

# MORTHLAND COLLEGE

Morthland College Institutional Update

Public Release of Information Pertaining  
to Morthland Matters Presented in 9

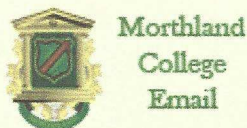
Chronological Exhibits:

May 15, 2018-June 4, 2018

Date of Release of Information:

June 5, 2018

*Jim Morthland*  
*President*



Emily Hayes &lt;ehayes@morthland.edu&gt;

---

**In the Matter of Morthland College**

21 messages

---

**Mark McColl** <mamccoll@sbcglobal.net>

Fri, May 25, 2018 at 11:56 AM

Reply-To: Mark McColl &lt;mamccoll@sbcglobal.net&gt;

To: [REDACTED]

Cc: Emily Hayes &lt;ehayes@morthland.edu&gt;, Joe Zdankiewicz &lt;jzdankiewicz@morthland.edu&gt;

[REDACTED]

As I noted, the Board of Trustees met the other night to discuss the future of the College. Please be advised that the College is closing effective July 31, 2018. The Illinois Board of Higher Education and TRACS will be notified and process of closure will begin as soon as possible.

With respect to the pending action, the Board has decided that it cannot accept the terms that have been offered. The College would thus like to formally request a hearing. I am simply not able to carry this any further and will be withdrawing as counsel. Dr. Tim Morthland and Emily Hayes plan to self-represent the College. Ms. Hayes is copied on this email (as is the Board president Mr. Zdankiewicz).

Although the College will soon cease to exist, Dr. Morthland and Ms. Hayes wish to take this step because they do not believe the College did anything wrong, and that the academy students received a legitimate education in accordance with the rules set forth by the government. Specifically, according to the Department's own definition of correspondence vs. distance education, the College's online courses met the criterion of distance education as the College used the internet to deliver online education through asynchronous and synchronous learning, with engagement initiated through both student and teacher in an environment driven by a syllabus that is not self-paced learning.

Dr. Morthland and Ms. Hayes believe they have ample evidence to prove this and would like their day in court. Also, they do not want this finding to soil the legacy of the College.

If you have any questions, please let me know.

**Mark McColl**  
12747 Olive Blvd, Suite 300  
St. Louis, MO 63141  
(314) 458-0823  
(314) 569-0552 (fax)  
[mark@themccollfirm.com](mailto:mark@themccollfirm.com)

# MORTHLAND COLLEGE

**FOR IMMEDIATE RELEASE**

**Contact: Morthland College**

**Phone: 779-216-5930**

**Email: [info@morthland.edu](mailto:info@morthland.edu)**

5:00 pm  
Release

## **Morthland College Announces Closing at the End of its Eighth Academic Year**

**West Frankfort, Illinois, May 25, 2018—**

**Exactly 501 days since its last dispersement of federal funds, Morthland College announces that the institution will not open in the Fall of 2018. Following an early January of 2017 General Assessment Program Review by the United States Department of Education, a Heightened Cash Monitoring, Level 2 sanction was imposed on the college on Inauguration Day, January 20, 2017, ultimately leading to an emergency action letter the following August, representing the Chicago-Denver office's attempt to revoke Morthland College's ability to disperse federal funds entirely. To date, MC has received no program review report from the Department's January of 2017 visit. MC's appeal of its August of 2017 emergency action letter currently sits in the Office of Hearing and Appeals in Washington DC, where parties have been in settlement negotiations since late November of 2017 and to date have been unable to reach an agreement.**

**Its campus resides in one of the most impoverished counties in the state, where over 90 percent of Morthland College students are in need of federal funding to attend college, and, without a timeline for settlement or the restoration of these funding lines, the institution simply does not have the fiscal resources to open this fall. Morthland College continues to deny all allegations set forth in the Department's emergency action letter and remains an ongoing 501C3, not for profit, in good standing with the State of Illinois. The institution is**

# MORTHLAND COLLEGE

committed to bringing all matters with the Department of Education to closure, whether through an amicable settlement agreement on the part of both parties, a request for a hearing, or through a process for appeals, all of which are pathways given to the institution under the Department of Education's own statutes. The timeline for these processes to play out cannot be determined at this time.

Morthland College continues to cooperate with both the Illinois Board of Higher Education and TRACS (its accreditation agency) in providing pathways for transferability of credit for its current student body and the releasing of academic records for both its current and former students upon request.

Morthland College was granted the authority to operate by the Illinois Board of Higher Education in 2009, the first private institution in the state of Illinois to open its doors since the founding of Greenville University in 1892. The closure of Morthland College and those businesses in its West Frankfort-based research and development park represent the loss of 150 jobs for Franklin County. Surviving businesses originally birthed in an effort to support the economy in West Frankfort have relocated to new headquarters in Williamson County and continue to operate. They remain separate and apart from any matters having to do with the College and the announcement of its closure.

Any questions from media or other sources, please contact Aaron Hopkins, LLP at [hoplaw1@gmail.com](mailto:hoplaw1@gmail.com). Current and former students with questions can reach college staff at the contact information at the top of this release. In accordance with FERPA guidelines, college staff is not permitted to speak to parents of current or former students without a signed release form on file.

Judge Ernest C. Canellos  
Office of Hearings and Appeals  
U.S. Department of Education  
Potomac Center Plaza South  
550 12<sup>th</sup> Street SW  
Room 10105  
Washington, D.C. 20202

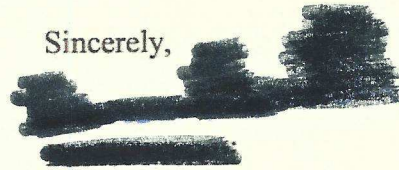
5.30.18

Re: In the Matter of Morthland College, Docket Nos. 17-47-EA, 17-48-ST, 17-50-SF

Dear Judge Canellos:

Enclosed for filing in the above-captioned case are the original and one copy of FSA's Status Report.

Sincerely,

A large, dark, irregular redacted area covering the signature of the sender.

Counsel for FSA

cc: Timothy Morthland

400 MARYLAND AVE. SW, WASHINGTON, DC 20202-2100  
www.ed.gov

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

UNITED STATES DEPARTMENT OF EDUCATION

IN THE MATTER OF

MORTHLAND COLLEGE,

Respondent

) Docket Nos. 17-47-EA  
) 17-48-ST  
) 17-50-SF  
)  
)  
) Federal Student Aid  
) Proceeding

**STATUS REPORT**

Federal Student Aid (FSA) respectfully submits this status report in the above-captioned case.

1. Pursuant to the Order Governing Proceedings, FSA filed its brief and exhibits on November 6, 2017.
2. At the request of counsel for Morthland, the parties filed a request for a stay of the proceedings to pursue settlement discussions.
3. The most recent counsel for the school, Mark McColl, filed the last status report on March 30, 2018. An additional status report was due on May 14, 2018.
4. The parties failed to file the status report by that date as counsel for FSA was waiting for communication from Mr. McColl regarding whether Morthland intended to proceed with settlement discussions, file its brief and exhibits, or close.
5. Mr. McColl recently informed counsel for FSA that Morthland does not believe further settlement discussions will result in a resolution of the case.

6. Mr. McColl also informed counsel that the school plans to close effective July 31, 2018. This fact has been confirmed by school officials, the state licensing body and the accreditor.

7. In addition, Mr. McColl has filed his withdrawal from the case, and counsel for FSA was informed that Morthland's president will be representing the school in this matter. Counsel for FSA informed the school officials that an entry of appearance should be filed. Counsel also provided the school officials the order governing proceedings since they claimed to be unaware of how to make the school's filing.

8. FSA will be filing a motion to dismiss the emergency action and termination portions of the proceeding as Morthland's closure will render those appeals moot.

9. Since the settlement negotiations have not resulted in the resolution of this matter, Morthland must now file its brief and exhibits. Counsel for FSA is recommending that Morthland be directed to file its brief and exhibits for the fine portion of the action by June 29, 2018.

10. Counsel apologizes for the delay in filing this status report.

Respectfully submitted.

A large, dark, irregular redaction mark covering the signature of the Counsel for FSA.

Counsel for FSA

Dated: May 30, 2018

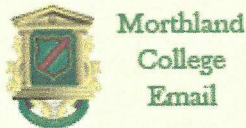
CERTIFICATE OF SERVICE

I certify that a copy of this Status Report was sent by regular mail to the following:

Timothy Morthland  
Morthland College  
202 East Oak Street  
West Frankfurt, Illinois 62896

5/30/18  
Date

  
Counsel for FSA



Emily Hayes <ehayes@morthland.edu>

**In the Matter of Morthland College**

**Crim, Susan** [redacted] Thu, May 31, 2018 at 9:00 AM  
To: Tim Morthland <tmorthland@morthland.edu>, [redacted]  
Cc: Emily Hayes <ehayes@morthland.edu>, Mark McColl <mamccoll@sbcglobal.net>, Joe Zdankiewicz <jzdankiewicz@morthland.edu>

Dr. Morthland,

Based on your notification that Morthland College will cease operations as of July 31, 2018, the Department will be filing a motion to dismiss the emergency action and termination action as the institution's impending closure renders those actions moot. The Department's counsel has filed a status report and has indicated to the hearing official that the Department intends to file a motion to dismiss for 17-47-EA and 17-48-ST. The Department is still considering whether to dismiss the associated fine action, 17-50-SF, and the Department may also move to dismiss that action at a later date.

As part of the institution's various correspondence with the Department on May 29, 2018, Morthland has additionally requested that "the program review cease" with the closing of the institution. As counsel has repeatedly told your previous counsels and you, and which I reiterated in our phone call on Tuesday, there will be a separate procedure for the program review. Any liabilities established through the program review, as set forth in a Final Program Review Determination (FPRD) letter, may be appealed to the Office of Hearings and Appeals.

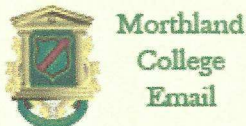
Since the email below was directed to me, I am responding on behalf of the Department. However, as we've notified Morthland, Denise Morelli serves as Federal Student Aid's (FSA's) counsel in this matter. All further communication on this matter should be directed to her.

[redacted]  
[redacted]

Administrative Actions and Appeals Service Group  
Enforcement Unit

[redacted]  
[redacted]

StudentAid.gov



Emily Hayes <ehayes@morthland.edu>

**Correspondence regarding OHA Docket No. 17-50-SF**

**Crim, Susan** [redacted]  
To: Tim <tmorthland@morthland.edu>, [redacted]  
Cc: Emily Hayes <ehayes@morthland.edu>, Joe Zdankiewicz <jzdankiewicz@morthland.edu>

Thu, May 31, 2018 at 4:03 PM

Dr. Morthland,

Please find correspondence regarding the fine action initiated against Morthland. Ms. Morelli has informed me that she will file the motion tomorrow, June 1<sup>st</sup>, to dismiss all three cases with OHA (Docket Nos. 17-47-EA, 17-48-ST, and 17-50-SF).

[redacted]

Director  
Administrative Actions and Appeals Service Group  
Enforcement Unit

[redacted]

[redacted]

[StudentAid.gov](http://StudentAid.gov)



This transmission may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is **STRICTLY PROHIBITED**. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format. Thank you.

# MORTHLAND COLLEGE

FOR IMMEDIATE RELEASE

Contact: Morthland College

Phone: 779-216-5930

Email: [info@morthland.edu](mailto:info@morthland.edu)

5:00 pm

Release

## Department of Education's Office of Hearing and Appeals Enters Motions to Dismiss Cases and Fines in the Matters of Morthland College

West Frankfort, Illinois, June 1, 2018—

Exactly one week since Morthland College filed its request for a hearing in Washington D.C., the Department of Education's Office of Hearing and Appeals has entered motions to dismiss all docket numbers associated in the Matters of Morthland College (17-47-EA, 17-48-ST, and 17-50-SF). The Department of Education's nearly \$2 million dollars in proposed fines against the institution were also dropped as a result of these motions.

Morthland College announced that it would not open for another fall term on May 25, 2018, 501 days since its last disbursement of federal funds. Following an early January of 2017 General Assessment Program Review by the United States Department of Education, a Heightened Cash Monitoring, Level 2 sanction was imposed on the college on Inauguration Day, January 20, 2017, ultimately leading to an emergency action letter the following August, representing the Chicago-Denver office's attempt to revoke Morthland College's ability to disperse federal funds entirely. To date, MC has received no program review report from the Department's January of 2017 visit.

MC's cases, which were sitting in the Office of Hearing and Appeals in Washington D.C., were cases pertaining to the institution's appeal of the Chicago-Denver Office's emergency action letter of August of 2017. Parties had been in settlement negotiations since late November of 2017 and had been unable to reach an agreement, even when counsel for the DOE had been notified in advance of the school's pending closure. On May 25, 2018, Morthland College formally requested to end settlement discussions and proceed with a prompt hearing in Washington, D.C.

Morthland College continues to deny all allegations set forth in the Department's emergency action letter, citing lack of due process denied to the institution during the HCM2 submissions of the Spring of 2017. In addition, MC claims that the Chicago-Denver Office is in violation of CFR 668.83 in their issuance of the emergency action letter. Morthland College's January 31, 2018, 14-page correspondence with the DOE, citing policy changes made as a result of the

# MORTHLAND COLLEGE

January of 2017 site visit, protected MC from the emergency action entirely. Nevertheless, MC's January 31 correspondence with Douglas Parrot, Head of the Chicago Denver Division, was ignored, the statute of protection for the college was ignored, and the DOE proceeded with an action in violation of CFR 668.83.

Despite Morthland College's insistence on a hearing, the Office of Hearing and Appeals elected to enter motions to dismiss all cases and fines late yesterday afternoon. Morthland College had prepared its brief, witness list, and approximately 9000 pages of counter-evidence, refuting the allegations set forth in the emergency action letter, the death nail which ultimately drained MC of its resources, not to mention launched the IBHE's September of 2017 investigation of the college and marked the beginning of an unparalleled PR attack on the fledging, faith-based institution.

While these motions to dismiss mark progress for Morthland College, the institution is still committed to bringing all matters with the Department of Education to closure. Administration still anticipates a final program review determination, entering month nineteen of their wait. The timeline for these processes to come to complete closure still cannot be determined.

Morthland College continues to cooperate with both the Illinois Board of Higher Education and TRACS (its accreditation agency) in providing pathways for transferability of credit for its current student body and the releasing of academic records for both its current and former students upon request. A formal teach-out agreement will be made available for students next week, as they make plans to complete their degrees elsewhere this fall.

Any questions from media or sources other than current and former students, please email [hoplaw1@gmail.com](mailto:hoplaw1@gmail.com). Current and former students with questions can reach college staff at the contact information at the top of this release. In accordance with FERPA guidelines, college staff is not permitted to speak to anyone other than students regarding academic or financial records, unless there is a signed release form on file.



UNITED STATES DEPARTMENT OF EDUCATION  
WASHINGTON, D.C. 20202

---

In the Matter of

Docket Nos. 17-47-EA, 17-48-ST, and  
17-50-SF

MORTHLAND COLLEGE,

Federal Student Aid Proceedings

Respondent.


---

**ORDER OF DISMISSAL**

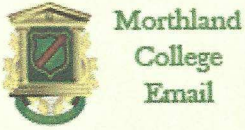
On August 22, 2017, the Office of Federal Student Aid (FSA) issued a notice to Morthland College, wherein it imposed an emergency action, and initiated action to terminate its Title IV eligibility, and to fine it. On September 29, 2017, after I was assigned to preside in this matter, I issued an Order Governing Proceedings. After a series of extensions, on June 4, 2018, I received a Motion to Dismiss from FSA's Counsel, reporting that the Respondent had lost its Title IV eligibility and, as a consequence, the termination and fine actions were moot and that the Department was therefore withdrawing its emergency and termination actions. Further, Counsel reported that FSA has decided that it is not in its best interest to pursue the fine action. As a consequence, Counsel filed a Motion to Dismiss, requesting that I dismiss the three above captioned proceedings.

I note that an attachment to the Motion to Dismiss indicates that on May 31, 2018, Respondent's President was notified of the withdrawal of the fine action and that an existing program review action against the Respondent would continue as a separate action. I note further that my dismissal of the above cited actions will have no consequence on the program review.

As a consequence of the above, cited actions are DISMISSED.

  
Ernest C. Canellos  
Chief Judge

Dated: June 4, 2018



Emily Hayes <ehayes@morthland.edu>

**17-47-EA, 17-48-ST, 17-50-SF Order of Dismissal**

Tue, Jun 5, 2018 at 7:00 AM

McGinn Shapiro, Daniel <Daniel.McGinnShapiro@ed.gov>

To: Emily Hayes <ehayes@morthland.edu>

Cc: "Morelli, Denise" <Denise.Morelli@ed.gov>, "tmorthland@morthland.edu" <tmorthland@morthland.edu>

Ms. Hayes,

The Order of Dismissal concludes any matters currently pending before the Office of Hearings and Appeals.

Thank you,

[Redacted]  
Attorney

U.S. Department of Education

Office of Hearings and Appeals

400 Maryland Ave., SW

Washington, DC 20202  
[Redacted]

**From:** Emily Hayes [mailto:ehayes@morthland.edu]

**Sent:** Tuesday, June 05, 2018 7:52 AM

**To:** [Redacted]

**Cc:** [Redacted], tmorthland@morthland.edu

**Subject:** Re: 17-47-EA, 17-48-ST, 17-50-SF Order of Dismissal

Thank you for this message. As we asked Ms. Morelli yesterday, does this officially end any Morthland matters that are within the Office of Hearings and Appeals?

[Quoted text hidden]

# MORTHLAND COLLEGE

1

June 4, 2018

The Honorable Betsy DeVos  
Secretary of Education  
United States Department of Education  
400 Maryland Avenue SW  
Washington, D.C. 20301

Tim Morthland, MD, PhD  
President at Morthland College  
PO Box 429  
West Frankfort, Illinois, 62896  
[tmorthland@morthland.edu](mailto:tmorthland@morthland.edu)  
(779) 216-5930-office  
[REDACTED]-cell  
[REDACTED]-alternate cell  
(618) 551-4094-fax

One page  
redacted due  
to confidentiality  
of appeal process.

Dear Secretary DeVos,

I am sending this correspondence as the President of Morthland College in West Frankfort, Illinois, at the direction of our governing Board of Trustees. On May 31, 2018, Ms. Susan Crim directed Ms. Denise Morelli, counsel for Federal Student Aid in the Office of Hearings and Appeals, to file dismissals of the following docket numbers and their associated fines pertaining to the matters of Morthland College, which have been with OHA since August 22, 2017:

17-47-EA  
17-48-ST  
17-50-SF

Exactly one week since the institution's request for a hearing, after nine months of unsuccessful settlement discussions, Morthland College is thankful for the prompt action of Ms. Crim to bring resolution to this part of the Morthland College's matters with the Department. Now that we have put the August 22, 2017 Emergency Action against the college behind us, we are humbly requesting that you review all other actions pertaining to the Chicago-Denver Division's biased

# MORTHLAND COLLEGE

and unfair treatment of Morthland College, from the time of its application to disperse federal student aid to date.

Among several exhibits, I have attached my original, December 27, 2017 letter to your offices. I received a response from Ms. Robin Minor in January and later initiated two phone calls with her. Ms. Minor stated that when our matter was out of the Office of Hearings and Appeals, we could engage in a dialogue with the Office of the Secretary of Education, regarding the Chicago-Denver Office of the Department of Education's series of egregious actions against Morthland College, actions which ultimately led to its bankruptcy.

We are a small, private, faith-based institution who has just announced that we will be closing our doors on July 31, 2018, after only eight years of operation. As the calendar turned to June of 2018, we entered month nineteen of a HCM2 sanction against the college, one that eventually led to an unwarranted emergency action letter, followed by a freeze on the federal dollars of our students of greater than 500 days and counting. This hold on funds eventually bankrupted our small school. To date, Morthland College has received no program review report from our January of 2017 general assessment site visit and has had no federal disbursements since January 5, 2017.

Even though motions have been entered to dismiss the cases in the Office of Hearings and Appeals, as a separate matter, it is our understanding that the Department still intends to issue a final program review determination---one that the Chicago-Denver Office promised us would be completed well over a year ago. Had we received the program review report within the time frame the Chicago-Denver Office indicated and the institution been given due process in modifying any of our policies and procedures as a result of that review, we might have been able to save our school. Nonetheless, please consider the following:

- It has been **500 days** since Douglas Parrott issued our January 20, 2017 Inauguration Day HCM2 letter. (attached)
- It has been **489 days** since I filed our policy changes with Douglas Parrott's office, an action that should have protected Morthland College from an Emergency Action Letter in accordance with CFR 668.83. (attached)

# MORTHLAND COLLEGE

- It has been **286 days** since the DOE issued an emergency action letter against the institution, ultimately leading to its bankruptcy and pending closure. (attached)
- It has been **1,662 days** since Douglas Parrott committed his first violation of the DOE's own statutes against MC. This is with regard to the dollar amount associated with an irrevocable letter of credit imposed upon the institution, where Mr. Parrot inflated the amount required of MC on the irrevocable letter of credit by more than 1400 percent. (attached letter and email request for corrective action attached)

On behalf of the Morthland College Board of Trustees, Morthland College forges on with the following humble requests of the Secretary's office, our only mechanism for seeking justice at this time. We know that you have the power to review and over-ride the Chicago-Denver Office's actions.

In a series of attachments, you will find Ms. Crim's 5.31.2018 letter for reference, where I have inferred that the Chicago-Denver office will still persist in attempting to impose uncollectible fines on our institution, a school whom they have already bankrupted.

First and foremost, we hereby formally request that the final program review determination be issued by another office than the Chicago-Denver Division. This request is based on Douglas Parrot's past prejudice against Morthland College that began as early as 2013 and is outlined below. In our opinion, it is impossible for this division of USED to fairly issue a report when they have a track record of policy violations against our school. Those violations are noted in detail in my 12.27.17 letter to you and my 5.29.18 letter to Ms. Crim, which is an updated version of our original correspondence from the end of 2017.

As we informed Ms. Crim this week, it has been our intention to file an immediate appeal of any program review finding that comes out of the Chicago-Denver office, as it is within our institutional right to do so, but perhaps we can curb that lengthy process by going down the pathway of moving the FPRD away from the purview of their division entirely. Perhaps the Department can request Chicago-Denver cease its actions against a closing institution and get the FDPR out of the hands of their offices.

# MORTHLAND COLLEGE

Finally, Morthland College understands that we can appeal directly to the office of the Secretary of Education with regard to the actions taken against the college as a whole, including but not limited to the following:

1. The HCM2 sanction placed on the school on Inauguration Day 2017.
2. The Chicago-Denver Office's failure to respond within a timely manner following their General Assessment Program Review site visit.
3. Douglas Parrott's repeated violations of DOE statutes against MC from 2013 forward.
4. Douglas Parrott's August of 2017 recommendation to Ms. Susan Crim to issue the Emergency Action letter against Morthland College, when my January 31, 2017 correspondence to his office protected the institution from this action.

We also understand that the primary contact person to proceed forward with this appeal to your office is Ms. Robin Minor, whom we could not formally speak with before because our matter had not been dismissed with OHA. If Ms. Minor or another one of your designees would be so kind as to go over the proper protocol with me, we are ready to present our appeal to you and to finally begin to tell our story, one of a small, fledgling, private, nationally accredited, faith-based school that was subject to actions by the Chicago-Denver Office that led to its bankruptcy and pending closure.

I have attached pertinent documents to this email, but our administrative offices have also prepared a brief, witness list, and 9000 pages of counter-evidence, refuting any claims made against the college from the time of the HCM2 sanction forward.

Morthland College wants to emphasize that our grievances with the Department of Education stop at the level of the Chicago-Denver Office, and that we are thankful to Ms. Crim for her communication this week and her direction to enter motions to dismiss our cases that have been in a settlement stale-mate since November of 2017.

Madame Secretary, we are thankful for your consideration of the Morthland College matters, which we acknowledge are small in comparison to all of higher education. However, we believe that our story represents a much larger attack on

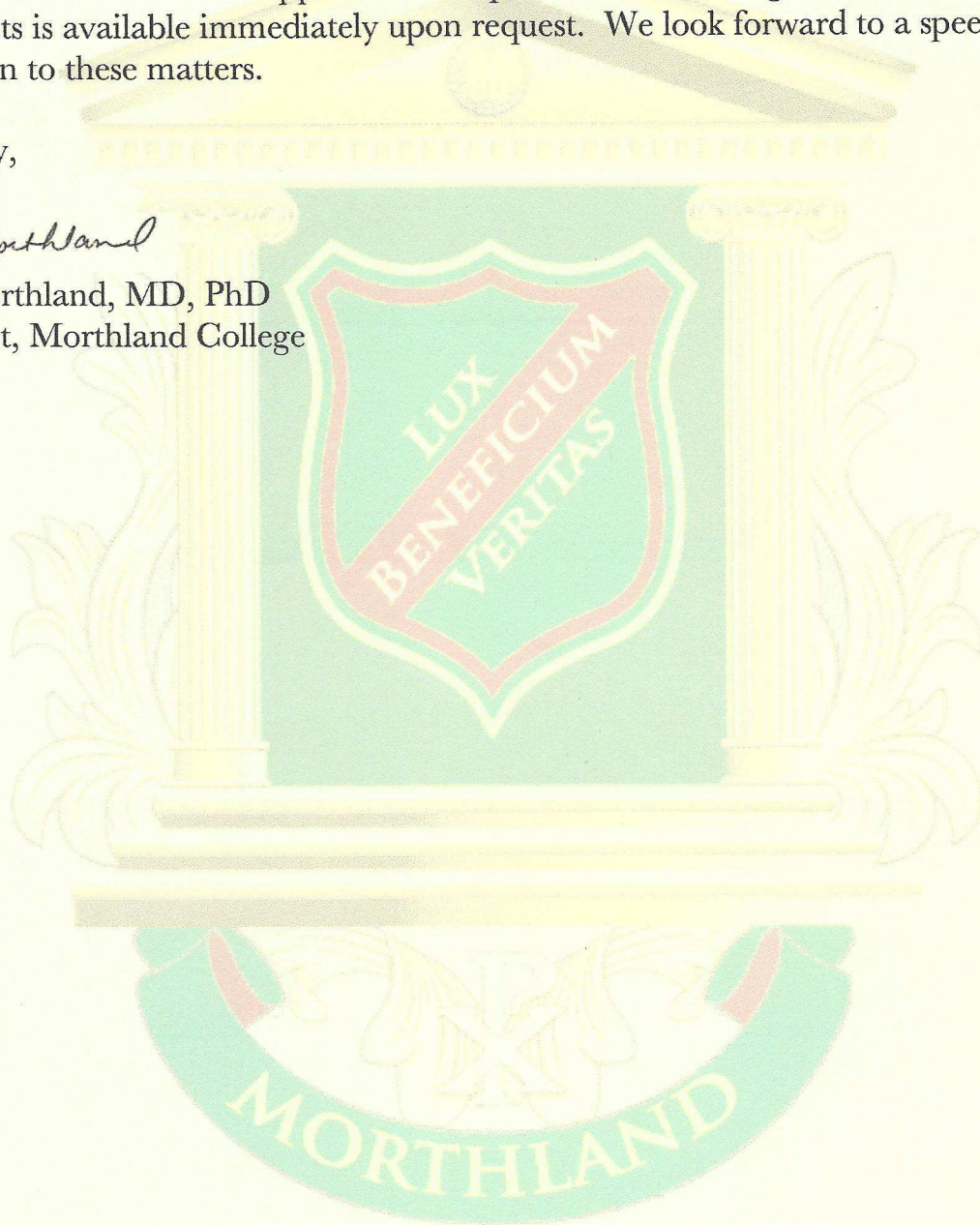
# MORTHLAND COLLEGE

private, faith-based education in America, an attack that often also includes those institutions that are accredited by faith-based, national accreditation agencies. I have attached a brief summary of our requests for your consideration and several narratives and exhibits to support these requests. Our full-length brief and full list of exhibits is available immediately upon request. We look forward to a speedy resolution to these matters.

Sincerely,

*Tim Morthland*

Tim Morthland, MD, PhD  
President, Morthland College



# MORTHLAND COLLEGE

## Pertinent Information for Consideration by the Secretary

**MC CHANGE OF POSITION:** Since our December of 2017 correspondence, MC and legal has reviewed the Emergency Action of FSA. We have attached a copy of the emergency action letter for you, as well. The college has conducted an exhaustive review of our admission policies, withdrawal policies, date of last attendance policies, educational policies and procedures of on-ground students, and educational policies and procedures of on-line students. It is the view of Morthland College that full compliance has been maintained by the school regarding Title IV administration.

Morthland College reviewed the documentation provided by FSA in support of their Emergency Action Letter in the Department's November 6, 2017 brief. We conclude the following: The Emergency Action of FSA was not necessary, was unsubstantiated, and issued as a final step in a series of prejudiced actions against Morthland College by Douglas Parrott and the Chicago-Denver FSA Office. We show proof of this prejudice in the attached exhibits. The material evidence submitted by FSA in support of their action is simply the HCM2 documentation the college staff prepared and submitted in the spring and summer of 2017. The documentation in no way supports an Emergency Action; the narrative of the Department's November brief is simply a reiteration of the Emergency Action letter, and the exhibits are simply incomplete portions of Morthland College's HCM2 requests for reimbursement.

The college understands the issues at hand were Title IV Eligibility and FSA Fines. In regard to these matters as presented in the Emergency Action Letter, the college is able to present documentation that refutes all allegations made by FSA upon request. FSA has not presented documentation to support their claims – rather only HCM2 documentation provided by the college. In the end, our demand for the emergency action letter to be withdrawn and all fines to be withdrawn was successful, and Morthland College was released from its purgatory in OHA.

**MC1 CAUSE OF EMERGENCY ACTION:** The primary reason for the emergency action taken against Morthland College is an assumption that there was a scheme to defraud the federal government through the enrollment of alleged, illegitimate students (FSA calls these prep academy students) and there is a claim

# MORTHLAND COLLEGE

that MC did not deliver legitimate distance education. These are claims FSA has made but they have not proven these claims. To support FSA's hyperbolic claims in the emergency action letter, FSA has conducted an investigation with other agencies over at least ninth months and has not found the proof of their allegations. Instead, Morthland College submits exhibits that refute FSA's hyperbolic claims of wrong doing, particularly a "prep academy student" or a "sports academy student" and "distance versus correspondence education." We maintain these students were legitimate students, were enrolled in degree programs, were delivered quality education, and were engaged as online students at Morthland College in accordance with best practices recommended by the Higher Learning Commission for distance education. Documentation is attached to this letter and additional documentation can be provided upon request.

In addition, our distance education was delivered in accordance with the Department's definition of online education. FSA claims it was a correspondence education. Relevant exhibits are attached, and additional documentation can be provided upon request.

With regard to the admission of students, Morthland College made clear to any agency, business, or academy with students who approached us for educational services: "as a college we simply admit and educate students – we have no interface with a business." To this end, the college crafted non-affiliation letters, and we educated with platforms that are also used by regionally accredited colleges. Each student admitted to Morthland College was eligible, had a complete student file at the time of admission, at the time of the review with FSA in January 2017, and were placed in legitimate degree programs, approved by the IBHE.

Further, CFR 600 makes no distinction of any type of student; indeed, regulations do not forbade admitting a student from a sports academy or any other training center or business. Our distance education cohort of students consisted of minority populations, students who largely would have been first generation college graduates, not unlike the ground population we served in an impoverished county in rural Illinois. Our mission has been to provide pathways out of poverty via education. For the Chicago Denver Office to suggest that students who also attended a prep academy or a sports academy were not eligible for Title IV dollars eliminated our ability to continue to serve a demographic in desperate need of higher education.

# MORTHLAND COLLEGE

Morthland College provides documentation that shows a history of prejudice against the college from the time of pre-accreditation and Title IV Eligibility to accreditation and throughout the history of our relationship with Douglas Parrott and the Chicago-Denver Office. To this end, we claim that the premature actions outlined in the emergency action letter were a deliberate step to push a private, faith-based college out of the Title IV programs. In our exhibits, we present a record of events that show repeated violations of the Chicago-Denver Office Director in his treatment of Morthland College. The HCMII letter and the following Emergency Action letter are but part of the same sequence of Douglas Parrott's historical treatment of Morthland College.

## **MC 2. LETTER OF POLICY CHANGE AND PROTECTION FROM EMERGENCY ACTION.**

FSA made an unannounced visit to MC on January 9 – January 13, 2017. During this time, we provided all documentation requested. One week later, MC was placed on HCM2 status. Four weeks later MC submitted “changes in policies” that addressed any concerns the FSA analysts brought forth in the site visit or in the HCM2 letter to the college. MC’s letter of policy changes should have alleviated any concerns regarding any potential misuse of Title IV funds and should have statutorily protected MC from such an emergency action of August 23, 2017. In review of the CFR 668.83,

- (4) The institution or servicer, as applicable, has the burden of persuading the show cause official that the emergency action imposed by the notice is unwarranted or should be modified because -*
- (i) The grounds stated in the notice did not, or no longer, exist;*
  - (ii) The grounds stated in the notice will not cause loss or misuse of Title IV, HEA program funds; or*
  - (iii) The institution or servicer, as applicable, will use procedures that will reliably eliminate the risk of loss from the misuse described in the notice.*

MC maintains FSA did not have reason and certainly no longer has reason to impose Emergency Action on the college. In the HCM2 letter, the analyst notes “serious issues with the application of the school’s admission policies, treatment of withdraws, and treatment of the last date of attendance.” These policy changes

# MORTHLAND COLLEGE

were implemented and issued by letter to FSA on January 31, 2017. I have attached a copy of that letter. Our policy changes were ignored, and FSA proceeded with Emergency Action the following August.

Lastly, when MC became aware of FSA's bias toward prep academies or sports academies, which we believe to be prejudice against an at-risk population, we ceased admitting new applicants who might have been enrolled in sports training programs or other programs. We did this even after we had just been authorized to offer an Associates in Arts Degree from the state of Illinois. But, we did not drop, of course, students who were making academic progress. With regard to (4)(ii), the grounds stated in the notice never caused loss or misuse of Title IV funds. We do not agree with the assertions of FSA and provide documentation to justify our position. In fact, we would state that the Chicago Denver office forced Morthland College to stop serving at-risk populations in desperate need of higher education and a pathway out of poverty, in direct violation of their own statute---CFR 600.

In light of MC's policy changes that preceded the Emergency Action letter by six months, the Emergency Action Letter should have never been issued, and our school was denied due process.

**MC 3. WITNESS LIST:** MC carefully reviewed the FSA's witness list. In our view, all key witnesses of FSA are impeachable as related to either crimes they committed against Morthland College and/or their submission or delivery of fraudulent claims about the college. We have exhibits supporting our claims of the witnesses committing theft, libel, and collusion to destroy the college should you wish to see them.

**MC4. DAMAGES TO MC:** We note that the issues at hand are the HCM2 sanction on the school, the Emergency Action letter, and the continued threat of unwarranted fines to be imposed upon a bankrupted school in Chicago-Denver's pending FPRD. The pre-emptive and unfounded act of FSA issuing their emergency action led to the school's bankruptcy and forced its announcement of closure.

# MORTHLAND COLLEGE

**In Light of the Information Presented Above and in the Attached Series of Exhibits, Morthland College Humbly Requests the Following Considerations of Secretary DeVos:**

- MC requests that the Secretary acknowledge the Chicago-Denver Division's incorrect and inflated calculation of the monetary amount assigned to its 2013 demand for the Letter of Irrevocable Credit imposed upon the fledgling school.
- MC requests that the Secretary acknowledge that Douglas Parrott failed to amend and correct the Chicago-Denver Division's Letter of Irrevocable Credit demand, even after his November of 2013 phone call and subsequent email from Morthland College's Executive Vice President, which made him aware of his error.
- MC requests that the Secretary acknowledge that the Chicago-Denver Division failed to acknowledge Dr. Morthland's January 31, 2017 correspondence regarding policy changes post-site visit, as the institution attempted to come into compliance with CFR 668.83.
- MC requests that the Secretary acknowledge that Douglas Parrott violated CFR 668.83 upon his recommendation of the issuance of the August 22, 2017 Emergency Action letter against the institution and denied Morthland College due process under the Department's own statutes.
- MC requests that the Secretary acknowledge that Douglas Parrott violated CFR 600 upon his recommendation of the issuance of the August 22, 2017 Emergency Action letter against the institution and failed to acknowledge that the Department of Education offers no definition of a "prep academy" or "sports academy" student within their own statutes.
- MC requests that the Secretary acknowledge that Douglas Parrott's violation of CFR 600 forced Morthland College to deny access to Title IV funds to minority and at-risk populations and also cut off access to Title IV funds to its current population of online and ground campus students, 90 percent of whom qualified for the use of Title IV funds under the Department's own statutes prior to the August of 2017 Emergency Action letter.

# MORTHLAND COLLEGE

- MC requests the Secretary formally acknowledge that the college was providing online education in accordance with the Department's definition of "distance education."
- MC requests the Secretary order a Final Program Review Determination by an entity other than the Chicago-Denver Division and that Douglas Parrott be formally removed from all matters pertaining to Morthland College and the FPRD.
- MC requests that the Secretary order FSA to issue immediate reimbursement for educational services and loans made under HCM2, including those students who fell under the purview of Douglas Parrott's arbitrary definition of "prep academy" or "sports academy" students, in violation of both CFR 668.86 and CFR 600.
- MC requests that the Secretary allow MC to submit their remainder of the HCM2 requests for reimbursement, as they ceased from being able to do so after August 22, 2017.
- MC requests that the Secretary use fair and just practices in establishing a calculation for monetary damages inflicted upon Morthland College, its student body, and its surrounding community, damages which were inflicted unjustly and without cause by Douglas Parrott and the Chicago-Denver Division of the United States Department of Education. Morthland College was the region's only option for private, faith-based education within approximately 150 miles of Franklin County, Illinois, and its July 31, 2018 closure marks the loss of 150 jobs for one of the poorest areas in the state of Illinois.
- MC requests that the Secretary's valuation of the monetary damages which resulted from Douglas Parrot and the Chicago-Denver Office's actions against Morthland College, be paid to the institution in addition to those dollars already reimbursable to MC under the Department's HCM2 statutes.

Should the Secretary require any further documentation, please do not hesitate to reach out to our offices. An appendix of federal statutes follows, along with the exhibits referenced throughout this document.

# MORTHLAND COLLEGE

## Appendix A Federal Statutes

### § 668.83 Emergency action.

(a) Under an emergency action, the Secretary may -

(1) Withhold Title IV, HEA program funds from a participating institution or its students, or from a third-party servicer, as applicable;

(2)

(i) Withdraw the authority of the institution or servicer, as applicable, to commit, disburse, deliver, or cause the commitment, disbursement, or delivery of Title IV, HEA program funds; or

(ii) Withdraw the authority of the institution or servicer, as applicable, to commit, disburse, deliver, or cause the commitment, disbursement, or delivery of Title IV, HEA program funds except in accordance with a particular procedure; and

(3)

(i) Withdraw the authority of the servicer to administer any aspect of any institution's participation in any Title IV, HEA program; or

(ii) Withdraw the authority of the servicer to administer any aspect of any institution's participation in any Title IV, HEA program except in accordance with a particular procedure.

(b)

(1) An initiating official begins an emergency action against an institution or third-party servicer by sending the institution or servicer a notice by registered mail, return receipt requested. In an emergency action against a third-party servicer, the official also sends the notice to each institution that contracts with the servicer. The official also may transmit the notice by other, more expeditious means if practical.

(2) The emergency action takes effect on the date the initiating official mails the notice to the institution or servicer, as applicable.

(3) The notice states the grounds on which the emergency action is based, the consequences of the emergency action, and that the institution or servicer, as applicable, may request an opportunity to show cause why the emergency action is unwarranted.

(c)

(1) An initiating official takes emergency action against an institution or third-party servicer only if that official -

(i) Receives information, determined by the official to be reliable, that the institution or servicer, as applicable, is violating any statutory provision of or

# MORTHLAND COLLEGE

applicable to Title IV of the HEA, any regulatory provision prescribed under that statutory authority, or any applicable special arrangement, agreement, or limitation entered into under the authority of statutes applicable to Title IV of the HEA;

**(ii)** Determines that immediate action is necessary to prevent misuse of Title IV, HEA program funds; and

**(iii)** Determines that the likelihood of loss from that misuse outweighs the importance of awaiting completion of any proceeding that may be initiated to limit, suspend, or terminate, as applicable -

**(A)** The participation of the institution in one or more Title IV, HEA programs; or

**(B)** The eligibility of the servicer to contract with any institution to administer any aspect of the institution's participation in a Title IV, HEA program.

**(2)** Examples of violations of a Title IV, HEA program requirement that cause misuse and the likely loss of Title IV, HEA program funds include -

**(i)** Causing the commitment, disbursement, or delivery by any party of Title IV, HEA program funds in an amount that exceeds -

**(A)** The amount for which students are eligible; or

**(B)** The amount of principal, interest, or special allowance payments that would have been payable to the holder of a Federal Stafford or Federal PLUS loan if a refund allocable to that loan had been made in the amount and at the time required;

**(ii)** Using, offering to make available, or causing the use or availability of Title IV, HEA program funds for educational services if -

**(A)** The institution, servicer, or agents of the institution or servicer have made a substantial misrepresentation as described in §§ 668.72, 668.73, or 668.74 related to those services;

**(B)** The institution lacks the administrative or financial ability to provide those services in full; or

**(C)** The institution, or servicer, as applicable, lacks the administrative or financial ability to make all required payments under § 668.22; and

**(iii)** Engaging in fraud involving the administration of a Title IV, HEA program. Examples of fraud include -

**(A)** Falsification of any document received from a student or pertaining to a student's eligibility for assistance under a Title IV, HEA program;

**(B)** Falsification, including false certifications, of any document submitted by the institution or servicer to the Secretary;

# MORTHLAND COLLEGE

(C) Falsification, including false certifications, of any document used for or pertaining to -

(1) The legal authority of an institution to provide postsecondary education in the State in which the institution is located; or

(2) The accreditation or preaccreditation of an institution or any of the institution's educational programs or locations;

(D) Falsification, including false certifications, of any document submitted to a guaranty agency under the Federal Stafford Loan or Federal PLUS programs or an independent auditor;

(E) Falsification of any document submitted to a third-party servicer by an institution or to an institution by a third-party servicer pertaining to the institution's participation in a Title IV, HEA program; and

(F) Falsification, including false certifications, of any document pertaining to the performance of any loan collection activity, including activity that is not required by the HEA or applicable program regulations.

(3) If the Secretary begins an emergency action against a third-party servicer, the Secretary may also begin an emergency action against any institution under whose contract a third-party servicer commits the violation.

(d)

(1) Except as provided in paragraph (d)(2) of this section, after an emergency action becomes effective, an institution or third-party servicer, as applicable, may not -

(i) Make or increase awards or make other commitments of aid to a student under the applicable Title IV, HEA program;

(ii) Disburse either program funds, institutional funds, or other funds as assistance to a student under that Title IV, HEA program;

(iii) In the case of an emergency action pertaining to participation in the Federal Stafford Loan or Federal PLUS programs -

(A) Certify an application for a loan under that program;

(B) Deliver loan proceeds to a student under that program; or

(C) Retain the proceeds of a loan made under that program that are received after the emergency action takes effect; or

(iv) In the case of an emergency action against a third-party servicer, administer any aspect of any institution's participation in any Title IV, HEA program.

(2) If the initiating official withdraws, by an emergency action, the authority of the institution or servicer to commit, disburse, deliver, or cause the commitment, disbursement, or delivery of Title IV, HEA program funds, or the authority of the

# MORTHLAND COLLEGE

servicer to administer any aspect of any institution's participation in any Title IV, HEA program, except in accordance with a particular procedure specified in the notice of emergency action, the institution or servicer, as applicable, may not take any action described in paragraph (d)(1) of this section except in accordance with the procedure specified in the notice.

(e)

(1) Upon request by the institution or servicer, as applicable, the Secretary provides the institution or servicer, as soon as practicable, with an opportunity to show cause that the emergency action is unwarranted or should be modified.

(2) An opportunity to show cause consists of an opportunity to present evidence and argument to a show-cause official. The initiating official does not act as the show-cause official for any emergency action that the initiating official has begun. The show-cause official is authorized to grant relief from the emergency action. The institution or servicer may make its presentation in writing or, upon its request, at an informal meeting with the show-cause official.

(3) The show-cause official may limit the time and manner in which argument and evidence may be presented in order to avoid unnecessary delay or the presentation of immaterial, irrelevant, or repetitious matter.

(4) The institution or servicer, as applicable, has the burden of persuading the show-cause official that the emergency action imposed by the notice is unwarranted or should be modified because -

(i) The grounds stated in the notice did not, or no longer, exist;

(ii) The grounds stated in the notice will not cause loss or misuse of Title IV, HEA program funds; or

(iii) The institution or servicer, as applicable, will use procedures that will reliably eliminate the risk of loss from the misuse described in the notice.

(5) The show-cause official continues, modifies, or revokes the emergency action promptly after consideration of any argument and evidence presented by the institution or servicer, as applicable, and the initiating official.

(6) The show-cause official notifies the institution or servicer, as applicable, of that official's determination promptly after the completion of the show-cause meeting or, if no meeting is requested, after the official receives all the material submitted by the institution in opposition to the emergency action. In the case of a notice to a third-party servicer, the official also notifies each institution that contracts with the servicer of that determination. The show-cause official may explain that determination by adopting or modifying the statement of reasons provided in the notice of emergency action.

# MORTHLAND COLLEGE

(f)

(1) An emergency action does not extend more than 30 days after initiated unless the Secretary initiates a limitation, suspension, or termination proceeding under this part or under 34 CFR part 600 against the institution or servicer, as applicable, within that 30-day period, in which case the emergency action continues until a final decision is issued in that proceeding, as provided in § 668.91(c), as applicable.

(2) Until a final decision is issued by the Secretary in a proceeding described in paragraph (f)(1) of this section, any action affecting the emergency action is at the sole discretion of the initiating official, or, if a show-cause proceeding is conducted, the show-cause official.

(3) If an emergency action extends beyond 180 days by virtue of paragraph (f)(1) of this section, the institution or servicer, as applicable, may then submit written material to the show-cause official to demonstrate that because of facts occurring after the later of the notice by the initiating official or the show-cause meeting, continuation of the emergency action is unwarranted, and the emergency action should be modified or ended. The show-cause official considers any written material submitted and issues a determination that continues, modifies, or revokes the emergency action.

(g) The expiration of an emergency action, or its modification or revocation by the show-cause official, does not bar subsequent emergency action on a ground other than one specifically identified in the notice imposing the prior emergency action. Separate grounds may include violation of an agreement or limitation imposed or resulting from the prior emergency action.

(Authority: 20 U.S.C. 1094)

[ 59 FR 22445, Apr. 29, 1994, as amended at 60 FR 34432, June 30, 1995; 63 FR 40626, July 29, 1998; 64 FR 59042, Nov. 1, 1999; 82 FR 6257, Jan. 19, 2017]