students, as well as the general public, on its website as required by the Conduct Provisions and federal law. That doesn't prevent a prospective student from also requesting it directly from the school. The monitor's implication—that Zenith should *not* call students' attention to this information or inform them that Zenith will provide it to them directly upon request—seems contrary to the spirit of the Conduct Provisions and federal disclosure regulations.

In another example, the monitor interprets the school's reservation of the right to *eliminate* programs to be "in conflict with" a regulation requiring the school provide *notice* to affected students if it does, in fact, cancel a program. But there's no prohibition on canceling a program, just a requirement that Zenith provide prior notice if it takes that action. In fact, by requiring notice *if* a program is canceled, the regulation implicitly assumes the propriety of the very thing (cancellation) that the monitor asserts "conflicts with" the regulation. Zenith would, of course, provide the required notice to students if it did eliminate a program.

The monitor also critiques the director of regulatory affairs' "true and correct" statement, which is a regulatory requirement in some states, and assumes that it's up to the school alone to interpret for itself whether a commitment that catalog changes "will not negatively affect currently enrolled students" (also state-dictated language). What that section means is that material, negative, subsequent catalog changes will not be enforced against already-enrolled students; and what constitutes a material or negative change is not simply up to the school to decide, it's a contractual commitment subject to the availability of refunds or other reimbursement as appropriate, and, at worst, to judicial interpretation.

Finally, the monitor raises concern about paragraphs addressed to "Texas Students Only" and refund policies for a wide variety of other states' residents, because "there appear (from the website) to be no WyoTech schools in Texas." Texas is just one of a wide variety of states that regulate higher education offered to its residents *regardless of whether the institution itself is headquartered in that state*. See, e.g., Tex. Educ. Code § 132.001(1) (establishing jurisdiction over out-of-state career schools or colleges that solicit business in Texas and do not, *inter alia*, offer distance education in Texas). Zenith cannot remove language required to comply with the regulations of Texas or any other state.