

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Blackboard, Inc.)	
Petition for Expedited Declaratory Ruling)	CG Docket No. 02-278
)	
Rules and Regulations Implementing the)	
Telephone Consumer Protection Act of 1991)	
_____)	

**Reply Comments of NACUBO
on Blackboard Inc. Petition for Expedited Declaratory Ruling**

The National Association of College and University Business Officers (NACUBO) is pleased to provide this response to comments submitted to the Federal Communications Commission on the Petition for Expedited Declaratory Ruling submitted by Blackboard, Inc. (Blackboard). NACUBO represents more than 2,100 public and nonprofit colleges and universities. The association is dedicated to promoting sound fiscal and administrative practices at campuses across the country.

Colleges and universities often need a fast, efficient way to communicate with students and alumni. As cellular telephone technology continues to become more affordable, students and former students often use mobile telephones as their primary means of communication. Further, students often do not regularly check their campus-issued email account. Institutions have turned to automated dialers and mass text notifications to notify these individuals about registration deadlines, campus events, the availability of credit balance refunds, and other important information, including emergency alert communications.

Of course, NACUBO encourages its members to obtain express consent from students for the use of automated dialers and mass texting devices during enrollment. However, because of the increasing litigious environment that is developing around violations of the Telephone Consumer Protection Act (TCPA), colleges and universities may still find themselves subject to penalties and lawsuits even after they have properly obtained prior express consent from students and other members of the community.

Because of this, NACUBO agrees with comments submitted from the Coalition of Higher Education Assistance Organizations, Twitter Inc., District of Columbia Public Schools, Los Angeles Unified School District, Fairfax County Public Schools, and Metropolitan Nashville Public Schools. Colleges and universities should not be liable for unknowingly contacting a new owner of a telephone number when the institution has express consent

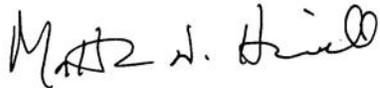
to contact the original owner of said telephone number. It is impossible for colleges and universities to know when a telephone number has changed hands; the only way that an institution would likely discover that a number had been “recycled” would be when the caller reached an individual in error.

If an institution does discover that a number – where consent was once received – is now assigned to another individual, the institution should immediately stop contacting the individual at that number using automated dialer technology and mass texting.

Additionally, NACUBO agrees with the above commenters that the meaning of “called party” should be the party that a caller *intended* to reach, not the person subscribing to the called number at the time the call is made. As Twitter Inc. noted in its comments, “there is no realistic way for companies to be sure that every number they call (based on a user’s prior consent) still belongs to that user.” Further, NACUBO agrees that if “called party” instead refers to the individual answering the call, it could lead to results that Congress did not intend when creating the TCPA.

In conclusion, colleges and universities go to great lengths to ensure they are within the law when communicating with students by receiving express consent to allow for the use of automated dialing equipment and mass notification systems. While some students may notify their school when they change mobile telephone numbers, many do not. Blackboard, and colleges and universities, should not be liable for accidentally reaching a caller when the intent is to reach a student that provided consent. Because of this, the Commission should grant the Blackboard petition as requested.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt W. Hamill". The signature is written in a cursive, slightly slanted style.

Matthew W. Hamill
Senior Vice President
Advocacy and Issue Analysis
National Association of College and University Business Officers