

March 30, 2023

Annamarie Weisman
Deputy Assistant Secretary for Policy, Planning, and Innovation
Office of Postsecondary Education
400 Maryland Avenue SW, Room LBJ 2C-192
Washington, DC 20202

Re: **GEN-23-03 - Requirements and Responsibilities for Third-Party Servicers and Institutions**

Dear Deputy Assistant Secretary Weisman:

On behalf of the more than 700 institutional members of The Forum on Education Abroad (the “Forum”), representing two- and four-year public and private colleges and universities in the United States and internationally, the education abroad organizations with whom they partner, and the associations listed below, we respectfully submit the following comments regarding the U.S. Department of Education’s (the “Department”) February 15, 2023 Dear Colleague Letter (Updated February 28, 2023) (“DCL”), “Requirements and Responsibilities for Third-Party Servicers and Institutions” (DCL ID: GEN-23-03).

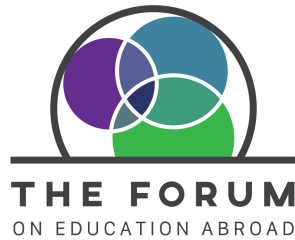
As explained in more detail below, the DCL, if implemented as currently written, would have a significant and detrimental impact on education abroad organizations and programming. We strongly urge the Department to revise the DCL to explicitly exclude study abroad and internship abroad programs and providers from the scope of its third-party servicer guidance.

A. The Benefits of Education Abroad Programs

The value of education abroad programs, to both individual participants and the American public, cannot be overstated. For centuries, academic partnerships with foreign institutions have provided remarkable opportunities for domestic and foreign students to learn from and be fruitfully challenged by environments other than their own. Through education abroad, students of every background benefit from their experiences with other peoples, cultures, and countries in ways not available on their home campus. Upon completion of their education abroad program, these students often return with a transformed sense of empathy, self-sufficiency, and global awareness. This perspective continues to advance the students’ personal, academic and professional growth long after the program ends.

In addition to the individual advantages, program participants also generate a wide range of benefits for the United States, including, among others, international goodwill; academic, scientific, and cultural exchange; recruitment of foreign talent; and the preparation of a globally competitive workforce. In return, host communities and institutions benefit from students participating in education abroad by developing long-lasting friendships that deepen their appreciation for and understanding of the United States and its people.

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The importance of education abroad programs can be summarized by the [Joint Statement of Principles in Support of International Education](#), co-published in 2021 by the Department and the Department of State, which began by explaining:

“The United States cannot afford to be absent from the world stage: U.S. leadership and engagement makes an essential difference abroad, as well as at home. Indeed, in today’s interconnected world, our foreign and domestic policies are inextricably intertwined in pursuit of a preeminent goal – improving the lives of the American people.”

In his remarks announcing the Joint Statement, Secretary Cardona further added: “That’s why international education is vital: it promotes mutual understanding among people from different nations and helps ensure that Americans from all walks of life better understand the world and are prepared to effectively engage with our neighbors.”

B. The Potential Impacts of the DCL on Education Abroad

Under the DCL, entities performing “student recruiting and retention” or “providing educational content and instruction” to institutions of higher education would be considered third-party servicers. This, in combination with the DCL’s prohibition on contracting with third-party servicers “located outside of the United States” or third-party servicers that are “owned or operated by an individual who is not a U.S. citizen or national or a lawful U.S. permanent resident” would significantly curtail or even eliminate the ability of institutions to contract with foreign institutions, entities, or individuals.

Moreover, requiring certain foreign entities and providers (for example, local recruiters or curriculum designers) to agree to third-party servicer obligations would have substantial adverse effects on education abroad programs, as it is likely that the pool of quality providers and individuals agreeable to such terms would be greatly diminished. This policy change could also lead to the curtailment or even elimination of abroad programs.

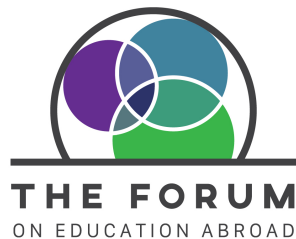
Such outcomes would have a number of negative impacts on education abroad providers and programs:

1. The DCL would diminish, or in some cases, eliminate the extraordinary benefits, for both students and the American public, of education abroad programs

Through its expanded scope and structure, the DCL would make many education abroad programs unavailable for U.S. students. The loss of these vital programs would:

- Decrease foreign language competencies and limit student access to careers that require advanced language and diplomacy skills, considering study abroad programs are one of the primary means of foreign language training in the United States.
- Negatively impact both strategic and common language acquisition, thereby reducing workforce capacity for national security services, medico-social care providers, and teachers;

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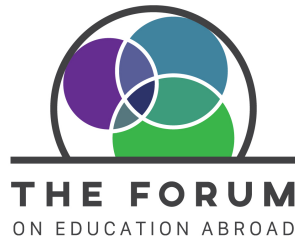
- Decrease the United States' capacity for international understanding and competitiveness by severely limiting students' exposure to international internships and experiential learning programs that bridge the gap between theory and practice; and
 - Derail the Department's own programs, including HEA-Title VI and Fulbright-Hays grants, as well as the U.S. Department of State's Benjamin A. Gilman International Scholarship and Fulbright programs.
2. The DCL would impede access to education abroad programs for students with financial need, thereby exacerbating preexisting economic disparities

Education abroad provides benefits for all students, regardless of financial need. However, research demonstrates that education abroad provides particular benefits to students receiving need-based aid. According to a recent study by [The Consortium for Analysis of Student Success through International Education](#) ("CASSIE"), students receiving need-based aid who study abroad have higher graduation rates and graduate sooner than comparable students who do not study abroad. Such students graduate with higher GPAs and earn more credit hours than their similarly situated peers.

CASSIE data reveals that receiving need-based aid significantly increases a student's likelihood of studying abroad. Study abroad serves as an important component of workforce development as students prepare to work in an increasingly global economy. The economic disparities between students without financial need and students with financial need, often from underrepresented and underserved backgrounds, would certainly widen should students receiving Title IV funding be prevented from participating in educational abroad programs. At the precise moment when it is critical for the United States to develop a globally savvy workforce that is both culturally sensitive and economically competitive, we cannot afford to disenfranchise a large segment of our future workforce. Federal policy should facilitate, not impede, students getting the skills they need to secure well-paying jobs. Many of these skills are commonly associated with study abroad, including intercultural communication, language acquisition, resilience, adaptability, and cultural awareness.

If the DCL is implemented as currently written, the negative impact on the ability of colleges and universities to provide high quality education abroad experiences for their students, especially students with financial need, would be significant. It would likely result in a complete halt to the participation of students receiving Title IV funding in education abroad. This, in turn, would disadvantage students with financial need who are often from underrepresented and underserved populations by decreasing their retention and graduation rates and GPA, since study abroad programs are widely recognized as a High Impact Practice leading to greater academic achievement. Many students currently use federal financial aid Title IV funds to study abroad, and those with the greatest financial need absolutely rely on these funds. Indeed, if federal financial aid is not available for education abroad programs, international programs would only be attended by wealthy students who can afford to study abroad without financial assistance.

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3. The DCL would severely inhibit the ability of education abroad programs to provide safe, quality services

Under the DCL, institutions would be prohibited from hiring local faculty or cultural experts for education abroad programs. As a result, the guidance would effectively bar partnerships with the people and institutions that are experts in the native culture, negating benefits uniquely available to students through education abroad programs. Functionally prohibiting collaboration with local specialists on curriculum design denies students the opportunity to learn from the true experts, which is a critical hallmark of the education abroad experience.

The DCL also poses safety concerns for participating students. Contrary to basic international risk management principles, the DCL would, in effect, forbid hiring local experts to plan itineraries, book knowledgeable, safe charter transportation services, and reserve safe housing. Being required to hire a U.S. citizen to plan activities in a foreign country is not a best practice and does not make sense. More importantly, planning such activities without local, on-the-ground experience and understanding of risks can put students in dangerous situations.

C. Suggestions for Revisions to the DCL

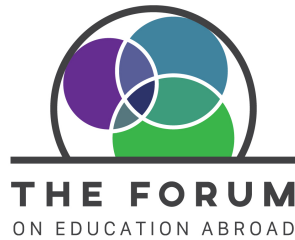
For the reasons outlined above, we strongly urge the Department to exclude study abroad and internship abroad programs and providers from the scope of the DCL. We note that the Department's concerns regarding foreign third-party servicers – namely, its ability to recover Title IV aid against foreign entities – generally do not apply in the education abroad context. Most foreign academic and education abroad organizations and providers have no role in administering Title IV aid, and as such, these entities would not be responsible for Title IV liabilities. In addition, as the Department is well aware, institutions are ultimately responsible for the use of Title IV funds and could be called on to satisfy any Title IV liabilities. As such, we believe the Department can feel comfortable removing study abroad and internship abroad programs and providers from the scope third-party servicer guidance altogether.

We also note the prohibition on foreign ownership also appears to conflict with Congressional intent. Nowhere in statute or regulation is there a prohibition on contracting with a third-party servicer (or its subcontractors) located outside of the United States or owned or operated by an individual who is not a U.S. citizen or national or a lawful U.S. permanent resident. To the contrary, Congress has chosen to permit domestic institutions of higher education to participate in Title IV programs even if they have foreign ownership, and also has chosen to permit certain foreign institutions to participate directly in Title IV programs, despite being outside of the country or under foreign ownership. For these reasons, any total exclusion of foreign parties would seem inconsistent with Congressional intent. At the very least, we ask the Department to await Congressional action on this point.

If the Department does not exclude study abroad and internship abroad programs and providers from the guidance, we respectfully ask that the Department clarify the following points:

- How will the Department determine whether a third-party servicer is located outside the United States? Would it be based on the location of the entity's headquarters, where most of their operations are located, where services are performed, or other criteria?;

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- Does the foreign ownership/operation provision apply only to individuals, or does it also impact corporate entities with foreign ownership, or foreign entities with no ownership (i.e., a foreign non-profit)?; and
- If the majority of an entity's ownership remains domestic, but the entity also employs foreign subcontractors, at what point (if at all) would that entity become "foreign owned"?

As the academic year draws to a close, students planning to begin their study abroad programs in August and September are already being advised that they may not be able to utilize Title IV funds as planned. It is imperative that the Department act urgently to exclude education abroad from this guidance.

*The Forum is a 501(c)(3) non-profit, membership association recognized by the U.S. Department of Justice and the Federal Trade Commission as the **Standards Development Organization (SDO)** for the field of education abroad. The Forum provides **training** and **resources** to education abroad professionals and its **Standards of Good Practice** are recognized as the definitive means by which the quality of education abroad programs may be judged. The Forum's mission is to cultivate educators who champion high quality education abroad experiences that ignite curiosity, impact lives, and contribute to a better world.*

Sincerely,

Melissa Torres
President & CEO

On behalf of:

Alliance for International Exchange
Association of American University Programs in France (APUAF)
Association of Academic Programs in Latin America and the Caribbean (AAPLAC)
Association of American College and University Programs in Italy (ACCUPI)
Association of American Colleges and Universities in Switzerland (AUCS)
Association of American Study Abroad Programs in Germany, e.V. (AASAP Germany)
Association of American University Programs in the Czech Republic (AAUP CZ)
Association of North American University Programs in Spain (APUNE)
Association of International Education Administrators (AIEA)
Association of Study Abroad Providers in Ireland (ASAPI)
Community Colleges for International Development (CCID)
Council on Standards for International Educational Travel (CSIET)
Diversity Abroad
Education in Ireland
European Association of Study Abroad EUASA
International Student Exchange Programs (ISEP)
Tennessee Consortium for International Studies (TnCIS)
University Risk Management & Insurance Association (URMIA)

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