



February 24, 2023

The Honorable Miguel Cardona, Secretary
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 202020

Re: February 15, Dear Colleague Letter

Dear Secretary Cardona:

On behalf of the Software & Information Industry Association (SIIA), I write regarding the Dear Colleague Letter issued by the Department of Education (the Department) on February 15, 2023, "Requirements and Responsibilities for Third-Party Servicers (TPS) and Institutions."

We echo the concerns raised by our partners in the education community, specifically those raised by the American Council on Education (ACE) and other groups in their February 23 letter. Due to the widespread consensus of lack of clarity around the scope and significant impact this guidance could have on the education community, we strongly recommend the Department rescind the "effective immediately" nature of the letter, and extend the May 1 reporting deadline and comment period by a minimum of 30 days.

The guidance creates a litany of issues and will be extremely burdensome on the education community. It will likely interrupt the services provided by institutions of higher education at a time when many students are completing spring semester finals. Email, digital collaboration tools, connectivity, professional development, and other software play an important role in an institution's day-to-day function.

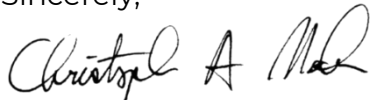
SIIA understands the sensitivity around the use of TPS and its relation to federal funding and student aid. However, based on our early analysis of the new guidance, the Department's definition of TPS goes far beyond the commonly understood scope of the term. As mentioned in a recently published article in the Chronicle of Higher Education, "an Education Department spokesperson did not discuss individual vendor categories, but noted in an email that 'broadly used software solutions' are not a key focus." We hope that is the case and urge the rescission of the effective date, comment, and reporting deadline so stakeholders can properly assess and provide substantive comments.

The guidance also is clearly out of step with international commitments undertaken by the US government, including the recently enacted United States-Mexico-Canada Agreement (USMCA), which includes obligations not to discriminate against digital service providers from other contracting states, or to frustrate the provision of cross-border services. If this guidance stays in its current form, the restrictions currently

placed would also, in effect, restrict the availability of educational opportunities for our higher education system as a whole.

SIIA appreciates the Department's efforts to provide oversight of federal programs. We plan to work with our members in the coming weeks to develop comments in response to the guidance. To address the issues presented in this guidance more effectively, we urge the Department to rescind the "effective immediately" nature of the letter, and extend the May 1 reporting deadline and comment period by a minimum of 30 days. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Christopher A. Mohr". The signature is written in a cursive style with a large, prominent initial "C".

Christopher A Mohr
President
Software & Information Industry Association

