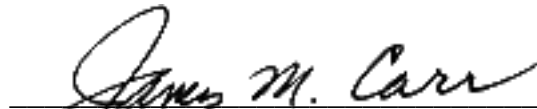


SO ORDERED: June 17, 2020.




James M. Carr
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

IN RE:)
)
ITT EDUCATIONAL SERVICES, INC., *et al.*¹) Case No. 16-07207-JMC-7A
)
Debtors.) Jointly Administered

**ORDER GRANTING STUDENT CLAIMANTS’ MOTION
FOR AN ORDER MODIFYING THE PROTECTIVE ORDER GOVERNING
THE PRODUCTION OF DISCOVERY MATERIALS BY THE TRUSTEE**

Upon the motion (the “Motion”) [Doc 3957] of Student Claimants² for an order pursuant to Fed. R. Bankr. P. 9013 modifying the Protective Order (Doc 2803); this Court, having jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334; it appearing that venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409; it appearing that this matter affects the administration of the debtors’ estate; and after due deliberation thereon, it is

¹ The debtors in these cases, along with the last four digits of their respective federal tax identification numbers are ITT Educational Services, Inc. [1311]; ESI Service Corp. [2117]; and Daniel Webster College, Inc. [5980].

² Capitalized terms used but not otherwise defined herein shall have the meanings used in the Motion.

hereby ORDERED:

1. The Motion is GRANTED.

2. Pursuant Rule 9013 the following modifications are hereby attached as controlling provisions to Paragraph 24 of the Protective Order:

- a. Trustee, upon the written request and submission of Discovery Materials for review by a Receiving Party (“Request”), may waive the requirement that Receiving Parties must file under seal any Confidential, Attorneys’ Eyes Only, or Protected Information (with required redactions) Discovery Materials for their intended use in any Proceeding before the Department of Education, including for Borrower Defense Applications (“Waiver”). The Trustee review procedures are as follows:

The Receiving Party must provide the Trustee with the Discovery Materials it intends to use and/or disseminate for such use in any Proceeding before the Department of Education, including for Borrower Defense Applications. Within 30 calendar days of the Receiving Party’s written Request and document submission, the Trustee will determine whether there is an objection to a Waiver. If no objection is presented, or no request for an extension of time is presented, the Request will be deemed granted. Once the Request is deemed granted, the Receiving Party may submit Discovery Materials to the Department of Education, including for Borrower Defense Applications. Additionally, counsel for Student Claimants and any state government entity, including any state attorney general’s office (“state entities”), may make such Discovery Materials approved for Waiver available to student borrowers upon request to Student Claimants’ counsel or state entities for usage in Proceedings before the Department of Education, including for Borrower Defense

Applications. If the Trustee does object to Waiver within the 30-day period, the Receiving Party reserves its right to contest this objection and seek the Court's resolution of the contested matter, according to the process detailed in paragraph 18 of the Protective Order and any other applicable law.

If the Receiving Party is a state government entity, including any state attorney general's office ("state entities"), such party shall coordinate with counsel for the Student Claimants to ensure that duplicate Requests are not submitted to the Trustee. Instead, when possible, Requests from state entities shall be sent collectively and in conjunction with any Requests from counsel for Student Claimants. If state entities would like to submit a Request to the Trustee but Student Claimants' counsel have already submitted or concluded their Requests to the Trustee, it is the state entities' responsibility to confirm from Student Claimants' counsel what Discovery Materials were already submitted to the Trustee and which Discovery Materials were approved for Waiver or if there was any objection to Waiver, in order to ensure that duplicate Requests are not sent to the Trustee. For any Discovery Materials Requested by state entities that have not been previously Requested by counsel for the Student Claimants, the Trustee shall review such Requests according to the 30-day deadline and procedure described *supra*.

- b. Trustee, upon the written Request of a Receiving Party, may waive the Confidential protections of previously designated Confidential or Attorney's Eyes Only Discovery Materials, including documents turned over as part of the Government Productions, for the purpose of submitting the Discovery Materials to the Department of Education, including for Borrower Defense Applications. Once the Request is deemed granted, the Receiving Party may submit Discovery Materials to

the Department of Education, including for Borrower Defense Applications.

Additionally, counsel for Student Claimants and state entities may make such Discovery Materials approved for Waiver available to student borrowers upon request to Student Claimants' counsel or state entities for usage in Proceedings before the Department of Education, including for Borrower Defense Applications.

3. All other provisions of the Protective Order shall remain unchanged and applicable.

###