

U.S. SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

Form 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2019

Commission File Number 000-51371

LINCOLN EDUCATIONAL SERVICES CORPORATION

(Exact name of registrant as specified in its charter)

New Jersey

(State or other jurisdiction of incorporation or organization)

57-1150621

(IRS Employer Identification No.)

200 Executive Drive, Suite 340

West Orange, NJ 07052

(Address of principal executive offices)

(973) 736-9340

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol	Name of exchange on which registered
Common Stock, no par value per share	LINC	The NASDAQ Stock Market LLC

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes   
No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes   
No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes  No

The aggregate market value of the 23,644,412 shares of common stock held by non-affiliates of the registrant issued and outstanding as of June 28, 2019, the last business day of the registrant's most recently completed second fiscal quarter, was \$54,618,592. This amount is based on the closing price of the common stock on the Nasdaq Global Select Market of \$2.31 per share on that date. Shares of common stock held by executive officers and directors and persons who own 5% or more of the

outstanding common stock have been excluded since such persons may be deemed affiliates. This determination of affiliate status is not a determination for any other purpose.

The number of shares of the registrant's common stock outstanding as of March 3, 2020 was 26,364,521.

### **Documents Incorporated by Reference**

Certain information required in Part III of this Annual Report on Form 10-K will be included in a definitive proxy statement for the registrant's annual meeting of shareholders or an amendment to this Annual Report on Form 10-K, in either case filed with the Commission within 120 days after December 31, 2019, and is incorporated by reference herein.

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## Forward-Looking Statements

This Annual Report on Form 10-K and the documents incorporated by reference contain “forward-looking statements,” within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, which include information relating to future events, future financial performance, strategies, expectations, competitive environment, regulation and availability of resources. These forward-looking statements include, without limitation, statements regarding: proposed new programs; expectations that regulatory developments or other matters will or will not have a material adverse effect on our consolidated financial position, results of operations or liquidity; statements concerning projections, predictions, expectations, estimates or forecasts as to our business, financial and operating results and future economic performance; and statements of management’s goals and objectives and other similar expressions concerning matters that are not historical facts. Words such as “may,” “should,” “could,” “would,” “predicts,” “potential,” “continue,” “expects,” “anticipates,” “future,” “intends,” “plans,” “believes,” “estimates,” and similar expressions, as well as statements in future tense, identify forward-looking statements.

Forward-looking statements should not be read as a guarantee of future performance or results, and will not necessarily be accurate indications of the times at, or by, which such performance or results will be achieved. Forward-looking statements are based on information available at the time those statements are made and/or management’s good faith belief as of that time with respect to future events, and are subject to risks and uncertainties that could cause actual performance or results to differ materially from those expressed in or suggested by the forward-looking statements. Important factors that could cause such differences include, but are not limited to:

- our failure to comply with the extensive existing regulatory framework applicable to our industry or our failure to obtain timely regulatory approvals in connection with a change of control of our company or acquisitions;
- the promulgation of new regulations in our industry as to which we may find compliance challenging;
- our success in updating and expanding the content of existing programs and developing new programs in a cost-effective manner or on a timely basis;
- our ability to implement our strategic plan;
- risks associated with changes in applicable federal laws and regulations including pending rulemaking by the U.S. Department of Education;
- uncertainties regarding our ability to comply with federal laws and regulations regarding the 90/10 rule and cohort default rates;
- risks associated with maintaining accreditation
- risks associated with opening new campuses and closing existing campuses;
- risks associated with integration of acquired schools;
- industry competition;
- conditions and trends in our industry;
- general economic conditions; and
- other factors discussed under the headings “Business,” “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations.”

Forward-looking statements speak only as of the date the statements are made. Except as required under the federal securities laws and rules and regulations of the United States Securities and Exchange Commission, we undertake no obligation to update or revise forward-looking statements to reflect actual results, changes in assumptions or changes in other factors affecting forward-looking information. We caution you not to unduly rely on the forward-looking statements when evaluating the information presented herein.

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## PART I.

### ITEM 1. BUSINESS

#### Overview

Lincoln Educational Services Corporation and its subsidiaries (collectively, the “Company”, “we”, “our” and “us”, as applicable) provide diversified career-oriented post-secondary education to recent high school graduates and working adults. The Company, which currently operates 22 campuses in 14 states, offers programs in automotive technology, skilled trades (which include HVAC, welding and computerized numerical control and electrical and electronic systems technology, among other programs), healthcare services (which include nursing, dental assistant and medical administrative assistant, among other programs), hospitality services (which include culinary, therapeutic massage, cosmetology and aesthetics) and information technology (which consists of information technology programs). The schools operate under Lincoln Technical Institute, Lincoln College of Technology, Lincoln Culinary Institute, and Euphoria Institute of Beauty Arts and Sciences and associated brand names. Most of the campuses serve major metropolitan markets and each typically offers courses in multiple areas of study. Five of the campuses are destination schools, which attract students from across the United States and, in some cases, from abroad. The Company’s other campuses primarily attract students from their local communities and surrounding areas. All of the campuses are nationally or regionally accredited and are eligible to participate in federal financial aid programs managed by the U.S. Department of Education (the “DOE”) and applicable state education agencies and accrediting commissions which allow students to apply for and access federal student loans as well as other forms of financial aid. Lincoln Educational Services Corporation was incorporated in New Jersey in 2003 as the successor-in-interest to various acquired schools including Lincoln Technical Institute, Inc. which opened its first campus in Newark, New Jersey in 1946.

Our business is organized into three reportable business segments: (a) Transportation and Skilled Trades, (b) Healthcare and Other Professions (“HOPS”), and (c) Transitional, which refers to our campus operations which have been closed prior to 2019. As of December 31, 2019, we had 11,285 students enrolled at 22 campuses. Our average enrollment for the year ended December 31, 2019 was 10,985 students which represented an increase of 3.7% from average enrollment in 2018. For the year ended December 31, 2019, our revenues were \$273.3 million, which represented an increase of 3.9 % from the prior year. For more information relating to our revenues, profits and financial condition, please refer to “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements included in this Annual Report on Form 10-K.

We believe that we provide our students with the highest quality career-oriented training available for our areas of study in our markets. We offer programs in areas of study that we believe are typically underserved by traditional providers of post-secondary education and for which we believe there exists significant demand among students and employers. Furthermore, we believe our convenient class scheduling, career-focused curricula and emphasis on job placement offer our students valuable advantages that have been neglected by the traditional academic sector. By combining substantial hands-on training with traditional classroom-based training led by experienced instructors, we believe we offer our students a unique opportunity to develop practical job skills in many of the key areas of expected job demand. We believe these job skills enable our students to compete effectively for employment opportunities and to pursue salary and career advancement.

#### Business Strategy

We strive to strengthen our position as a leading provider of career-oriented post-secondary education by continuing to pursue the following strategy:

- **Expand Existing Areas of Study and Existing Facilities.** We believe we can leverage our operations to expand our program offerings in existing areas of study and new high-demand areas of study in the Transportation and Skilled Trades segment to capitalize on demand from students and employers in our target markets. Whenever possible, we seek to replicate programs across our campuses.
- **Maximize Utilization of Existing Facilities.** We are focused on improving capacity utilization of existing facilities through increased enrollments, the introduction of new programs and partnerships with industry.
- **Expand Market.** We believe that we can enter new markets and broaden the Lincoln brand by partnering with nationally recognized brands to provide the skills needed to train our nation’s workforce. We continue to expand our industry relationships both to attract new students and to offer our graduates more employment opportunities. We continue to establish partnerships with companies like BMW, Chrysler (FCA), Husmann, Volkswagen and Audi that will enable graduates to receive higher wages. We expect to continue investing in marketing, recruiting and retention resources to increase enrollment.

## Programs and Areas of Study

We structure our program offerings to provide our students with a practical, career-oriented education and position them for attractive entry-level job opportunities in their chosen fields. Our diploma and certificate programs typically take between 19 to 136 weeks to complete, with tuition ranging from \$7,000 to \$44,000. Our associate's degree programs typically take between 64 to 98 weeks to complete, with tuition ranging from \$27,000 to \$37,000. As of December 31, 2019, all of our schools offer diploma and certificate programs and nine of our schools are currently approved to offer associate's degree programs. In order to accommodate the schedules of our students and maximize classroom utilization at some of our campuses, we typically offer courses four to five days a week in three shifts per day and start new classes every month. We update and expand our programs frequently to reflect the latest technological advances in the field, providing our students with the specific skills and knowledge required in the current marketplace. Classroom instruction combines lectures and demonstrations by our experienced faculty with comprehensive hands-on laboratory exercises in simulated workplace environments.

The following table lists the programs offered as of December 31, 2019:

<b>Current Programs Offered</b>		
<b>Area of Study</b>	<b>Associate's Degree</b>	<b>Diploma and Certificate</b>
Automotive Technology	Automotive Service Management, Collision Repair & Refinishing Service Management, Diesel & Truck Service Management	Automotive Mechanics, Automotive Technology, Automotive Technology with Audi, Automotive Technology with BMW FastTrack, Automotive Technology with Mopar X-Press, Automotive Technology with High Performance, Automotive Technology with Volkswagen, Collision Repair and Refinishing Technology, Diesel & Truck Mechanics, Diesel & Truck Technology, Diesel & Truck Technology with Alternate Fuel Teechnology, Diesel & Truck Technology with Transport Refrigeration, Diesel & Truck with Automotive Technology, Heavy Equipment Maintenance Technology, Heavy Equipment and Truck Technology
Skilled Trades	Electronic Engineering Technology, HVAC, Electronics Systems Service Management	Electrical Technology, Electrical & Electronics Systems Technician, HVAC, Welding Technology, Welding with Introduction to Pipefitting, CNC
Health Sciences	Medical Assisting Technology, Medical Office Management	Medical Office Assistant, Medical Assistant, Patient Care Technician, Medical Coding & Billing, Dental Assistant, Licensed Practical Nursing
Hospitality Services		Culinary Arts, Cosmetology, Aesthetics, International Baking and Pastry, Nail Technolgy, Therapeutic Massage & Bodywork Technician
Information Technology	Computer Networking and Support	Computer & Network Support Technician

**Automotive Technology.** Automotive technology is our largest area of study, with 35% of our total average student enrollment for the year ended December 31, 2019 falling into this area. Our automotive technology programs are 28 to 136 weeks in length, with tuition rates of \$14,000 to \$44,000. We believe that we are a leading provider of automotive technology education in each of our local markets. Graduates of our programs are qualified to obtain entry-level employment ranging from positions as technicians and mechanics to various apprentice level positions. Our graduates are employed by a wide variety of companies, ranging from automotive and diesel dealers, to independent auto body paint and repair shops to trucking and construction companies.

As of December 31, 2019, 12 campuses offered programs in automotive technology and most of these campuses offer other technical programs. Our campuses in East Windsor, Connecticut; Nashville, Tennessee; Grand Prairie, Texas; Indianapolis, Indiana; and Denver, Colorado are destination campuses, attracting students throughout the United States and, in some cases, from abroad.

**Skilled Trades.** Our skilled trades programs include electrical, heating and air conditioning repair, welding, computerized numerical control and electronic and electronic systems technology. For the year ended December 31, 2019, skilled trades was our second largest area of study, representing 31% of our total average student enrollment. Our skilled trades programs are 28 to 98 weeks in length, with tuition rates of \$16,000 to \$34,000. Graduates of our programs are qualified to obtain entry-level employment positions such as electrician, cable installer, welder, wiring and heating, ventilating and air conditioning, or HVAC installer and are employed by a wide variety of types of employers, including residential and commercial construction, telecommunications installation companies and architectural firms. As of December 31, 2019, we offered skilled trades programs at 14 campuses.

**Health Sciences.** Our health sciences programs qualify students to obtain positions such as licensed practical nurse, dental assistant, medical assistant, medical administrative assistant and claims examiner. For the year ended December 31, 2019, 26% of our total average student enrollment was in our health science programs. Our health science programs are 35 to 104 weeks in length, with tuition rates of \$15,000 to \$32,000. Graduates of our health sciences programs may be employed by a wide variety of employers, including hospitals, laboratories, insurance companies and doctors' offices. Our practical nursing and medical assistant programs are our largest health science programs. As of December 31, 2019, we offered health science programs at 10 of our campuses.

**Hospitality Services.** Our hospitality programs include culinary, therapeutic massage, cosmetology and aesthetics. For the year ended December 31, 2019, 6% of our total average student enrollment was in our hospitality services programs. Our hospitality services programs are 19 to 88 weeks in length, with tuition rates of \$7,000 to \$22,000. Graduates of the hospitality services programs work in salons, spas, cruise ships or are self-employed. We offer massage programs at three campuses and cosmetology programs at one campus. Our culinary graduates are employed by restaurants, hotels, cruise ships and bakeries. As of December 31, 2019, we offered these programs at six campuses.

**Information Technology.** We have focused our current information technology, or IT, program offerings on those that are most in demand, such as our computer and network support technician program. For the year ended December 31, 2019, 2% of our total average student enrollment was in our information technology programs. Our information technology programs are 40 to 80 weeks in length, with tuition rates of \$20,000 to \$33,000. Our IT technology program graduates obtain entry-level positions with both small and large corporations. As of December 31, 2019, we offered these programs at four of our campuses.

### **Marketing and Student Recruitment**

We utilize a variety of marketing and recruiting methods to attract students and increase enrollment. Our marketing and recruiting efforts are targeted at prospective students who are high school graduates entering the workforce, or who are currently underemployed or unemployed and require additional training to enter or re-enter the workforce.

**Marketing and Advertising.** We utilize a fully integrated marketing approach in our lead generation and admissions process that includes the use of traditional media such as television, radio, billboards, direct mail, a variety of print media and event marketing campaigns as well as digital marketing efforts, which include paid search, search engine optimization, online video and display advertising and social media channels, which have grown significantly in recent years and currently drive the majority of our new student leads and enrollments. Our website's integrated marketing campaigns direct prospective students to call us or visit the Lincoln website where they will find details regarding our programs and campuses and can request additional information regarding the programs that interest them. Our internal systems enable us to closely monitor and track the effectiveness of each marketing execution on a daily or weekly basis and make adjustments accordingly to enhance efficiency and limit our student acquisition costs.

**Referrals.** Referrals from current students, high school counselors and satisfied graduates and their employers have historically represented 16% of our new enrollments. Our school administrators actively work with our current students to encourage them to recommend our programs to prospective students. We endeavor to build and retain strong relationships with high school guidance counselors and instructors by offering annual seminars at our training facilities to further familiarize these individuals on the strengths of our programs.

**Recruiting.** Our recruiting efforts are conducted by a group of approximately 250 campus-based and field representatives who meet directly with prospective students during presentations conducted at high schools, in the prospective students' homes or during a visit to one of our campuses. We also recruit adult career-seekers or career-changers through our campus based representatives

During 2019, we recruited approximately 23% of our students directly out of high school. Field sales continue to be a large part of our business and developing local community relationships is one of our most important functions. In 2019, we added one high school manager to the corporate team to assist in training and development of our team in the field.

### **Student Admissions, Enrollment and Retention**

**Admissions.** In order to attend our schools, students must have either a high school diploma or a high school equivalency certificate (or General Education Development Certificate, GED). In addition, students must complete an application and pass an entrance assessment. We take admissions requirements very seriously as they are the best indicators of our students' likelihood of graduation and of subsequent successful employment. While each of our programs has different admissions criteria, we screen all applications and counsel prospective students on the most appropriate program to increase the likelihood that our students complete the requisite coursework and obtain and sustain employment following graduation.

**Enrollment.** We enroll students continuously throughout the year, with our largest classes enrolling in late summer or early fall following high school graduation. We had 11,285 students enrolled as of December 31, 2019 and our average enrollment for the year ended December 31, 2019 was 10,985 students, an increase of 3.7% in average enrollment from December 31, 2018. We had 10,525 students enrolled as of December 31, 2018 and our average enrollment for that year was 10,591 students, a decrease of 1.7% in average enrollment from December 31, 2017.

**Retention.** To maximize student retention, the staff at each school is trained to recognize the early warning signs of a potential drop and to assist and advise students on academic, financial and employment matters. We monitor our retention rates by instructor, course, program and school. When we become aware that a particular instructor or program is experiencing a higher than normal dropout rate, we quickly seek to determine the cause of the problem and attempt to correct it. When we identify that a student is experiencing difficulty academically, we offer tutoring.

### **Job Placement**

We believe that assisting our graduates in securing employment after completing their program of study is critical to our mission as a post-secondary educational institution as well as to our ability to attract high quality students and enhance our reputation in the industry. In addition, we believe that high job placement rates result in low student loan default rates, an important requirement for continued participation in Title IV of the Higher Education Act of 1965, as amended (“Title IV Programs”). See Part I, Item 1. “Business - Regulatory Environment—Regulation of Federal Student Financial Aid Programs.” Accordingly, we dedicate significant resources to maintaining an effective graduate placement program. Our non-destination schools work closely with local employers to ensure that we are training students with skills that local employers seek. Each school has an advisory council comprised of local employers who provide us with direct feedback on how well we are preparing our students to succeed in the workplace. This enables us to tailor our programs to the marketplace. The placement staff in each of our destination schools maintains databases of potential employers throughout the country, allowing us to more effectively assist our graduates in securing employment in their career field upon graduation. Throughout the year, we hold numerous job fairs at our facilities where we provide the opportunity for our students to meet and interact with potential employers. In addition, many of our schools have internship programs that provide our students with opportunities to work with employers prior to graduation. For example, some of the students in our automotive programs have the opportunity to complete a portion of their hands-on training in an actual work environment. In addition, some of our students in health sciences programs are required to participate in an externship program during which they work in the field as part of their career training. We also assist students with resume writing, interviewing and other job search skills.

### **Faculty and Employees**

We hire our faculty in accordance with established criteria, including relevant work experience, educational background and accreditation and state regulatory standards. We require meaningful industry experience of our teaching staff in order to maintain the quality of instruction in all of our programs and to address current and industry-specific issues in our course content. In addition, we provide intensive instructional training and continuing education, including quarterly instructional development seminars, annual reviews, technical upgrade training, faculty development plans and weekly staff meetings. Our average student/teacher ratio is approximately 16 to 1.

The staff of each school typically includes a school director, a director of graduate placement, an education director, a director of student services, a financial-aid director, an accounting manager, a director of admissions and instructors, all of whom are industry professionals with experience in our areas of study.

As of December 31, 2019, we had approximately 1,922 employees, including 476 full-time faculty and 390 part-time instructors. At six of our campuses, the teaching professionals are represented by unions. These employees are covered by collective bargaining agreements that expire between 2020 and 2022. We believe that we have good relationships with these unions and with our employees.

### **Competition**

The for-profit, post-secondary education industry is highly competitive and highly fragmented with no one provider controlling significant market share. Direct competition between career-oriented schools like ours and traditional four-year colleges or universities is limited. Thus, our main competitors are other for-profit, career-oriented schools, not-for-profit public schools and private schools, and public and private two-year junior and community colleges, most of which are eligible to receive funding under the federal programs of student financial aid authorized by Title IV Programs. Competition is generally based on location, the type of programs offered, the quality of instruction, placement rates, reputation, recruiting and tuition rates; therefore, our competition is different in each market depending on, among other things, the availability of other options. Public institutions are generally able to charge lower tuition than our schools, due in part to government subsidies and other financial sources not available to for-profit schools. In addition, some of our other competitors have a more extensive network of schools and campuses which enables them to recruit students more efficiently from a wider geographic area. Nevertheless, we believe that we are able to compete effectively in our local markets because of the diversity of our program offerings, quality of instruction, the strength of our brands, our reputation and our graduates’ success in securing employment after completing their program of study.





Our competition differs in each market depending on the curriculum that we offer. For example, a school offering automotive technology, healthcare services and skilled trades programs will have a different group of competitors than a school offering healthcare services and IT technology programs. Also, because schools can add new programs within six to twelve months, competition can emerge relatively quickly. Moreover, with the introduction of online education, the number of competitors in each market has increased because students can now attend classes from an online institution. On average, each of our schools has at least three direct competitors and at least a dozen indirect competitors.

### **Environmental Matters**

We use hazardous materials at our training facilities and campuses, and generate small quantities of regulated waste such as used oil, antifreeze, paint and car batteries. As a result, our facilities and operations are subject to a variety of environmental laws and regulations governing, among other things, the use, storage and disposal of solid and hazardous substances and waste, and the clean-up of contamination at our facilities or off-site locations to which we send or have sent waste for disposal. We are also required to obtain permits for our air emissions and to meet operational and maintenance requirements at certain of our campuses. In the event we do not maintain compliance with any of these laws and regulations, or are responsible for a spill or release of hazardous materials, we could incur significant costs for clean-up, damages, and fines or penalties. Climate change has not had and is not expected to have a significant impact on our operations.

### **Regulatory Environment**

Students attending our schools finance their education through a combination of personal resources, family contributions, private loans and federal financial aid programs. Each of our schools participates in the Title IV Programs, which are administered by the DOE. For the year ended December 31, 2019, approximately 78% (calculated based on cash receipts) of our revenues were derived from the Title IV Programs. Students obtain access to federal student financial aid through a DOE prescribed application and eligibility certification process.

In connection with the students' receipt of federal financial aid under the Title IV Programs, our schools are subject to extensive regulation by governmental agencies and licensing and accrediting bodies. In particular, the Higher Education Act of 1965, as amended the ("HEA"), and the regulations issued by the DOE subject us to significant regulatory scrutiny in the form of numerous standards that each of our schools must satisfy in order to participate in the Title IV Programs. To participate in the Title IV Programs, a school must be authorized to offer its programs of instruction by the applicable state education agencies in the states in which it is physically located, be accredited by an accrediting commission recognized by the DOE and be certified as an eligible institution by the DOE. The DOE defines an eligible institution to consist of both a main campus and its additional locations, if any. Our schools are either a main campus or an additional location of a main campus. Each of our schools is subject to extensive regulatory requirements imposed by state education agencies, accrediting commissions, and the DOE. Because the DOE periodically revises its regulations and changes its interpretations of existing laws and regulations, we cannot predict with certainty how Title IV Program requirements will be applied in all circumstances. Our schools also participate in other federal and state financial aid programs that assist students in paying the cost of their education and that impose standards that we must satisfy.

### ***State Authorization***

Each of our schools must be authorized by the applicable education agencies in the states in which the school is physically located, and in some cases other states, in order to operate and to grant degrees, diplomas or certificates to its students. State agency authorization is also required in each state in which a school is physically located in order for the school to become and remain eligible to participate in Title IV Programs. If we are found not to be in compliance with the applicable state regulations and a state seeks to restrict one or more of our business activities within its boundaries, we may not be able to recruit or enroll students in that state and may have to stop providing services in that state, which could have a significant impact on our business and results of operations. Currently, each of our schools is authorized by the applicable state education agencies in the states in which the school is physically located and in which it recruits students.

Our schools are subject to extensive, ongoing regulation by each of these states. State laws typically establish standards for instruction, curriculum, qualifications of faculty, location and nature of facilities and equipment, administrative procedures, marketing, recruiting, financial operations, student outcomes and other operational matters. State laws and regulations may limit our ability to offer educational programs and to award degrees, diplomas or certificates. For example, the governor of New York has proposed increased oversight of for-profit schools operating in New York, which would include our Queens campus, but the details of this proposed oversight has not been introduced. However, the implementation of these regulations could have a significant impact on our operations in New York and on the Company. In addition, legislation has been proposed in Maryland that would apply to certain for-profit schools operating in Maryland, which would include our Columbia campus, and that, among other things, would limit the percentage of revenue that an institution could receive from federal or state funds, or from loans or grants provided or guaranteed by the institution, and establish a threshold for instructional expenses. The implementation of these laws or any related regulations could have a significant impact on our operations in Maryland and on the Company. We cannot predict the timing or ultimate scope of any final laws and regulations that New York, Maryland, or other states might issue on these or other topics in the future. Some states prescribe standards of financial responsibility that are different from, and in certain cases more stringent than, those prescribed by the DOE. Some states require schools to post a surety bond. We have

posted surety bonds on behalf of our schools and education representatives with multiple states in a total amount of approximately \$12.8 million.

The DOE published regulations that took effect on July 1, 2011, that expanded the requirements for an institution to be considered legally authorized in the state in which it is physically located for Title IV Program purposes. In some cases, the regulations required states to revise their current requirements and/or to license schools in order for institutions to be deemed legally authorized in those states and, in turn, to participate in Title IV Programs. If the states do not amend their requirements where necessary and if schools do not receive approvals where necessary that comply with these new requirements, then the institution could be deemed to lack the state authorization necessary to participate in Title IV Programs. The DOE stated when it published the final regulations that it will not publish a list of states that meet, or fail to meet, the requirements, and it is uncertain how the DOE will interpret these requirements in each state.

If any of our schools fail to comply with state licensing requirements, they are subject to the loss of state licensure or authorization. If any one of our schools lost its authorization from the education agency of the state in which the school is located, or failed to comply with the DOE's state authorization requirements, that school would lose its eligibility to participate in Title IV Programs, the Title IV Program eligibility of its related additional locations could be affected, the impacted schools would be unable to offer its programs, and we could be forced to close the schools. If one of our schools lost its state authorization from a state other than the state in which the school is located, the school would not be able to recruit students or to operate in that state.

Due to state budget constraints in certain states in which we operate, it is possible that those states may continue to reduce the number of employees in, or curtail the operations of, the state education agencies that oversee our schools. A delay or refusal by any state education agency in approving any changes in our operations that require state approval could prevent us from making such changes or could delay our ability to make such changes. States periodically change their laws and regulations applicable to our schools and such changes could require us to change our practices and could have a significant impact on our business and results of operations.

### **Accreditation**

Accreditation is a non-governmental process through which a school submits to ongoing qualitative and quantitative review by an organization of peer institutions. Accrediting commissions primarily examine the academic quality of the school's instructional programs, and a grant of accreditation is generally viewed as confirmation that the school's programs meet generally accepted academic standards. Accrediting commissions also review the administrative and financial operations of the schools they accredit to ensure that each school has the resources necessary to perform its educational mission.

Accreditation by an accrediting commission recognized by the DOE is required for an institution to be certified to participate in Title IV Programs. In order to be recognized by the DOE, accrediting commissions must adopt specific standards for their review of educational institutions. As of December 31, 2019, all 22 of our campuses are nationally accredited by the Accrediting Commission of Career Schools and Colleges, or ACCSC. The following is a list of the dates on which each campus was accredited by its accrediting commission and the date by which its accreditation must be renewed.

**Accrediting Commission of Career Schools and Colleges Reaccreditation Dates**

<b>School</b>	<b>Last Accreditation Letter</b>	<b>Next Accreditation</b>
Philadelphia, PA <sup>2</sup>	November 26, 2018	May 1, 2023
Union, NJ <sup>1</sup>	May 24, 2019	February 1, 2024
Mahwah, NJ <sup>1</sup>	December 4, 2019	August 1, 2024
Melrose Park, IL <sup>2</sup>	December 2, 2019	November 1, 2024
Denver, CO <sup>1</sup>	June 14, 2016	February 1, 2021
Columbia, MD	March 8, 2017	February 1, 2022
Grand Prairie, TX <sup>1</sup>	June 20, 2017	August 1, 2021
Allentown, PA <sup>2</sup>	March 8, 2017	February 1, 2022
Nashville, TN <sup>1</sup>	September 6, 2017	May 1, 2022
Indianapolis, IN	May 15, 2018	November 1, 2021
New Britain, CT	June 5, 2018	January 1, 2023
Shelton, CT <sup>2</sup>	March 1, 2019	September 1, 2023
Queens, NY <sup>1</sup>	September 4, 2018	June 1, 2023
East Windsor, CT <sup>2</sup>	October 17, 2017	February 1, 2023
South Plainfield, NJ <sup>1</sup>	December 2, 2019	August 1, 2024
Iselin, NJ	May 15, 2018	May 15, 2023
Moorestown, NJ <sup>3</sup>	May 15, 2018	May 15, 2023
Paramus, NJ <sup>3</sup>	May 15, 2018	May 15, 2023
Lincoln, RI <sup>3</sup>	May 15, 2018	May 15, 2023
Somerville, MA <sup>3</sup>	May 15, 2018	May 15, 2023
Summerlin, NV <sup>3</sup>	May 15, 2018	May 15, 2023
Marietta, GA <sup>3</sup>	May 15, 2018	May 15, 2022

1 Branch campus of main campus in Indianapolis, IN

2 Branch campus of main campus in New Britain, CT

3 Branch campus of main campus in Iselin, NJ

The Company received a letter dated January 31, 2019 from ACCSC, which indicated that the ACCSC commission voted to continue our schools on financial reporting with a subsequent review scheduled for ACCSC's August 2019 meeting. The commission continued the financial reporting status based on the net working capital deficit, accumulated deficit, and net loss reported in the nine-month financial statements submitted to ACCSC. The commission recognized the Company's continued efforts to improve its financial position through, among other things, closing underperforming schools and growing student enrollments, and determined that, while improvements are being realized, additional monitoring of the Company's financial position is warranted. The letter required us to submit certain financial information to ACCSC by July 12, 2019, for consideration at ACCSC's August 2019 meeting. Although the Company submitted certain financial information to ACCSC by July 12, 2019, we have not received a response yet from ACCSC to the submission.

If one of our schools fails to comply with accrediting commission requirements, the institution and its main and/or branch campuses are subject to the loss of accreditation or may be placed on probation or a special monitoring or reporting status which, if the noncompliance with accrediting commission requirements is not resolved, could result in loss of accreditation or restrictions on the addition of new locations, new programs, or other substantive changes. If any one of our schools loses its accreditation, students attending that school would no longer be eligible to receive Title IV Program funding, and we could be forced to close that school.

Programmatic accreditation is the process through which specific programs are reviewed and approved by industry and program-specific accrediting entities. Although programmatic accreditation is not generally necessary for Title IV Program eligibility, such accreditation may be required to allow students to sit for certain licensure exams or to work in a particular profession or career or to meet other requirements. Failure to obtain or maintain such programmatic accreditation may lead to a decline in enrollments in such programs.

## ***Nature of Federal and State Support for Post-Secondary Education***

The federal government provides a substantial part of the support for post-secondary education through Title IV Programs, in the form of grants and loans to students who can use those funds at any institution that has been certified as eligible by the DOE. Most aid under Title IV Programs is awarded on the basis of financial need, generally defined as the difference between the cost of attending the institution and the expected amount a student and his or her family can reasonably contribute to that cost. A recipient of Title IV Program funds must maintain a satisfactory grade point average and progress in a timely manner toward completion of his or her program of study and must meet other applicable eligibility requirements for the receipt of Title IV Program funds. In addition, each school must ensure that Title IV Program funds are properly accounted for and disbursed in the correct amounts to eligible students and provide reports on recipient data.

### ***Other Financial Assistance Programs***

Some of our students receive financial aid from federal sources other than Title IV Programs, such as programs administered by the U.S. Department of Veterans Affairs and under the Workforce Investment Act. In addition, some states also provide financial aid to our students in the form of grants, loans or scholarships. The eligibility requirements for state financial aid and these other federal aid programs vary among the funding agencies and by program. States that provide financial aid to our students are facing significant budgetary constraints and some of these have reduced the level of state financial aid available to our students. Due to state budgetary shortfalls and constraints in certain states in which we operate, we believe that the overall level of state financial aid for our students is likely to continue to decrease in the near term, but we cannot predict how significant any such reductions will be or how long they will last. Federal budgetary shortfalls and constraints, or decisions by federal lawmakers to limit or prohibit access by our institutions or their students to federal financial aid, could result in a decrease in the level of federal financial aid for our students.

In addition to Title IV Programs and other government-administered programs, all of our schools participate in alternative loan programs for their students. Alternative loans fill the gap between what the student receives from all financial aid sources and what the student may need to cover the full cost of his or her education. Students or their parents can apply to a number of different lenders for this funding at current market interest rates. We are required to comply with applicable federal and state laws related to certain consumer and educational loans and credit extensions.

We also extend credit for tuition and fees to many of our students that attend our campuses.

### ***Regulation of Federal Student Financial Aid Programs***

To participate in Title IV Programs, an institution must be authorized to offer its programs by the relevant state education agencies in the state in which it is physically located, be accredited by an accrediting commission recognized by the DOE and be certified as eligible by the DOE. The DOE will certify an institution to participate in Title IV Programs only after reviewing and approving an institution's application to participate in the Title IV Programs. The DOE defines an institution to consist of both a main campus and its additional locations, if any. Under this definition, for DOE purposes as of December 31, 2019 we had the following four institutions, collectively consisting of four main campuses and 18 additional locations:

<b>Main Institution/Campus(es)</b>	<b>Additional Location(s)</b>
Iselin, NJ	Moorestown, NJ
	Paramus, NJ
	Somerville, MA
	Lincoln, RI
	Marietta, GA
	Las Vegas, NV (Summerlin)
New Britain, CT	Shelton, CT
	Philadelphia, PA
	East Windsor, CT
	Melrose Park, IL
	Allentown, PA
Indianapolis, IN	Grand Prairie, TX
	Nashville, TN
	Denver, CO
	Union, NJ
	Mahwah, NJ
	Queens, NY
	South Plainfield, NJ
Columbia, MD	

Each institution must periodically apply to the DOE for continued certification to participate in Title IV Programs. The institution also must apply for recertification when it undergoes a change in ownership resulting in a change of control. The institution also may come under DOE review when it undergoes a substantive change that requires the submission of an application, such as opening an additional location or raising the highest academic credential it offers. All institutions are recertified on various dates for various periods of time. The following table sets forth the expiration dates for each of our institutions' current Title IV Program participation agreements:

Institution	Expiration Date of Current Program Participation Agreement
Columbia, MD	September 30, 2022 <sup>1</sup>
Iselin, NJ	September 30, 2020
Indianapolis, IN	September 30, 2022 <sup>1</sup>
New Britain, CT	September 30, 2022 <sup>1</sup>

1 Provisionally certified.

The DOE typically provides provisional certification to an institution following a change in ownership resulting in a change of control and also may provisionally certify an institution for other reasons, including, but not limited to, noncompliance with certain standards of administrative capability and financial responsibility. Three of our institutions, Indianapolis, Columbia, and New Britain, are provisionally certified by the DOE. These institutions generate 72% of the Company's revenue based on revenues for the 2019 fiscal year. Indianapolis, New Britain and Columbia are provisionally certified based on findings in recent audits of the institutions' Title IV Program compliance that the DOE alleges identified deficiencies related to DOE regulations regarding an institutions' level of administrative capability. An institution that is provisionally certified receives fewer due process rights than those received by other institutions in the event the DOE takes certain adverse actions against the institution, is required to obtain prior DOE approvals of new campuses and educational programs, and may be subject to heightened scrutiny by the DOE. However, provisional certification does not otherwise limit an institution's access to Title IV Program funds.

The DOE is responsible for overseeing compliance with Title IV Program requirements. As a result, each of our schools is subject to detailed oversight and review, and must comply with a complex framework of laws and regulations. Because the DOE periodically revises its regulations and changes its interpretation of existing laws and regulations, we cannot predict with certainty how the Title IV Program requirements will be applied in all circumstances.

Significant factors relating to Title IV Programs that could adversely affect us include the following:

**Congressional Action.** Political and budgetary concerns significantly affect Title IV Programs. Congress periodically revises the Higher Education Act of 1965, as amended ("HEA") and other laws governing Title IV Programs. Congress is currently considering reauthorization of Title IV Programs, but it is not known if or when Congress will pass final legislation that amends the Higher Education Act or other laws affecting U.S. Federal student aid.

In addition, Congress reviews and determines federal appropriations for Title IV Programs on an annual basis. Congress can also make changes in the laws affecting Title IV Programs in the annual appropriations bills and in other laws it enacts between the HEA reauthorizations. Because a significant percentage of our revenues are derived from Title IV Programs, any action by Congress or the DOE that significantly reduces Title IV Program funding, that limits or restricts the ability of our schools, programs, or students to receive funding through the Title IV Programs, or that imposes new restrictions or constraints upon our business or operations could reduce our student enrollment and our revenues, and could increase our administrative costs and require us to modify our practices in order for our schools to comply fully with Title IV Program requirements.

Further, current requirements for student or school participation in Title IV Programs may change or one or more of the present Title IV Programs could be replaced by other programs with materially different student or school eligibility requirements. If we cannot comply with the provisions of the HEA, as they may be amended, or if the cost of such compliance is excessive, or if funding is materially reduced, our revenues or profit margin could be materially adversely affected.

**Gainful Employment.** In October 2014, the DOE issued final gainful employment regulations requiring each educational program offered by our institutions to achieve threshold rates in at least one of two debt measure categories related to an annual debt to annual earnings ratio and an annual debt to discretionary income ratio. On July 1, 2019, the DOE issued final regulations that rescind the gainful employment regulations. The final regulations have an effective date of July 1, 2020, but the DOE stated in an electronic announcement dated June 28, 2019 that institutions may elect to implement immediately the new regulations and that institutions that early implement the regulations will not be required to report gainful employment data for the 2018-2019 award year, to comply with requirements for including a gainful employment disclosure template in their promotional materials or directly distributing the disclosure template to prospective students, to post the gainful employment template and any other gainful employment disclosures required under the gainful employment regulations on their web pages, or to comply with certification requirements for gainful employment. The DOE stated in the electronic announcement that institutions that do not early implement the new regulations are expected to comply with the existing gainful employment regulations until July 1, 2020. We have elected to implement the new regulations early and have documented our early implementation of the new regulations as required by the DOE.





***Borrower Defense to Repayment Regulations.*** The DOE published borrower defense to repayment regulations on November 1, 2016 (“2016 Final Regulations”) with an effective date of July 1, 2017, but subsequently delayed the effective date of a majority of the regulations until July 1, 2019 to ensure that there would be adequate time to conduct negotiated rulemaking and, as necessary, develop revised regulations. However, a federal court ruled that the delay in the effective date of the regulations was unlawful and, on October 16, 2018, denied a request to extend a stay preventing the regulations from taking effect. The current regulations, among other things, include rules for;

- establishing new processes, and updating existing processes, for enabling borrowers to obtain from the DOE a discharge of some or all of their federal student loans based on circumstances such as certain acts or omissions of the institution and for the DOE to impose and collect liabilities against the institution following the loan discharges;
- establishing expanded standards of financial responsibility (see “Regulatory Environment – Financial Responsibility Standards”);
- requiring institutions to make disclosures to current and prospective students regarding the existence of certain of the circumstances identified in the expanded standards of financial responsibility;
- calculating a loan repayment rate for each proprietary institution under standards established by the regulations and requiring institutions to provide warnings to current and prospective students if the institution has a loan repayment rate below specified thresholds;
- prohibiting certain contractual provisions imposed by or on behalf of schools on students regarding arbitration, dispute resolution, and participation in class actions; and
- expanding the existing definition of misrepresentations that could result in grounds for discharge of student loans and in liabilities and sanctions against the institution, including, without limitation, potential loss of Title IV Program eligibility.

On January 19, 2017, the DOE issued new regulations that update the DOE’s hearing procedures for actions to establish liability against an institution and to establish procedural rules governing recovery proceedings under the DOE’s borrower defense to repayment regulations.

On March 15, 2019, the DOE published an electronic announcement with guidance regarding how the DOE is implementing the 2016 Final Regulations, including, among other things, the provisions regarding the processes for enabling borrowers to obtain from the DOE a discharge of some or all of their federal student loans based on circumstances involving the institution and for the DOE to impose and collect liabilities against the institution following the loan discharges, the prohibition on certain contractual provisions regarding arbitration, dispute resolution, and participation in class actions, and the requirement to submit certain arbitral and judicial records to the DOE in connection with certain proceedings concerning borrower defense claims. The DOE also stated that it would provide guidance at a later date about providing repayment warnings to students in the future and disclosures to students regarding the occurrence of certain financial events, actions, or conditions. The DOE also provided guidance regarding the reporting of certain events under the financial responsibility regulations. See Part I, Item 1. “Business - Regulatory Environment – Financial Responsibility Standards.”

The DOE published proposed regulations on July 31, 2018 that would modify the defense to repayment regulations, including regulations regarding, among other things, (i) acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of certain Title IV Program loans; (ii) permitting the use of arbitration clauses and class action waivers in enrollment agreements and (iii) triggering events that would result in recalculating a school’s financial responsibility score and require the school to post a letter of credit or other surety. On September 23, 2019, the DOE published the final regulations which have a general effective date of July 1, 2020. The current regulations will remain in effect until the new regulations generally take effect on July 1, 2020.

Among other things, the new regulations amend the processes for borrowers to receive from DOE a discharge of the obligation to repay certain Title IV Program loans first disbursed on or after July 1, 2020 based on certain acts or omissions by the institution or a covered party. The regulations establish detailed procedures and standards for the loan discharge processes, including the information required for borrowers to receive a loan discharge, and the authority of the DOE to seek recovery from the institution of the amount of discharged loans. The regulations also modify the list of triggering events that could result in the DOE determining that the institution lacks financial responsibility and must submit to the DOE a letter of credit or other form of acceptable financial protection and accept other conditions on the institution’s Title IV Program eligibility. See Part I, Item 1. “Business - Regulatory Environment – Financial Responsibility Standards.” The final regulations also will eliminate the current regulations regarding loan repayment rate warning requirements and generally will permit the use of arbitration clauses and class action waivers while requiring institutions to make certain disclosures to students.

The current and future rules could have a material adverse effect on our schools’ business and results of operations, and the broad sweep of the rules may, in the future, require our schools to submit a letter of credit based on expanded standards of financial responsibility. See Part I, Item 1. “Business - Regulatory Environment – Financial Responsibility Standards.”

**The “90/10 Rule.”** Under the HEA, a proprietary institution that derives more than 90% of its total revenue from Title IV Programs (its “90/10 Rule percentage”) for two consecutive fiscal years becomes immediately ineligible to participate in Title IV Programs and may not reapply for eligibility until the end of at least two fiscal years. An institution with revenues exceeding 90% for a single fiscal year will be placed on provisional certification and may be subject to other enforcement measures, including a potential requirement to submit a letter of credit. See Part I, Item 1. “Business - Regulatory Environment – Financial Responsibility Standards.” If an institution violated the 90/10 Rule and became ineligible to participate in Title IV Programs but continued to disburse Title IV Program funds, the DOE would require the institution to repay all Title IV Program funds received by the institution after the effective date of the loss of eligibility.

We have calculated that, for our 2019 fiscal year, our institutions’ 90/10 Rule percentages ranged from 75% to 83%. For 2018 and 2017, none of our existing institutions derived more than 90% of their revenues from Title IV Programs. Our calculations are subject to review by the DOE.

If Congress or the DOE were to amend the 90/10 Rule to treat other forms of federal financial aid as Title IV Program revenue for 90/10 Rule purposes, lower the 90% threshold, or otherwise change the calculation methodology (each of which has been proposed by some Congressional members in proposed legislation), or make other changes to the 90/10 Rule, those changes could make it more difficult for our institutions to comply with the 90/10 Rule. A loss of eligibility to participate in Title IV Programs for any of our institutions would have a significant impact on the rate at which our students enroll in our programs and on our business and results of operations.

**Student Loan Defaults.** The HEA limits participation in Title IV Programs by institutions whose former students defaulted on the repayment of federally guaranteed or funded student loans above a prescribed rate (the “cohort default rate”). The DOE calculates these rates based on the number of students who have defaulted, not the dollar amount of such defaults. The cohort default rate is calculated on a federal fiscal year basis and measures the percentage of students who enter repayment of a loan during the federal fiscal year and default on the loan on or before the end of the federal fiscal year or the subsequent two federal fiscal years.

Under the HEA, an institution whose Federal Family Education Loan, or FFEL, and Federal Direct Loan, or FDL, cohort default rate is 30% or greater for three consecutive federal fiscal years loses eligibility to participate in the FFEL, FDL, and Pell programs for the remainder of the federal fiscal year in which the DOE determines that such institution has lost its eligibility and for the two subsequent federal fiscal years. An institution whose FFEL and FDL cohort default rate for any single federal fiscal year exceeds 40% loses its eligibility to participate in the FFEL and FDL programs for the remainder of the federal fiscal year in which the DOE determines that such institution has lost its eligibility and for the two subsequent federal fiscal years. If an institution’s three-year cohort default rate equals or exceeds 30% in two of the three most recent federal fiscal years for which the DOE has issued cohort default rates, the institution may be placed on provisional certification status and could be required to submit a letter of credit to the DOE. See Part I, Item 1. “Business - Regulatory Environment – Financial Responsibility Standards.”

In September 2019, the DOE released the final cohort default rates for the 2016 federal fiscal year. These are the most recent final rates published by the DOE. The rates for our existing institutions for the 2016 federal fiscal year range from 8.3% to 16.6%. None of our institutions had a cohort default rate equal to or greater than 30% for the 2016 federal fiscal year.

In February 2020, the DOE released draft three-year cohort default rates for the 2017 federal fiscal year. The draft cohort default rates are subject to change pending receipt of the final cohort default rates, which the DOE is expected to publish in September 2020. The draft rates for our institutions for the 2017 federal fiscal year range from 8.0% to 14.2%. None of our institutions had draft cohort default rates of 30% or more.

### **Financial Responsibility Standards.**

All institutions participating in Title IV Programs must satisfy specific standards of financial responsibility. The DOE evaluates institutions for compliance with these standards each year, based on the institution’s annual audited financial statements, as well as following a change in ownership resulting in a change of control of the institution.

The most significant financial responsibility measurement is the institution’s composite score, which is calculated by the DOE based on three ratios:

- The equity ratio, which measures the institution’s capital resources, ability to borrow and financial viability;
- The primary reserve ratio, which measures the institution’s ability to support current operations from expendable resources; and
- The net income ratio, which measures the institution’s ability to operate at a profit.

The DOE assigns a strength factor to the results of each of these ratios on a scale from negative 1.0 to positive 3.0, with negative 1.0 reflecting financial weakness and positive 3.0 reflecting financial strength. The DOE then assigns a weighting percentage to each ratio and adds the weighted scores for the three ratios together to produce a composite score for the institution. The composite score must be at least 1.5 for the institution to be deemed financially responsible without the need for further oversight.



If an institution's composite score is below 1.5, but is at least 1.0, it is in a category denominated by the DOE as "the zone." Under the DOE regulations, institutions that are in the zone typically may be permitted by the DOE to continue to participate in the Title IV Programs by choosing one of two alternatives: 1) the "Zone Alternative" under which an institution is required to make disbursements to students under the Heightened Cash Monitoring 1 ("HCM1") payment method and to notify the DOE within 10 days after the occurrence of certain oversight and financial events or 2) submit a letter of credit to the DOE equal to 50 percent of the Title IV Program funds received by the institution during its most recent fiscal year. The DOE permits an institution to participate under the "Zone Alternative" for a period of up to three consecutive fiscal years. Under the HCM1 payment method, the institution is required to make Title IV Program disbursements to eligible students and parents before it requests or receives funds for the amount of those disbursements from the DOE. As long as the student accounts are credited before the funding requests are initiated, an institution is permitted to draw down funds through the DOE's electronic system for grants management and payments for the amount of disbursements made to eligible students. Unlike the Heightened Cash Monitoring 2 ("HCM2") used under circumstances where an institution's composite score is below 1.0 and the reimbursement payment methods, the HCM1 payment method typically does not require schools to submit documentation to the DOE and wait for DOE approval before drawing down Title IV Program funds. Effective July 1, 2016, a school under HCM1, HCM2 or reimbursement payment methods must also pay any credit balances due to a student before drawing down funds for the amount of those disbursements from the DOE, even if the student or parent provides written authorization for the school to hold the credit balance.

If an institution's composite score is below 1.0, the institution is considered by the DOE to lack financial responsibility. If the DOE determines that an institution does not satisfy the DOE's financial responsibility standards, depending on its composite score and other factors, that institution may establish its eligibility to participate in the Title IV Programs on an alternative basis by, among other things:

- Posting a letter of credit in an amount equal to at least 50% of the total Title IV Program funds received by the institution during the institution's most recently completed fiscal year; or
- Posting a letter of credit in an amount equal to at least 10% of the Title IV Program funds received by the institution during its most recently completed fiscal year accepting provisional certification; complying with additional DOE monitoring requirements and agreeing to receive Title IV Program funds under an arrangement other than the DOE's standard advance funding arrangement

The DOE has evaluated the financial responsibility of our institutions on a consolidated basis. We have submitted to the DOE our audited financial statements for the 2018 and 2017 fiscal years reflecting a composite score of 1.1 and 1.1, respectively, based upon our calculations. The DOE determined in a January 13, 2020, letter that our institutions are "in the zone" based on our composite scores for the 2018 and 2017 fiscal years and that we are required to operate under the Zone Alternative requirements, including the requirement to make disbursements under the HCM1 payment method and to notify the DOE within 10 days of the occurrence of certain oversight and financial events. We also are required to submit to the DOE bi-weekly cash balance submissions outlining our available cash on hand, monthly actual and projected cash flow statements, and monthly student rosters.

For the 2019 fiscal year, we calculated our composite score to be 1.6. This score is subject to determination by the DOE based on its review of our consolidated audited financial statements for the 2019 fiscal year, but we believe it is likely that the DOE will determine that our institutions comply with the composite score requirement and no longer require us to operate under the Zone Alternative requirements after it makes its determination, although we cannot be certain how long it will take for the DOE to make its determination and it is possible that it may elect to retain following its determination some of the conditions and reporting requirements previously imposed on us.

On November 1, 2016, the DOE published new Borrower Defense to Repayment regulations that included expanded standards of financial responsibility that could result in a requirement that we submit to the DOE a substantial letter of credit or other form of financial protection in an amount determined by the DOE, and be subject to other conditions and requirements, based on any one of an extensive list of triggering circumstances. The DOE delayed the effective date of a majority of the borrower defense to repayment regulations until July 1, 2019 to ensure that there would be adequate time to conduct negotiated rulemaking and, as necessary, develop revised regulations. However, a federal court ruled that the delay in the effective date of the regulations was unlawful and, on October 16, 2018, denied a request to extend a stay preventing the regulations from taking effect. On September 23, 2019, the DOE published the final regulations which have a general effective date of July 1, 2020. The current regulations generally will remain in effect until the new regulations generally take effect on July 1, 2020, and the DOE has published guidance regarding the current regulations.

Among other things, the current regulations, which are scheduled to remain in effect until July 1, 2020, expand the financial responsibility regulations to include two lists of events that an institution must report to the DOE and could result in the DOE requiring a letter of credit or other form of financial protection and imposing other conditions on the institution. The first list of events includes:

- the institution is required to pay any debt or incur any liability arising from a final judgment in a judicial proceeding or from an administrative proceeding or determination, or from a settlement;

- the institution is being sued in an action that has been pending for 120 days and that was brought by a federal or state authority for financial relief on claims related to making a Direct Loan for enrollment at the institution or the provision of educational services;
- the institution is being sued in other litigation and the institution's motion for summary judgment has been denied or was not filed with the court;
- the institution is closing any or all of its locations and is required by its accrediting agency to submit a teach-out plan;
- the institution has one or more gainful employment programs with gainful employment rates that could result in the programs becoming ineligible based on their rates for the next award year; or
- if the institution's composite score is less than 1.5, any withdrawal of owner's equity from the institution occurs by any means, including by declaring a dividend, unless the transfer is to an entity included in the affiliated entity group on whose basis the institution's composite score was calculated.

If one or more of these events occur, DOE may recalculate the institution's composite score by estimating the amount of actual and potential losses resulting from the events and determining whether the recalculated composite score is a failing score below 1.0 and requires the submission of a letter of credit or other form of acceptable financial protection and the acceptance of other conditions or requirements.

The current regulations also identify the following events that could result in the DOE deeming the institution to fail DOE's financial responsibility standards, thus requiring a letter of credit or other form of acceptable financial protection and the acceptance of other conditions or requirements: failure to comply with the 90/10 Rule for the most recently completed fiscal year; SEC warning that it may suspend trading on the institution's stock; failure to file certain reports with the SEC; the exchange on which the institution's stock is traded notifying the institution that it is not in compliance with exchange requirements or that its stock is delisted; cohort default rates of at least 30 percent for its two most recent rates; certain significant fluctuations in Title IV Program funding; certain citations for failure to comply with state agency requirements; failure to comply with yet to be developed DOE financial stress tests; high annual dropout rates; placement of the institution on probation or issuance of a show-cause or similar action by its accrediting agency; certain violations of loan agreements; expected or pending claims for borrower relief discharges and certain other events that DOE might identify as reasonably likely to have a material adverse effect on the financial condition, business or results of operations of the institutions.

If the DOE deems the institution to fail the financial responsibility standards based on one or more of the aforementioned events listed in the regulations or based on the institution's failure to comply with other requirements in the financial responsibility regulations, the DOE may permit the institution to continue participating in the Title IV Programs under a provisional certification and would require the institution to submit a letter of credit or other form of financial protection in an amount to be determined by the DOE, comply with the zone requirements and potentially accept other conditions or restrictions.

On March 15, 2019, the DOE published an electronic announcement with guidance regarding the requirement to notify the DOE within specified timeframes of the occurrence of any of a list of events, actions or conditions that occur on or after July 1, 2017. The DOE stated in the electronic announcement that it recognized that some institutions may have been uncertain about how to comply with these requirements in light of the delays and court orders regarding the effective date of the 2016 Final Regulations. The DOE guidance generally gives institutions a 60-day period commencing from the date of the electronic announcement to send notifications of events, actions, or conditions that, with certain exceptions, occurred between the July 1, 2017 effective date of the 2016 Final Regulations and the date of the electronic announcement. Institutions have an ongoing obligation under the 2016 Final Regulations to notify the DOE of subsequent events, actions or conditions that are triggering circumstances in the regulations.

For example, one of the triggering circumstances in the current regulations is if an institution's accrediting agency requires the institution to submit a teach-out plan that covers the closing of the institution or one of its locations. In 2018, we notified the DOE that we intended to close our Southington, Connecticut campus which was closed by December 31, 2018 and that our accrediting agency required a teach-out plan. The DOE could attempt to recalculate our composite score, could seek to treat all Title IV Program funds received by the school in its most recently completed fiscal year at that campus as a loss in the recalculation, and could seek to impose a letter of credit based on the reduced composite score. However, it is uncertain whether the DOE would apply the regulation to the accrediting agency's request for a teach-out plan which occurred after the July 1, 2017 effective date of the regulations, but prior to the expiration of the stay of the regulation on October 16, 2018; whether the DOE's recalculation of the composite score would result in a letter of credit requirement; or whether the DOE would require a letter of credit given that the campus is currently closed.

On September 23, 2019, the DOE published final regulations with a general effective date of July 1, 2020 that, among other things, will modify the list of triggering events that could result in the DOE determining that the institution lacks financial responsibility and must submit to the DOE a letter of credit or other form of acceptable financial protection and accept other conditions on the institution's Title IV Program eligibility. The current regulations generally will remain in effect until the new regulations take effect on July 1, 2020. The regulations create lists of mandatory triggering events and discretionary triggering events. An institution is not able to meet its financial or administrative obligations if a mandatory triggering event occurs. The mandatory triggering events include:



- the institution's recalculated composite score is less than 1.0 as determined by the DOE as a result of an institutional liability from a settlement, final judgment, or final determination in an administrative or judicial action or proceeding brought by a Federal or State entity;
- the institution's recalculated composite score goes from less than 1.5 to less than 1.0 as determined by the DOE as a result of a withdrawal of owner's equity from the institution;
- the SEC takes certain actions against the institution or the institution fails to comply with certain filing requirements; or
- the occurrence of two or more discretionary triggering events (as described below) within a certain time period.

The DOE also may determine that an institution lacks financial responsibility if one of the following discretionary triggering events occurs and the event is likely to have a material adverse effect on the financial condition of the institution:

- a show cause or similar order from the institution's accrediting agency that could result in the withdrawal, revocation or suspension of institutional accreditation;
- a notice from the institution's state licensing agency of an intent to withdraw or terminate the institution's state licensure if the institution does not take steps to comply with state requirements;
- a default, delinquency, or other event occurs as a result of an institutional violation of a security or loan agreement that enables the creditor to require an increase in collateral, a change in contractual obligations, an increase in interest rates or payment, or other sanctions, penalties or fees;
- a failure to comply with the 90/10 rule during the institution's most recently completed fiscal year;
- high annual drop-out rates from the institution as determined by the DOE; or
- official cohort default rates of at least 30 percent for the two most recent years unless a pending appeal could sufficiently reduce one of the rates.

The regulations require the institution to notify the DOE of the occurrence of a mandatory or discretionary triggering event and to provide certain information to the DOE to demonstrate why the event does not establish the institution's lack of financial responsibility or require the submission of a letter of credit or imposition of other requirements.

The expanded financial responsibility regulations could result in the DOE recalculating and reducing our composite score to account for DOE estimates of potential losses under one or more of the extensive list of triggering circumstances and also could result in the imposition of conditions and requirements including a requirement to provide a letter of credit or other form of financial protection. .

It is difficult to predict the amount or duration of any letter of credit requirement that the DOE might impose under the regulation. The requirement to submit a letter of credit or to accept other conditions or restrictions could have a material adverse effect on our schools' business and results of operations.

***Return of Title IV Program Funds.*** An institution participating in Title IV Programs must calculate the amount of unearned Title IV Program funds that have been disbursed to students who withdraw from their educational programs before completing them, and must return those unearned funds to the DOE or the applicable lending institution in a timely manner, which is generally within 45 days from the date the institution determines that the student has withdrawn.

If an institution is cited in an audit or program review for returning Title IV Program funds late for 5% or more of the students in the audit or program review sample or if the regulatory auditor identifies a material weakness in the institution's report on internal controls relating to the return of unearned Title IV Program funds, the institution may be required to post a letter of credit in favor of the DOE in an amount equal to 25% of the total amount of Title IV Program funds that should have been returned for students who withdrew in the institution's prior fiscal year.

On January 11, 2018, the DOE sent letters to our Columbia, Maryland and Iselin, New Jersey institutions requiring each institution to submit a letter of credit to the DOE based on findings of late returns of Title IV Program funds in the annual Title IV Program compliance audits submitted to the DOE for the fiscal year ended December 31, 2016. Accordingly, we submitted letters of credit in the amounts of \$0.5 million and \$0.1 million to the DOE by the February 23, 2018 deadline and we continue to comply with the letter of credit requirement.

**Negotiated Rulemaking.** On October 15, 2018, the DOE published a notice in the Federal Register announcing its intent to establish a negotiated rulemaking committee and three subcommittees to develop proposed regulations related to several matters, including, but not limited to, requirements for accrediting agencies in their oversight of member institutions and programs; criteria used by the DOE to recognize accrediting agencies; simplification of the DOE's recognition and review of accrediting agencies; clarification of the core oversight responsibilities amongst accrediting agencies, states and the DOE to hold institutions accountable; clarification of the permissible arrangements between an institution of higher education and another organization to provide a portion of an educational program; roles and responsibilities of institutions and accrediting agencies in the teach-out process; regulatory changes required to ensure equitable treatment of brick-and-mortar and distance education programs; regulatory changes required to enable expansion of direct assessment programs, distance education, and competency-based education; regulatory changes required to clarify disclosure and other requirements of state authorization; protections to ensure that accreditors recognize and respect institutional mission and evaluate an institution's policies and educational programs based on that mission; simplification of state authorization requirements related to distance education; defining "regular and substantive interaction" as it relates to distance education; defining the term "credit hour"; defining the requirements related to the length of educational programs and entry level requirements for the occupation; addressing regulatory barriers in the DOE's institutional eligibility and general provision regulations; addressing direct assessment programs and competency-based education; and other matters. The DOE released draft proposed regulations for consideration and negotiation by the negotiated rulemaking committee and subcommittees that covered additional topics and made additional revisions and updates to the draft proposed regulations prior to subsequent meetings of the committee and subcommittee in early 2019, including, but not limited to, amendments to current regulations regarding the clock to credit hour conversion formula; the requirements for measuring the lengths of certain educational programs; the requirements for returning unearned Title IV Program funds received for students who withdraw before completing their educational programs; and the requirements for measuring a student's satisfactory academic progress. The committee and subcommittees completed their meetings in April 2019 and reached consensus on draft proposed regulations. On June 12, 2019, the DOE published proposed regulations on some of the topics in a notice of proposed rulemaking in the Federal Register for public comment and to consider revisions to the regulations in response to the comments before publishing final versions of the regulations. The DOE stated that it intends to publish proposed regulations on the remaining issues in a separate notice of proposed rulemaking, but did not indicate when it would publish those proposed changes. On November 1, 2019, the DOE published the final regulations. The regulations have a general effective date of July 1, 2020. We are in the process of analyzing the new regulations and their potential impact on us and our institutions.

**Substantial Misrepresentation.** The DOE's regulations prohibit an institution that participates in the Title IV Programs from engaging in substantial misrepresentation of the nature of its educational programs, financial charges, graduate employability or its relationship with the DOE. A "misrepresentation" includes any false, erroneous, or misleading statement (whether made in writing, visually, orally, or through other means) that is made by an eligible institution, by one of its representatives, or by a third party that provides to the institution educational programs, marketing, advertising, recruiting, or admissions services and that is made to a student, prospective student, any member of the public, an accrediting or state agency, or to DOE. The DOE defines a "substantial misrepresentation" to include any misrepresentation on which the person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person's detriment. The definition of "substantial misrepresentation" is broad and, therefore, it is possible that a statement made by the institution or one of its service providers or representatives could be construed by the DOE to constitute a substantial misrepresentation. If the DOE determines that one of our institutions has engaged in substantial misrepresentation, the DOE may impose sanctions or other conditions upon the institution including, but not limited to, initiating an action to fine the institution or limit, suspend, or terminate its eligibility to participate in the Title IV Programs and may seek to discharge students' loans and impose liabilities upon the institution.

**School Acquisitions.** When a company acquires a school that is eligible to participate in Title IV Programs, that school undergoes a change of ownership resulting in a change of control as defined by the DOE. Upon such a change of control, a school's eligibility to participate in Title IV Programs is generally suspended until it has applied for recertification by the DOE as an eligible school under its new ownership, which requires that the school also re-establish its state authorization and accreditation. The DOE may temporarily and provisionally certify an institution seeking approval of a change of control under certain circumstances while the DOE reviews the institution's application. The time required for the DOE to act on such an application may vary substantially. The DOE recertification of an institution following a change of control will be on a provisional basis. Thus, any plans to expand our business through acquisition of additional schools and have them certified by the DOE to participate in Title IV Programs must take into account the approval requirements of the DOE and the relevant state education agencies and accrediting commissions.

**Change of Control.** In addition to school acquisitions, other types of transactions can also cause a change of control. The DOE, most state education agencies and our accrediting commissions have standards pertaining to the change of control of schools, but these standards are not uniform. DOE regulations describe some transactions that constitute a change of control, including the transfer of a controlling interest in the voting stock of an institution or the institution's parent corporation. For a publicly traded corporation, DOE regulations provide that a change of control occurs in one of two ways: (a) if a person acquires ownership and control of the corporation so that the corporation is required to file a Current Report on Form 8-K with the Securities and Exchange Commission disclosing the change of control or (b) if the corporation has a shareholder that owns at least 25% of the total outstanding voting stock of the corporation and is the largest shareholder of the corporation, and that shareholder ceases to own at least 25% of such stock or ceases to be the largest shareholder. These standards are subject to interpretation by the DOE. A significant purchase or disposition of our common stock could be determined by the DOE to be a change of control under this standard.



Most of the states and our accrediting commissions include the sale of a controlling interest of common stock in the definition of a change of control although some agencies could determine that the sale or disposition of a smaller interest would result in a change of control. A change of control under the definition of one of these agencies would require the affected school to reaffirm its state authorization or accreditation. Some agencies would require approval prior to a sale or disposition that would result in a change of control in order to maintain authorization or accreditation. The requirements to obtain such reaffirmation from the states and our accrediting commissions vary widely.

A change of control could occur as a result of future transactions in which the Company or our schools are involved. Some corporate reorganizations and some changes in the board of directors of the Company are examples of such transactions. Moreover, the potential adverse effects of a change of control could influence future decisions by us and our shareholders regarding the sale, purchase, transfer, issuance or redemption of our stock. In addition, the adverse regulatory effect of a change of control also could discourage bids for shares of our common stock and could have an adverse effect on the market price of our shares.

**Opening Additional Schools and Adding Educational Programs.** For-profit educational institutions must be authorized by their state education agencies and be fully operational for two years before applying to the DOE to participate in Title IV Programs. However, an institution that is certified to participate in Title IV Programs may establish an additional location and apply to participate in Title IV Programs at that location without reference to the two-year requirement, if such additional location satisfies all other applicable DOE eligibility requirements. Our expansion plans are based, in part, on our ability to open new schools as additional locations of our existing institutions and take into account the DOE's approval requirements.

A student may use Title IV Program funds only to pay the costs associated with enrollment in an eligible educational program offered by an institution participating in Title IV Programs. Generally, unless otherwise required by the DOE, an institution that is eligible to participate in Title IV Programs may add a new educational program without DOE approval if that new program leads to an associate's level or higher degree and the institution already offers programs at that level, or if that program prepares students for gainful employment in the same or a related occupation as an educational program that has previously been designated as an eligible program at that institution and meets minimum length requirements. Institutions that are provisionally certified may be required to obtain approval of certain educational programs. Our Indianapolis, New Britain, and Columbia institutions are provisionally certified and required to obtain prior DOE approval of new locations and of new degree, non-degree, and short-term training educational programs because of our composite score. If an institution erroneously determines that an educational program is eligible for purposes of Title IV Programs, the institution would likely be liable for repayment of Title IV Program funds provided to students in that educational program. Our expansion plans are based, in part, on our ability to add new educational programs at our existing schools.

Some of the state education agencies and our accrediting commission also have requirements that may affect our schools' ability to open a new campus, establish an additional location of an existing institution or begin offering a new educational program.

**Administrative Capability.** The DOE assesses the administrative capability of each institution that participates in Title IV Programs under a series of separate standards. Failure to satisfy any of the standards may lead the DOE to find the institution ineligible to participate in Title IV Programs or to place the institution on provisional certification as a condition of its participation. These criteria require, among other things, that the institution:

- Comply with all applicable federal student financial aid requirements;
- Have capable and sufficient personnel to administer the federal student Title IV Programs;
- Administer Title IV Programs with adequate checks and balances in its system of internal controls over financial reporting;
- Divide the function of authorizing and disbursing or delivering Title IV Program funds so that no office has the responsibility for both functions;
- Establish and maintain records required under the Title IV Program regulations;
- Develop and apply an adequate system to identify and resolve discrepancies in information from sources regarding a student's application for financial aid under the Title IV Program;
- Have acceptable methods of defining and measuring the satisfactory academic progress of its students;
- Refer to the Office of the Inspector General any credible information indicating that any applicant, student, employee, third party servicer or other agent of the school has been engaged in any fraud or other illegal conduct involving Title IV Programs;
- Not be, and not have any principal or affiliate who is, debarred or suspended from federal contracting or engaging in activity that is cause for debarment or suspension;
- Provide adequate financial aid counseling to its students;
- Submit in a timely manner all reports and financial statements required by the Title IV Program regulations; and
- Not otherwise appear to lack administrative capability.

The DOE has placed three of our institutions on provisional certification based on findings in recent audits of the institutions' Title IV compliance that the DOE alleges identified deficiencies in regulations related to DOE regulations regarding an institutions' level of administrative capability. See Part I. Item 1. "Business - Regulatory Environment – Regulation of Federal Student Financial Aid Programs." Failure by us to satisfy any of these or other administrative capability criteria could cause our institutions to be subject to sanctions or other actions by the DOE or to lose eligibility to participate in Title IV Programs, which would have a significant impact on our business and results of operations.

**Restrictions on Payment of Commissions, Bonuses and Other Incentive Payments.** An institution participating in Title IV Programs may not provide any commission, bonus or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any person or entity engaged in any student recruiting or admission activities or in making decisions regarding the awarding of Title IV Program funds. The DOE's regulations established twelve "safe harbors" identifying types of compensation that could be paid without violating the incentive compensation rule. On October 29, 2010, the DOE adopted final rules that took effect on July 1, 2011 and amended the incentive compensation rule by, among other things, eliminating the twelve safe harbors (thereby reducing the scope of permissible compensatory payments under the rule) and expanding the scope of compensatory payments and employees subject to the rule. The DOE has stated that it does not intend to provide private guidance regarding particular compensation structures in the future and will enforce the regulations as written. We cannot predict how the DOE will interpret and enforce the revised incentive compensation rule. The implementation of the final regulations required us to change our compensation practices and has had and will continue to have a significant impact the productivity of our employees, on the retention of our employees and on our business and results of operations.

**Compliance with Regulatory Standards and Effect of Regulatory Violations.** Our schools are subject to audits, program reviews, site visits, and other reviews by various federal and state regulatory agencies, including, but not limited to, the DOE, the DOE's Office of Inspector General, state education agencies and other state regulators, the U.S. Department of Veterans Affairs and other federal agencies, and by our accrediting commissions. In addition, each of our institutions must retain an independent certified public accountant to conduct an annual audit of the institution's administration of Title IV Program funds. The institution must submit the resulting audit report to the DOE for review. Some of the findings in the annual Title IV Program compliance audits for some of our institutions resulted in the DOE placing those institutions on provisional certification. See Part I. Item 1. "Business - Regulatory Environment – Regulation of Federal Student Financial Aid Programs."

The DOE may grant closed school loans discharges of Federal student loans based upon applications by qualified students. The DOE also may initiate discharges on its own for students who have not reenrolled in another Title IV Program eligible school within three years after the closure and who attended campuses that closed on or after November 1, 2013 as did some of our former campuses. If the DOE discharges some or all of these loans, the DOE may seek to recover the cost of the loan discharges from us. We have the right to appeal any asserted liabilities under an administrative appeal process within the DOE. We cannot predict the timing or amount of any loan discharges that the DOE may approve or the liabilities that the DOE may seek from us. We also cannot predict the timing or potential outcome of any administrative appeals of any such liabilities.

If one of our schools fails to comply with accrediting or state licensing requirements, such school and its main and/or branch campuses could be subject to the loss of state licensure or accreditation, which in turn could result in a loss of eligibility to participate in Title IV Programs. If the DOE or another agency determined that one of our institutions improperly disbursed Title IV Program funds or violated a provision of the HEA or DOE regulations, the institution could be required to repay such funds and related costs to the DOE and lenders, and could be assessed an administrative fine. The DOE could also place the institution on provisional certification status and/or transfer the institution to the reimbursement or cash monitoring system of receiving Title IV Program funds, under which an institution must disburse its own funds to students and document the students' eligibility for Title IV Program funds before receiving such funds from the DOE. See Part I, Item 1. "Business - Regulatory Environment – Financial Responsibility Standards."

Significant violations of Title IV Program requirements by the Company or any of our institutions could be the basis for the DOE to limit, suspend or terminate the participation of the affected institution in Title IV Programs or to seek civil or criminal penalties. Generally, such a termination of Title IV Program eligibility extends for 18 months before the institution may apply for reinstatement of its participation. There is no DOE proceeding pending to fine any of our institutions or to limit, suspend or terminate any of our institutions' participation in Title IV Programs.

We and our schools are also subject to claims and lawsuits relating to regulatory compliance brought not only by federal and state regulatory agencies and our accrediting bodies, but also by third parties, such as present or former students or employees and other members of the public. If we are unable to successfully resolve or defend against any such claim or lawsuit, we may be required to pay money damages or be subject to fines, limitations, loss of federal funding, injunctions or other penalties. Moreover, even if we successfully resolve or defend against any such claim or lawsuit, we may have to devote significant financial and management resources in order to reach such a result.

**Item 1A. RISK FACTORS**

The risk factors described below and other information included elsewhere in this Annual Report on Form 10-K are among the numerous risks faced by our Company and should be carefully considered before deciding to invest in, sell or retain shares of our common stock. These are factors that, individually or in the aggregate, could cause our actual results to differ materially from expected and historical results and the risks and uncertainties described below are not the only ones we face. Investors should understand that it is not possible to predict or identify all such risks and, as such, should not consider the following to be a complete discussion of all potential risks and uncertainties that may affect the Company.

**RISKS RELATED TO OUR INDUSTRY**

**Our failure to comply with the extensive regulatory requirements for participation in Title IV Programs and school operations could result in financial penalties, restrictions on our operations and loss of external financial aid funding, which could affect our revenues and impose significant operating restrictions on us.**

Our industry is highly regulated by federal and state governmental agencies and by accrediting commissions. In particular, the HEA and DOE regulations specify extensive criteria and numerous standards that an institution must satisfy to establish to participate in the Title IV Programs. For a description of these criteria, see Part I, Item 1. “Business - Regulatory Environment.”

If we are found not to have satisfied the DOE’s requirements for Title IV Programs funding, one or more of our institutions, including its additional locations, could be limited in its access to, or lose, Title IV Program funding, which could adversely affect our revenue, as we received approximately 78% of our revenue (calculated based on cash receipts) from Title IV Programs in 2019, and have a significant impact on our business and results of operations. Furthermore, if any of our schools fails to comply with applicable regulatory requirements, the school and its related main campus and/or additional locations could be subject to, among other things, the loss of state licensure or accreditation, the loss of eligibility to participate in and receive funds under the Title IV Programs, the loss of the ability to grant degrees, diplomas and certificates, provisional certification, or the imposition of liabilities or monetary penalties, any of which could adversely affect our revenues and impose significant operating restrictions upon us. In addition, the loss by any of our schools of its accreditation, its state authorization or license, or its eligibility to participate in Title IV Programs would constitute an event of default under our credit agreement with our lender, which could result in the acceleration of all amounts then outstanding with respect to our outstanding loan obligations. The various regulatory agencies applicable to our business periodically revise their requirements and modify their interpretations of existing requirements and restrictions. We cannot predict with certainty how any of these regulatory requirements will be applied or whether each of our schools will be able to comply with these requirements or any additional requirements instituted in the future.

**If we fail to demonstrate “administrative capability” to the DOE, our business could suffer.**

DOE regulations specify extensive criteria an institution must satisfy to establish that it has the requisite “administrative capability” to participate in Title IV Programs. For a description of these criteria, see Part I, Item 1. “Business - Regulatory Environment – Administrative Capability.”

If we are found not to have satisfied the DOE’s “administrative capability” requirements, or otherwise failed to comply with one or more DOE requirements, one or more of our institutions, including its additional locations, could be limited in its access to, or lose, Title IV Program funding. A loss or decrease in Title IV Program funding could adversely affect our revenue, as we received approximately 78% of our revenue (calculated based on cash receipts) from Title IV Programs in 2019, which would have a significant impact on our business and results of operations.

**Congress and the DOE may make changes to the laws and regulations applicable to, or reduce funding for, Title IV Programs, which could reduce our student population, revenues or profit margin.**

Congress periodically revises the HEA and other laws governing Title IV Programs and annually determines the funding level for each Title IV Program. We cannot predict what if any legislative or other actions will be taken or proposed by Congress in connection with the reauthorization of the HEA or with other activities of Congress. See Part I, Item 1. “Business - Regulatory Environment – Congressional Action.” Because a significant percentage of our revenues are derived from the Title IV Programs, any action by Congress or the DOE that significantly reduces funding for Title IV Programs or that limits or restricts the ability of our schools, programs, or students to receive funding through those Title IV Programs or that imposes new restrictions or constraints upon our business or operations could reduce our student enrollment and our revenues, and could increase our administrative costs and require us to modify our practices in order for our schools to comply fully with Title IV Program requirements. In addition, current requirements for student or school participation in Title IV Programs may change or one or more of the present Title IV Programs could be replaced by other programs with materially different student or school eligibility requirements. If we cannot comply with the provisions of the HEA, as they may be revised, or if the cost of such compliance is excessive, or if funding is materially reduced, our revenues or profit margin could be materially adversely affected.

**The DOE has changed its regulations, and may make other changes in the future, in a manner which could require us to incur additional costs in connection with our administration of the Title IV Programs, affect our ability to remain eligible to participate in the Title IV Programs, impose restrictions on our participation in the Title IV Programs, affect the rate at which students enroll in our programs, or otherwise have a significant impact on our business and results of operations.**

In January 2016, the DOE began negotiated rulemaking to develop proposed regulations regarding a borrower's ability to allege acts or omissions by an institution as a defense to the repayment of certain Title IV Program loans and the consequences to the borrower, the DOE, and the institution. See Part I, Item 1. "Business - Regulatory Environment – Borrower Defense to Repayment Regulations." On November 1, 2016, the DOE published in the Federal Register the final version of these regulations with a general effective date of July 1, 2017 and which, among other things, include rules for:

- establishing new processes, and updating existing processes, for enabling borrowers to obtain from the DOE a discharge of some or all of their federal student loans based on circumstances such as certain acts or omissions of the institution and for the DOE to impose and collect liabilities against the institution following the loan discharges;
- establishing expanded standards of financial responsibility (see "Regulatory Environment – Financial Responsibility Standards");
- requiring institutions to make disclosures to current and prospective students regarding the existence of certain of the circumstances identified in the expanded standards of financial responsibility;
- calculating a loan repayment rate for each proprietary institution under standards established by the regulations and requiring institutions to provide warnings to current and prospective students if the institution has a loan repayment rate below specified thresholds;
- prohibiting certain contractual provisions imposed by or on behalf of schools on students regarding arbitration, dispute resolution, and participation in class actions; and
- expanding the existing definition of misrepresentations that could result in grounds for discharge of student loans and in liabilities and sanctions against the institution, including, without limitation, potential loss of Title IV Program eligibility.

On January 19, 2017, the DOE issued new regulations that update the DOE's hearing procedures for actions to establish liability against an institution and to establish procedural rules governing recovery proceedings under the DOE's borrower defense to repayment regulations.

The DOE had delayed the effective date of a majority of these regulations until July 1, 2019 to ensure that there is adequate time to conduct negotiated rulemaking and, as necessary, develop revised regulations. However, a federal court ruled that the delay in the effective date of the regulations was unlawful and, on October 16, 2018, denied a request to extend a stay preventing the regulations from taking effect, and the DOE has published subsequent guidance regarding how it is implementing these regulations. See Part I, Item 1. "Business - Regulatory Environment – Borrower Defense to Repayment Regulations" and "Regulatory Environment – Financial Responsibility Standards."

The DOE published proposed regulations on July 31, 2018 that would modify the defense to repayment regulations. On September 23, 2019, the DOE published the final regulations which have a general effective date of July 1, 2020. The current regulations generally will remain in effect until the new regulations generally take effect on July 1, 2020. Among other things, the new regulations amend the processes for borrowers to receive from DOE a discharge of the obligation to repay certain Title IV Program loans first disbursed on or after July 1, 2020 based on certain acts or omissions by the institution or a covered party. The regulations establish detailed procedures and standards for the loan discharge processes, including the information required for borrowers to receive a loan discharge, and the authority of the DOE to seek recovery from the institution of the amount of discharged loans. See Part I, Item 1. "Business - Regulatory Environment – Borrower Defense to Repayment Regulations." The regulations also modify the list of triggering events that could result in the DOE determining that the institution lacks financial responsibility and must submit to the DOE a letter of credit or other form of acceptable financial protection and accept other conditions on the institution's Title IV Program eligibility. See Part I, Item 1. "Business - Regulatory Environment – Financial Responsibility Standards." The final regulations also will eliminate the current regulations regarding loan repayment rate warning requirements and generally will permit the use of arbitration clauses and class action waivers while requiring institutions to make certain disclosures to students.

We cannot predict how the DOE would interpret and enforce current or future borrower defense to repayment rules or how these rules, or any rules that may arise out of a negotiated rulemaking process or any other rules that DOE may promulgate on this or other topics, may impact our schools' participation in the Title IV Programs; however, current or future rules could have a material adverse effect on our schools' business and results of operations, and the broad sweep of the recent rules may, in the future, require our schools to submit a letter of credit based on expanded standards of financial responsibility.

The DOE published a notice in the Federal Register on October 15, 2018 announcing its intent to establish a negotiated rulemaking committee and three subcommittees to develop proposed regulations related to several matters, and subsequently released draft proposed regulations that covered additional topics including, but not limited to, amendments to current regulations regarding the clock to credit hour conversion formula for measuring the lengths of certain educational programs, the return of unearned Title IV Program funds received for students who withdraw before completing their educational programs, and the measurement of student academic progress. See Part I, Item 1. "Business - Regulatory Environment – Negotiated Rulemaking." The committee and subcommittees completed their meetings in April 2019 and reached consensus on draft proposed regulations. On June 12, 2019, the DOE published proposed regulations on some of the topics in a notice of proposed rulemaking in the Federal Register for public comment and to consider revisions to the regulations in response to the comments before publishing final versions of the regulations. The DOE stated that it intends to publish proposed regulations on the remaining issues in a separate notice of proposed rulemaking, but did not indicate when it would publish those proposed

changes. On November 1, 2019, the DOE published the final regulations. The regulations have a general effective date of July 1, 2020. We are in the process of analyzing the new regulations and their potential impact on us and our institutions.

**If we or our eligible institutions do not meet the financial responsibility standards prescribed by the DOE, we may be required to post letters of credit or our eligibility to participate in Title IV Programs could be terminated or limited, which could significantly reduce our student population and revenues.**

To participate in Title IV Programs, an eligible institution must satisfy specific measures of financial responsibility prescribed by the DOE or post a letter of credit in favor of the DOE and possibly accept other conditions on its participation in Title IV Programs. The DOE published new regulations that establish expanded standards of financial responsibility that could result in a requirement that we submit to the DOE a substantial letter of credit or other form of financial protection in an amount determined by the DOE, and be subject to other conditions and requirements, based on any one of an extensive list of triggering circumstances. See Part I, Item 1. “Business - Regulatory Environment – Financial Responsibility Standards.” Any obligation to post one or more letters of credit would increase our costs of regulatory compliance. Our inability to obtain a required letter of credit or limitations on, or termination of, our participation in Title IV Programs could limit our students’ access to various government-sponsored student financial aid programs, which could significantly reduce our student population and revenues.

**We are subject to fines and other sanctions if we pay impermissible commissions, bonuses or other incentive payments to individuals involved in certain recruiting, admissions or financial aid activities, which could increase our cost of regulatory compliance and adversely affect our results of operations.**

An institution participating in Title IV Programs may not provide any commission, bonus or other incentive payment based directly or indirectly on success in enrolling students or securing financial aid to any person involved in any student recruiting or admission activities or in making decisions regarding the awarding of Title IV Program funds. See Part I, Item 1. “Business - Regulatory Environment -- Restrictions on Payment of Commissions, Bonuses and Other Incentive Payments.” We cannot predict how the DOE will interpret and enforce the incentive compensation rule. The implementation of these regulations has required us to change our compensation practices and has had and may continue to have a significant impact on the rate at which students enroll in our programs and on our business and results of operations. If we are found to have violated this law, we could be fined or otherwise sanctioned by the DOE or we could face litigation filed under the *qui tam* provisions of the Federal False Claims Act.

**If our schools do not maintain their accreditation, they may not participate in Title IV Programs, which could adversely affect our student population and revenues.**

An institution must be accredited by an accrediting commission recognized by the DOE in order to participate in Title IV Programs. See Part I, Item 1. “Business - Regulatory Environment – Accreditation.” Our schools are currently on financial reporting status with ACCSC. If any of our schools fails to comply with accrediting commission requirements, the institution and its main and/or branch campuses are subject to the loss of accreditation or may be placed on probation or a special monitoring or reporting status which, if the noncompliance with accrediting commission requirements is not resolved, could result in loss of accreditation. Loss of accreditation by any of our main campuses would result in the termination of eligibility of that school and all of its branch campuses to participate in Title IV Programs and could cause us to close the school and its branches, which could have a significant adverse impact on our business and operations.

Programmatic accreditation is the process through which specific programs are reviewed and approved by industry- and program-specific accrediting entities. Although programmatic accreditation is not generally necessary for Title IV Program eligibility, such accreditation may be required to allow students to sit for certain licensure exams or to work in a particular profession or career or to meet other requirements. Failure to obtain or maintain such programmatic accreditation may lead to a decline in enrollments in such programs.

**Our institutions would lose eligibility to participate in Title IV Programs if the percentage of their revenues derived from those programs exceeds 90%, which could reduce our student population and revenues.**

A proprietary institution that derives more than 90% of its total revenue from Title IV Programs for two consecutive fiscal years becomes immediately ineligible to participate in Title IV Programs and may not reapply for eligibility until the end of at least two fiscal years. An institution with revenues exceeding 90% for a single fiscal year will be placed on provisional certification and may be subject to other enforcement measures. See Part I, Item 1. “Business - Regulatory Environment – 90/10 Rule.” If any of our institutions loses eligibility to participate in Title IV Programs, that loss would cause an event of default under our credit agreement, would also adversely affect our students’ access to various government-sponsored student financial aid programs, and would have a significant impact on the rate at which our students enroll in our programs and on our business and results of operations.

**Our institutions would lose eligibility to participate in Title IV Programs if their former students defaulted on repayment of their federal student loans in excess of specified levels, which could reduce our student population and revenues.**

An institution may lose its eligibility to participate in some or all Title IV Programs if the rates at which the institution's current and former students default on their federal student loans exceed specified percentages. See Part I, Item 1. "Business - Regulatory Environment – Student Loan Defaults." If former students defaulted on repayment of their federal student loans in excess of specified levels, our institutions would lose eligibility to participate in Title IV Programs, would cause an event of default under our credit agreement, would also adversely affect our students' access to various government-sponsored student financial aid programs, and would have a significant impact on the rate at which our students enroll in our programs and on our business and results of operations.

**We are subject to sanctions if we fail to correctly calculate and timely return Title IV Program funds for students who withdraw before completing their educational program, which could increase our cost of regulatory compliance and decrease our profit margin.**

An institution participating in Title IV Programs must correctly calculate the amount of unearned Title IV Program funds that have been credited to students who withdraw from their educational programs before completing them and must return those unearned funds in a timely manner, generally within 45 days of the date the institution determines that the student has withdrawn. If the unearned funds are not properly calculated and timely returned, we may have to post a letter of credit in favor of the DOE or may be otherwise sanctioned by the DOE, which could increase our cost of regulatory compliance and adversely affect our results of operations. Based upon the findings of an annual Title IV Program compliance audit of our Columbia, Maryland and Iselin, New Jersey institutions, the Company submitted letters of credit in the amounts of \$0.5 million and \$0.1 million to the DOE. See Part I, Item 1. "Business - Regulatory Environment – Return of Title IV Program Funds."

**We are subject to sanctions if we fail to comply with the DOE's regulations regarding prohibitions against substantial misrepresentations, which could increase our cost of regulatory compliance and decrease our profit margin.**

The DOE's regulations prohibit an institution that participates in the Title IV Programs from engaging in substantial misrepresentation of the nature of its educational programs, financial charges, graduate employability or its relationship with the DOE. See Part I, Item 1. "Business - Regulatory Environment – Substantial Misrepresentation." If the DOE determines that one of our institutions has engaged in substantial misrepresentation, the DOE may impose sanctions or other conditions upon the institution including, but not limited to, initiating an action to fine the institution or limit, suspend, or terminate its eligibility to participate in the Title IV Programs and may seek to discharge students' loans and impose liabilities upon the institution.

**Several of our institutions are provisionally certified by the DOE which may make them more vulnerable to unfavorable DOE action and place additional regulatory burdens on its operations.**

Our Indianapolis, Indiana, Columbia, Maryland, and New Britain, Connecticut institutions are provisionally certified by the DOE. See Part I, Item 1. "Business - Regulatory Environment – Regulation of Federal Student Financial Aid Programs." The DOE typically places an institution on provisional certification following a change in ownership resulting in a change of control, and may provisionally certify an institution for other reasons including, but not limited to, failure to comply with certain standards of administrative capability or financial responsibility. During the time when an institution is provisionally certified, it may be subject to adverse action with fewer due process rights than those afforded to other institutions. In addition, an institution that is provisionally certified must apply for and receive approval from the DOE for certain substantive changes including, but not limited to, the establishment of an additional location, an increase in the level of academic offerings or the addition of certain programs. Any adverse action by the DOE or increased regulatory burdens as a result of the provisional status of one of our institutions could have a material adverse effect on enrollments and our revenues, financial condition, cash flows and results of operations.

**Regulatory agencies or third parties may conduct compliance reviews, bring claims or initiate litigation against us. If the results of these reviews or claims are unfavorable to us, our results of operations and financial condition could be adversely affected.**

Because we operate in a highly regulated industry, we are subject to compliance reviews and claims of noncompliance and lawsuits by government agencies and third parties. We may be subject to further reviews related to, among other things, issues of noncompliance identified in recent audits and reviews related to our institutions' compliance with Title IV requirements or related to liabilities for the discharge of loans to certain students who attended campuses of our institutions that are now closed. See Part I, Item 1. "Business - Regulatory Environment – Compliance with Regulatory Standards and Effect of Regulatory Violations." If the results of these reviews or proceedings are unfavorable to us, or if we are unable to defend successfully against third-party lawsuits or claims, we may be required to pay money damages or be subject to fines, limitations on the operations of our business, loss of federal and state funding, injunctions or other penalties. Even if we adequately address issues raised by an agency review or successfully defend a third-party lawsuit or claim, we may have to divert significant financial and management resources from our ongoing business operations to address issues raised by those reviews or defend those lawsuits or claims. Certain of our institutions are subject to ongoing reviews and proceedings. See Part I, Item 1. "Business - Regulatory Environment – State Authorization," "Regulatory Environment – Accreditation," and "Regulatory Environment - Compliance with Regulatory Standards and Effect of Regulatory Violations."





**A decline in the overall growth of enrollment in post-secondary institutions, or in our core disciplines, could cause us to experience lower enrollment at our schools, which could negatively impact our future growth.**

Enrollment in post-secondary institutions over the next ten years is expected to be slower than in the prior ten years. In addition, the number of high school graduates eligible to enroll in post-secondary institutions is expected to fall before resuming a growth pattern for the foreseeable future. In order to increase our current growth rates in degree granting programs, we will need to attract a larger percentage of students in existing markets and expand our markets by creating new academic programs. In addition, if job growth in the fields related to our core disciplines is weaker than expected, as a result of any regional or national economic downturn or otherwise, fewer students may seek the types of diploma or degree granting programs that we offer or seek to offer. Our failure to attract new students, or the decisions by prospective students to seek diploma or degree programs in other disciplines, would have an adverse impact on our future growth.

**Our business could be adversely impacted by additional legislation, regulations, or investigations regarding private student lending because students attending our schools rely on private student loans to pay tuition and other institutional charges.**

The U.S. Consumer Financial Protection Bureau (“CFPB”), under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, has exercised supervisory authority over private education loan providers. The CFPB has been active in conducting investigations into the private student loan market and issuing several reports with findings that are critical of the private student loan market. The CFPB has initiated investigations into the lending practices of other institutions in the for-profit education sector.

We cannot predict whether any of this activity, or other activities, will result in Congress, the DOE, the CFPB or other regulators adopting new legislation or regulations, or conducting new investigations, into the private student loan market or into the loans received by our students to attend our institutions. Any new legislation, regulations, or investigations regarding private student lending could limit the availability of private student loans to our students, which could have a significant impact on our business and operations.

**Changes in the executive branch of our federal government as a result of the outcome of elections or other events could result in further legislation, appropriations, regulations and enforcement actions that could materially or adversely affect our business.**

Our industry is subject to an intensive ongoing federal and state regulatory environment that affects our industry. The composition of federal and state executive offices, executive agencies and legislatures that are subject to change based on the results of elections, appointments and other events, may adversely impact our industry through constant changes in that regulatory environment resulting from the disparate views towards the for-profit education industry.

**RISKS RELATED TO OUR BUSINESS**

**Our success depends in part on our ability to update and expand the content of existing programs and develop new programs in a cost-effective manner and on a timely basis.**

Prospective employers of our graduates increasingly demand that their entry-level employees possess appropriate technological skills. These skills are becoming more sophisticated in line with technological advancements in the automotive, diesel, information technology, and skilled trades. Accordingly, educational programs at our schools must keep pace with those technological advancements. The expansion of our existing programs and the development of new programs may not be accepted by our students, prospective employers or the technical education market. Even if we are able to develop acceptable new programs, we may not be able to introduce these new programs as quickly as our competitors or as quickly as employers demand. If we are unable to adequately respond to changes in market requirements due to financial constraints, unusually rapid technological changes or other factors, our ability to attract and retain students could be impaired, our placement rates could suffer and our revenues could be adversely affected.

In addition, if we are unable to adequately anticipate the requirements of the employers we serve, we may offer programs that do not teach skills useful to prospective employers or students seeking a technical or career-oriented education which could affect our placement rates and our ability to attract and retain students, causing our revenues to be adversely affected.

**Competition could decrease our market share and cause us to lower our tuition rates.**

The post-secondary education market is highly competitive. Our schools compete for students and faculty with traditional public and private two-year and four-year colleges and universities and other proprietary schools, many of which have greater financial resources than we do. Some traditional public and private colleges and universities, as well as other private career-oriented schools, offer programs that may be perceived by students to be similar to ours. Most public institutions are able to charge lower tuition than our schools, due in part to government subsidies and other financial resources not available to for-profit schools. Some of our competitors also have substantially greater financial and other resources than we have which may, among other things, allow our competitors to secure strategic relationships with some or all of our existing strategic partners or develop other high profile strategic relationships, or devote more resources to expanding their programs and their school network, or provide

greater financing alternatives to their students, all of which could affect the success of our marketing programs. In addition, some of our competitors have a larger network of schools and campuses than we do, enabling them to recruit students more effectively from a wider geographic area. If we are unable to compete effectively with these institutions for students, our student enrollment and revenues will be adversely affected.

We may be required to reduce tuition or increase spending in response to competition in order to retain or attract students or pursue new market opportunities. As a result, our market share, revenues and operating margin may be decreased. We cannot be sure that we will be able to compete successfully against current or future competitors or that the competitive pressures we face will not adversely affect our revenues and profitability.

**Our financial performance depends in part on our ability to continue to develop awareness and acceptance of our programs among high school graduates and working adults looking to return to school.**

The awareness of our programs among high school graduates and working adults looking to return to school is critical to the continued acceptance and growth of our programs. Our inability to continue to develop awareness of our programs could reduce our enrollments and impair our ability to increase our revenues or maintain profitability. The following are some of the factors that could prevent us from successfully marketing our programs:

- Student dissatisfaction with our programs and services;
- Diminished access to high school student populations;
- Our failure to maintain or expand our brand or other factors related to our marketing or advertising practices; and
- Our inability to maintain relationships with employers in the automotive, diesel, skilled trades and IT services industries.

**An increase in interest rates could adversely affect our ability to attract and retain students.**

Our students and their families have benefitted from historic lows on student loan interest rates in recent years. Much of the financing our students receive is tied to floating interest rates. Recently, however, student loan interest rates have been edging higher, making borrowing for education more expensive. Increases in interest rates result in a corresponding increase in the cost to our existing and prospective students of financing their education, which could result in a reduction in the number of students attending our schools and could adversely affect our results of operations and revenues. Higher interest rates could also contribute to higher default rates with respect to our students' repayment of their education loans. Higher default rates may in turn adversely impact our eligibility for Title IV Program participation or the willingness of private lenders to make private loan programs available to students who attend our schools, which could result in a reduction in our student population.

**A substantial decrease in student financing options, or a significant increase in financing costs for our students, could have a significant impact on our student population, revenues and financial results.**

The consumer credit markets in the United States have recently suffered from increases in default rates and foreclosures on mortgages. Adverse market conditions for consumer and federally guaranteed student loans could result in providers of alternative loans reducing the attractiveness and/or decreasing the availability of alternative loans to post-secondary students, including students with low credit scores who would not otherwise be eligible for credit-based alternative loans. Prospective students may find that these increased financing costs make borrowing prohibitively expensive and abandon or delay enrollment in post-secondary education programs. Private lenders could also require that we pay them new or increased fees in order to provide alternative loans to prospective students. If any of these scenarios were to occur, our students' ability to finance their education could be adversely affected and our student population could decrease, which could have a significant impact on our financial condition, results of operations and cash flows.

In addition, any actions by the U.S. Congress or by states that significantly reduce funding for Title IV Programs or other student financial assistance programs, or the ability of our students to participate in these programs, or establish different or more stringent requirements for our schools to participate in those programs, could have a significant impact on our student population, results of operations and cash flows.

**Our total assets include substantial intangible assets. In the event that our schools do not achieve satisfactory operating results, we may be required to write-off a significant portion of unamortized intangible assets which would negatively affect our results of operations.**

Our total assets reflect substantial intangible assets. At December 31, 2019, goodwill associated with our acquisitions decreased to approximately 7.5% from 10.0% of total assets at December 31, 2018. On at least an annual basis, we assess whether there has been an impairment in the value of goodwill. If the carrying value of the tested asset exceeds its estimated fair value, impairment is deemed to have occurred. In this event, the amount is written down to fair value. Under current accounting rules, this would result in a charge to operating earnings. Any determination requiring the write-off of a significant portion of goodwill would negatively affect our results of operations and total capitalization, which could be material.

**We cannot predict our future capital needs, and if we are unable to secure additional financing when needed, our operations and revenues would be adversely affected.**

We may need to raise additional capital in the future to fund acquisitions, working capital requirements, expand our markets and program offerings or respond to competitive pressures or perceived opportunities. We cannot be sure that additional financing will be available to us on favorable terms, or at all. If adequate funds are not available when required or on acceptable terms, we may be forced to forego attractive acquisition opportunities, cease our operations and, even if we are able to continue our operations, our ability to increase student enrollment and revenues would be adversely affected.

**We may not be able to retain our key personnel or hire and retain the personnel we need to sustain and grow our business.**

Our success has depended, and will continue to depend, largely on the skills, efforts and motivation of our executive officers who generally have significant experience within the post-secondary education industry. Our success also depends in large part upon our ability to attract and retain highly qualified faculty, school directors, administrators and corporate management. Due to the nature of our business, we face significant competition in the attraction and retention of personnel who possess the skill sets that we seek. In addition, key personnel may leave us and subsequently compete against us. Furthermore, we do not currently carry “key man” life insurance on any of our employees. The loss of the services of any of our key personnel, or our failure to attract and retain other qualified and experienced personnel on acceptable terms, could have an adverse effect on our ability to operate our business efficiently and to execute our growth strategy.

**Strikes by our employees may disrupt our ability to hold classes as well as our ability to attract and retain students, which could materially adversely affect our operations. In addition, we contribute to multiemployer benefit plans that could result in liabilities to us if these plans are terminated or we withdraw from them.**

As of December 31, 2019, the teaching professionals at six of our campuses are represented by unions and covered by collective bargaining agreements that expire between 2020 and 2022. Although we believe that we have good relationships with these unions and with our employees, any strikes or work stoppages by our employees could adversely impact our relationships with our students, hinder our ability to conduct business and increase costs.

We also contribute to multiemployer pension plans for some employees covered by collective bargaining agreements. These plans are not administered by us, and contributions are determined in accordance with provisions of negotiated labor contracts. The Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, imposes certain liabilities upon employers who are contributors to a multiemployer plan in the event of the employer’s withdrawal from, or upon termination of, such plan. We do not routinely review information on the net assets and actuarial present value of the multiemployer pension plans’ unfunded vested benefits allocable to us, if any, and we are not presently aware of any material amounts for which we may be contingently liable if we were to withdraw from any of these plans. In addition, if any of these multiemployer plans enters “critical status” under the Pension Protection Act of 2006, we could be required to make significant additional contributions to those plans.

**System disruptions to our technology infrastructure could impact our ability to generate revenue and could damage the reputation of our institutions.**

The performance and reliability of our technology infrastructure is critical to our reputation and to our ability to attract and retain students. We license the software and related hosting and maintenance services for our online platform and our student information system from third-party software providers. Any system error or failure, or a sudden and significant increase in bandwidth usage, could result in the unavailability of systems to us or our students or result in delays and/or errors in processing student financial aid and related disbursements. Any such system disruptions could impact our ability to generate revenue and affect our ability to access information about our students and could also damage the reputation of our institutions. Any of the cyber-attacks, breaches or other disruptions or damage described above could interrupt our operations, result in theft of our and our students’ data or result in legal claims and proceedings, liability and penalties under privacy laws and increased cost for security and remediation, each of which could adversely affect our business and financial results. We may be required to expend significant resources to protect against system errors, failures or disruptions or to repair problems caused by any actual errors, disruptions or failures.

**We are subject to privacy and information security laws and regulations due to our collection and use of personal information, and any violations of those laws or regulations, or any breach, theft or loss of that information, could adversely affect our reputation and operations.**

Our efforts to attract and enroll students result in us collecting, using and storing substantial amounts of personal information regarding applicants, our students, their families and alumni, including social security numbers and financial data. We also maintain personal information about our employees in the ordinary course of our activities. Our services, the services of many of our health plan and benefit plan vendors, and other information can be accessed globally through the Internet. We rely extensively on our network of interconnected applications and databases for day to day operations as well as financial reporting and the processing of financial transactions. Our computer networks and those of our vendors that manage confidential information for us or provide services to our student may be vulnerable to cyber-attacks and breaches, acts of vandalism,

ransomware, software viruses and other similar types of malicious activities. Regular patching of our computer systems and frequent updates to our virus detection and prevention software with the latest virus and malware signatures may not catch newly introduced malware and viruses or “zero-day” viruses, prior to their infecting our systems and potentially disrupting our data integrity, taking sensitive information or affecting financial transactions. While we utilize security and business controls to limit access to and use of personal information, any breach of student or employee privacy or errors in storing, using or transmitting personal information could violate privacy laws and regulations resulting in fines or other penalties. A wide range of high profile data breaches in recent years has led to renewed interest in federal data and cybersecurity legislation that could increase our costs and/or require changes in our operating procedures or systems. A breach, theft or loss of personal information held by us or our vendors, or a violation of the laws and regulations governing privacy could have a material adverse effect on our reputation or result in lawsuits, additional regulation, remediation and compliance costs or investments in additional security systems to protect our computer networks, the costs of which may be substantial.

**Our credit agreement imposes significant operating and financial restrictions on the Company, which may prevent us from capitalizing on business opportunities, and we may incur additional debt in the future that may include similar or additional restrictions.**

On November 14, 2019, the Company executed a new credit agreement with its lender relating to our \$60 million credit facility. See Part II, Item 7. “Management’s Discussion and Analysis of Financial Condition and Results of Operations — Recent Transactions.” The credit agreement imposes significant operating and financial restrictions. These restrictions, which are subject to a number of qualifications and exceptions, could limit our ability to, among other things:

- incur additional indebtedness and guarantee indebtedness;
- undertake capital expenditures;
- create or incur liens;
- pay dividends and distributions or repurchase capital stock;
- make investments, loans and advances; and
- enter into certain transactions with affiliates.

In addition, the credit agreement requires us to maintain a minimum tangible net worth, a minimum fixed charge coverage ratio and a minimum of \$5 million in quarterly average aggregate balances on deposit with the lender which if not maintained will result in the assessment of a quarterly fee of \$12,500. See Part II, Item 7. “Management’s Discussion and Analysis of Financial Condition and Results of Operations — Liquidity and Capital Resources.”

These covenants could materially adversely affect our ability to finance our future operations or capital needs. Furthermore, they may restrict our ability to expand and pursue our business strategies and otherwise conduct our business. Our ability to comply with these covenants may be affected by circumstances and events beyond our control, such as prevailing economic conditions and changes in regulations, and we cannot assure you that we will be able to comply with such covenants. These restrictions could also limit our ability to obtain future financings to withstand a future downturn in our business or the economy in general. In addition, complying with these covenants may also cause us to take actions that make it more difficult for us to successfully execute our business strategies and compete against companies that are not subject to such restrictions.

Our failure to comply with the covenants and other terms of the credit agreement could result in an event of default. If any such event of default occurs and is not waived, the lender could elect to declare all amounts outstanding and accrued and unpaid interest, if any, under the credit facility to be immediately due and payable, and could foreclose on the assets securing the credit facility. The lender would also have the right in these circumstances to terminate any commitments they have to provide further credit extensions. If we are forced to refinance any borrowings under the credit facility on less favorable terms or if we cannot refinance these borrowings, our financial condition and results of operations could be materially adversely affected.

In addition, although the credit agreement contains restrictions on the incurrence of additional indebtedness, these restrictions are subject to a number of qualifications and exceptions, and we may be able to incur substantial additional indebtedness in compliance with these restrictions in the future. The terms of any future indebtedness we may incur could include more restrictive covenants.

**Our variable rate indebtedness subjects us to interest rate risk, which could cause our debt service obligations to increase significantly.**

Borrowings under our credit facility are at variable rates of interest and expose us to interest rate risk. If interest rates increase, our debt service obligations on the variable rate indebtedness will increase even though the amount borrowed remains the same, and our net income and cash flows, including cash available for servicing our indebtedness, would correspondingly decrease. Our obligations under our credit facility are secured by a lien on substantially all of our assets and any assets that we or our subsidiaries may acquire in the future. As of December 31, 2019, we had \$34.8 million outstanding under the 2019 Credit Agreement for which we hedged 57% of the amount outstanding by entering into a cash flow hedge with a fixed interest rate of 5.36%. In the future, we may again enter into interest rate swaps to reduce interest rate volatility. However, we may not maintain interest rate swaps with respect to all of our variable rate indebtedness, and any swaps we enter into may not fully mitigate our interest rate risk.

In addition, the interest rates under our credit agreement are calculated using the London Interbank Offered Rate (“LIBOR”). On July 27, 2017, the Financial Conduct Authority (the authority that regulates LIBOR) announced its intention to stop compelling banks to submit rates for the calculation of LIBOR after 2021 and it is unclear whether new methods of calculating LIBOR will be established. If LIBOR ceases to exist after 2021, a comparable or successor reference rate as approved by the lender under our credit agreement will apply under the credit agreement. The U.S. Federal Reserve and the Federal Reserve Bank of New York formed a committee, the Alternative Reference Rates Committee (the “ARRC”), comprised of private-sector entities with a presence in markets affected by LIBOR and public-sector entities, including the Securities and Exchange Commission, banking regulators and other financial sector regulators, to recommend an alternative rate to U.S. dollar LIBOR. The ARRC has identified an index, the Secured Overnight Financing Rate (“SOFR”), as its preferred alternative rate for U.S. dollar LIBOR. SOFR is a measure of the cost of borrowing cash overnight, collateralized by U.S. Treasury securities, and is based on directly observable U.S. Treasury-backed repurchase transactions. Some market participants are also considering other U.S. dollar reference rates for certain instruments. It is not possible to predict the effect of these changes, other reforms or the establishment of a dominant successor to LIBOR or a variety of alternative reference rates in the United States or elsewhere. To the extent these interest rates increase, our interest expense will increase, which could adversely affect our financial condition, operating results and cash flows.

**Changes in U.S. tax laws or adverse outcomes from examination of our tax returns could have an adverse effect upon our financial results.**

We are subject to income tax requirements in various jurisdictions in the United States. Legislation or other changes in the tax laws of the jurisdictions where we do business could increase our liability and adversely affect our after-tax profitability. In addition, we are subject to examination of our income tax returns by the Internal Revenue Service and the taxing authorities of various states. We regularly assess the likelihood of adverse outcomes resulting from tax examinations to determine the adequacy of our provision for income taxes and we have accrued tax and related interest for potential adjustments to tax liabilities for prior years. However, there can be no assurance that the outcomes from these tax examinations will not have a material effect, either positive or negative, on our business, financial conditions and results of operation.

**Public health epidemics or outbreaks could adversely impact our business.**

In December 2019, a novel strain of coronavirus, COVID-19, emerged in Wuhan, Hubei Province, China. While initially concentrated in China, the outbreak has now spread to other countries and infections have been reported globally including in the United States. The extent to which the coronavirus, like any other rapidly spreading contagious illness, may impact our operations will depend on the evolution of the outbreak, which is highly speculative at this time and cannot be predicted with any level of confidence. The duration of the outbreak, new information which emerges concerning the severity of the illness and the actions to be taken to contain the spread of the virus or its treatment remains unclear. We believe that the continued spread of the coronavirus could adversely impact our operations. A quarantine of one or more of our instructors for two or more weeks due to exposure to the coronavirus or other contagious illness could eliminate a program unless a substitute was readily available and quarantine of an instructor or student could cause the temporary closure of an affected school which could have an adverse impact on our business and our financial results. Further, the spread of a contagious illness or fear of such an event could have a material adverse effect on enrollment at least in the short-term.

**RISKS RELATED TO OUR CAPITAL STRUCTURE**

**The current holders of our Series A Preferred Stock, Juniper Investment Company Inc. and Talanta Investment Group, Inc., with their affiliates, beneficially own approximately 18% and 9%, respectively, of our outstanding common stock on an “as converted basis.” As such, each holder of Series A Preferred Stock possesses significant voting power over the common stock, and there can be no assurance that their interests will align with the interests of the other common shareholders.**

In November 2019, we issued shares of Series A Preferred Stock (see Part II, Item 7. “Management’s Discussion and Analysis of Financial Condition and Results of Operations – Recent Transactions” below) to two investors that requires us to obtain the approval of the holders of a majority of the outstanding Series A Preferred Stock to authorize numerous actions, including to pay dividends on our common stock, repurchase our common stock, issue certain new classes of preferred stock, and incur indebtedness. There can be no assurance that we will be able to obtain such approval should we seek to take an action requiring their approval.

In addition to the blocking rights noted above, the holders of the Series A Preferred Stock vote with the holders of shares of common stock and not as a separate class, at any annual or special meeting of shareholders of our Company, and may act by written consent in the same manner as the holders of common stock, on an as-converted basis, but in all cases each holder of Series A Preferred Stock together with its affiliates, may not vote more than 19.99% of the total number of shares of common stock outstanding after giving effect to the shares being voted by the holder (the “Hard Cap”), unless prior shareholder approval is obtained or no longer required by the rules of the Nasdaq Stock Market. The current holders of our Series A Preferred Stock, Juniper Investment Company Inc. and Talanta Investment Group, Inc., with their affiliates, beneficially own approximately 18% and 9%, respectively, of our outstanding common stock on an “as converted basis.” As such, each holder of Series A Preferred Stock possesses significant voting power over the common stock, and there can be no assurance that their interests will align with the interests of the other common shareholders.



In addition to possessing significant common stock voting power on any matter put to a vote of the common shareholders, which includes the appointment of directors, the holders of Series A Preferred Stock, voting as a separate class, have the right to appoint one director to the Company's Board of Directors (the "Series A Director") who may serve on any committees of the Board, until the later of (i) the time that the shares of Series A Preferred Stock have been converted into common stock or (ii) the time that a holder still owns shares of Series A Preferred Stock that are subject to conversion and the sum of such shares plus any other shares of common stock represent at least 10% of the total outstanding shares of common stock. John A. Bartholdson currently serves as the Series A Director.

## **We have an obligation to pay dividends on our shares of Series A Preferred Stock.**

Dividends on the Series A Preferred Stock (“Series A Dividends”), at the initial annual rate of 9.6% are to be paid, in advance, from the date of issuance quarterly on each December 31, March 31, June 30 and September 30 with September 30, 2020 as the first dividend payment date. The Company, at its option, may pay dividends in cash or by increasing the number of shares of common stock issuable upon conversion of the Series A Preferred Stock (the “Conversion Shares”). The value of any dividend paid in Conversion Shares will increase the dollar amount subject to the dividend rate and thereby increase subsequent dividend amounts. We anticipate satisfying our dividend obligation by increase in the Conversion Shares for the foreseeable future. As a result, it is likely that the holders of our Series A Preferred Stock will increase their ownership percentage in our Company and thereby lower the ownership percentage of our common shareholders. In addition, by not paying cash dividends, we will be increasing the dollar amount of future dividends.

The dividend rate is subject to increase (a) by 2.4% per annum on the fifth anniversary of the issuance of the Series A Preferred Stock and (b) by 2% per annum but in no event above 14% per annum should the Company fail to perform certain obligations owed to the holders of our Series A Preferred Stock. In order to pay Series A Dividends in cash, we require the approval of our lender under our credit agreement and there can be no assurance that even were we able to pay Series A Dividends in cash, we would be able to secure the necessary lender approvals to do so.

While we have not paid dividends to our common shareholders since February 2015 and we do not foresee doing so in the future, in addition to obtaining the approval of the holders of the Series A Preferred Stock, of which there can be no assurance, the holders of the Series A Preferred Stock are required to participate in any such cash dividend on an “as converted basis” thereby diluting any such dividend payment to the common shareholders.

## **The Series A Preferred Stock is perpetual.**

The Series A Preferred Stock is perpetual having no fixed maturity date. However, on and after November 14, 2024, the Company may redeem all or any of the Series A Preferred Stock for a cash price (the “Liquidation Preference”) equal to the greater of (i) the sum of \$1,000 (subject to adjustment) plus the dollar amount of any declared Series A Dividends not paid in cash and (ii) the value of the Conversion Shares were such shares of Series A Preferred Stock converted. There can be no assurance that we will have sufficient funds or available financing sources to redeem the Series A Preferred Stock, or if we had the necessary funding we would be able to obtain the consent of our then lender to redeem the Series A Preferred Stock. It is therefore possible that the Series A Preferred Stock will be outstanding for an indefinite period of time.

## **We may not be able to force the conversion of the Series A Preferred Stock.**

Each share of Series A Preferred Stock, at any time, is convertible into a number of shares of common stock equal to the quotient of (i) the sum of (A) \$1,000 (subject to adjustment) plus (B) the dollar amount of any declared Series A Dividends not paid in cash divided by (ii) the Series A Conversion Price as of the applicable Conversion Date, but subject to the Hard Cap. The initial Conversion Price is \$2.36 (the “Convertible Formula”).

If, at any time following November 14, 2022, the volume weighted average price of the Company’s common stock for a period of 20 consecutive trading days and on each such trading day at least 20,000 shares of common stock was traded, equals or exceeds \$5.31 per share (2.25 times the Conversion Price) the Company may, at its option and subject to the Hard Cap, require that any or all of the then outstanding shares of Series A Preferred Stock be automatically converted into shares of common stock at the then applicable Convertible Formula. To the extent that we satisfy our Series A Dividend obligation by increasing the number of common shares issuable upon conversion of the Series A Preferred Stock, that would further dilute our common stock and likely result in downward pressure on the trading price of our common stock. There can be no assurance that our common stock will trade at the per share price, for the necessary period of time and with the required volume to cause the conversion of the Series A Preferred Stock into common stock, at any time or at all.

## **Registration of the Conversion Shares may cause overhang.**

The holders of the Series A Preferred Stock are entitled to unlimited registration rights for the Conversion Shares, including 2 of which that may require us to effectuate an underwritten offering. Although unless our stock price significantly increases, it is likely that the Series A Holders will hold their Series A Preferred Stock and not convert them into shares of common stock, we are obligated to file with the SEC by November 13, 2020 a registration statement for the shelf covering the Conversion Shares (the “Resale Shelf”) and use our commercially reasonable efforts to cause the Resale Shelf to be declared effective by the SEC not later than 60 days after the filing thereof. The filing of the Resale Shelf covering the Conversion Shares may create market overhang on our common stock and thereby downward pressure on the price of our common stock. Should we be unable to cause the Resale Shelf (and certain other registration statements concerning the Conversion Shares) to be declared effective by the SEC timely, or certain other events occur with respect to such registration statements, some of which are beyond our control, we are required to pay the holders of Series A Preferred Stock an amount equal to 1.5% of the value of the Conversion Shares covered thereby for each 30 day period that such registration statements are not declared effective, up to a maximum of 7.5%.

**Shareholders of Series A Preferred Stock may transfer their shares after November 13, 2020 without our approval.**

The holders of Series A Preferred Stock may, subject to compliance with the securities laws, sell their Series A Preferred Stock to any purchaser, without our prior approval. While we believe we have a good relationship with the current holders of Series A Preferred Stock, there can be no assurance that we will continue to enjoy good relations with them or with any purchaser of their Series A Preferred Stock.

**In the event of certain changes of control, holders of Series A Preferred Stock shall be entitled to receive a liquidation preference.**

In the event of certain changes of control, some of which are not within the Company's control (as defined in the Company's amended and restated certificate of incorporation as a "Fundamental Change" or a "Liquidation"), the holders of Series A Preferred Stock shall be entitled to receive the Liquidation Preference, unless such Fundamental Change is a stock merger in which certain value and volume requirements are met, in which case the Series A Preferred Stock will be converted into common stock in connection with such stock merger. As a result, this provision (along with the other provisions of the Series A Preferred Stock) may make the Company less attractive to a potential acquirer.

**Our principal shareholder owns a significant percentage of our capital stock and is able to influence certain corporate matters.**

As of December 31, 2019, Juniper Investment Company, LLC and its affiliates ("Juniper") beneficially owned, in the aggregate, approximately 18% of our outstanding common stock and 88% of our outstanding Series A Preferred Stock, which votes on an as-converted basis subject to a voting cap, as described below. The voting power of Juniper, including the common stock and the as-converted preferred stock with the voting cap described below, was approximately 19.9% as of December 31, 2019.

Each share of Series A Preferred Stock is convertible, at any time, into a number of shares of common stock equal to ("Convertible Formula") the quotient of (i) the sum of (A) \$1,000 (subject to adjustment as provided in the Company's certificate of incorporation, as amended) plus (B) the dollar amount of any dividends applicable to the Series A Preferred Stock and not paid in cash divided by (ii) the Series A Conversion Price (as defined and adjusted in the Company's certificate of incorporation) as of the applicable date of conversion. The initial conversion price is \$2.36. At all times, however, the number of shares of common stock that can be issued to any holder of Series A Preferred Stock may not result in such holder and its affiliates owning more than 19.99% of the total number of shares of common stock outstanding after giving effect to the conversion (the "Hard Cap"), unless prior shareholder approval is obtained or no longer required by the rules of the Nasdaq Stock Market. If, at any time following November 14, 2022 the volume weighted average price of the Company's common stock equals or exceeds 2.25 times the conversion price for a period of 20 consecutive trading days and on each such trading day at least 20,000 shares of common stock was traded, the Company may, at its option and subject to the Hard Cap, require that any or all of the then outstanding shares of Series A Preferred Stock be automatically converted into shares of common stock at the then applicable Convertible Formula.

The holders of Series A Preferred Stock, voting as a separate class, have the right to appoint one director to the Company's Board of Directors (the "Series A Director") who may serve on any committees of the Board, until such time as the later of (i) the shares of Series A Preferred Stock have been converted into common stock or (ii) a holder still owns shares of Series A Preferred Stock that are subject to conversion and the sum of such shares plus any other shares of common stock represent at least 10% of the total outstanding shares of common stock.

Holders of shares of Series A Preferred Stock are entitled to vote with the holders of shares of common stock and any other class or series similarly entitled to vote with the holders of common stock and not as a separate class, at any annual or special meeting of shareholders of our Company, and may act by written consent in the same manner as the holders of common stock, on an as-converted basis, in all cases subject to the Hard Cap. In addition, a majority of the voting power of the Series A Preferred Stock must approve certain significant actions of the Company, including (i) declaring a dividend or otherwise redeeming or repurchasing any shares of common stock and other junior securities, if any, subject to certain exceptions, (ii) incurring indebtedness, except for certain permitted indebtedness and (iii) creating a subsidiary other than a wholly-owned subsidiary.

**Anti-takeover provisions in our amended and restated certificate of incorporation, our bylaws and New Jersey law could discourage a change of control that our shareholders may favor, which could negatively affect our stock price.**

In addition to the Series A Preferred Stock, provisions in our amended and restated certificate of incorporation and our bylaws and applicable provisions of the New Jersey Business Corporation Act may make it more difficult and expensive for a third party to acquire control of the Company even if a change of control would be beneficial to the interests of our shareholders. These provisions could discourage potential takeover attempts and could adversely affect the market price of our common stock. For example, applicable provisions of the New Jersey Business Corporation Act may discourage, delay or prevent a change in control by prohibiting us from engaging in a business combination with an interested shareholder for a period of five years after the person becomes an interested shareholder. Furthermore, our amended and restated certificate of incorporation and bylaws:

- authorize the issuance of blank check preferred stock that could be issued by our board of directors to thwart • a takeover attempt;
- prohibit cumulative voting in the election of directors, which would otherwise allow holders of less than a majority of stock to elect some directors;
- require super-majority voting to effect amendments to certain provisions of our amended and restated certificate of incorporation;
- limit who may call special meetings of both the board of directors and shareholders;
- prohibit shareholder action by non-unanimous written consent and otherwise require all shareholder actions to be taken at a meeting of the shareholders;
- establish advance notice requirements for nominating candidates for election to the board of directors or for proposing matters that can be acted upon by shareholders at shareholders' meetings; and
- require that vacancies on the board of directors, including newly created directorships, be filled only by a majority vote of directors then in office.

We can issue shares of preferred stock without general shareholder approval (though approval of the holders of Series A Preferred Stock would be necessary), which could adversely affect the rights of common shareholders.

Our amended and restated certificate of incorporation permits us to establish the rights, privileges, preferences and restrictions, including voting rights, of future series of our preferred stock and to issue such stock without approval from our shareholders. The rights of holders of our common stock may suffer as a result of the rights granted to holders of preferred stock that may be issued in the future. In addition, we could issue preferred stock to prevent a change in control of our Company, depriving common shareholders of an opportunity to sell their stock at a price in excess of the prevailing market price.

### **The trading price of our common stock may continue to fluctuate substantially in the future.**

Our stock price has declined substantially over the past five years and has and may fluctuate significantly as a result of a number of factors, some of which are not in our control. These factors include:

- general economic • conditions;
- general conditions in the for-profit, post-secondary education industry;
- negative media coverage of the for-profit, post-secondary education industry;
- failure of certain of our schools or programs to maintain compliance under the gainful employment regulation, 90-10 Rule or with financial responsibility standards;
- the impact of DOE rulemaking and other changes in the highly regulated environment in which we operate;
- the initiation, pendency or outcome of litigation, accreditation reviews and regulatory reviews, inquiries and investigations;
- loss of key personnel;
- quarterly variations in our operating results;
- our ability to meet or exceed, or changes in, expectations of investors and analysts, or the extent of analyst coverage of us; and decisions by any significant investors to reduce their investment in our common stock.

In addition, the trading volume of our common stock is relatively low. This may cause our stock price to react more to these factors and various other factors and may impact an investor's ability to sell our common stock at the desired time at a price considered satisfactory. Any of these factors may adversely affect the trading price of our common stock, regardless of our actual operating performance, and could prevent an investor from selling shares of our common stock at or above the price at which the investor purchased them.

### **ITEM 1B. UNRESOLVED STAFF COMMENTS**

None.

**ITEM 2. PROPERTIES**

As of December 31, 2019, we leased all of our facilities, except for our campuses in Nashville, Tennessee, Grand Prairie, Texas, and Denver, Colorado, and former school property in Suffield, Connecticut, all of which we own. Our lease in Southington, Connecticut expired in January 2020 as that school was closed in December 2019. We continue to re-evaluate our facilities to maximize our facility utilization and efficiency and to allow us to introduce new programs and attract more students. As of December 31, 2019, all of our existing leases expire between 2020 and 2030.

The following table provides information relating to our facilities as of December 31, 2019, including our corporate office:

<b>Location</b>	<b>Brand</b>	<b>Approximate Square Footage</b>
Las Vegas, Nevada	Euphoria Institute	19,000
Southington, Connecticut	Former Lincoln College of New England	113,000
Columbia, Maryland	Lincoln College of Technology	110,000
Denver, Colorado	Lincoln College of Technology	212,000
Grand Prairie, Texas	Lincoln College of Technology	146,000
Indianapolis, Indiana	Lincoln College of Technology	189,000
Marietta, Georgia	Lincoln College of Technology	30,000
Melrose Park, Illinois	Lincoln College of Technology	88,000
Allentown, Pennsylvania	Lincoln Technical Institute	26,000
East Windsor, Connecticut	Lincoln Technical Institute	289,000
Iselin, New Jersey	Lincoln Technical Institute	32,000
Lincoln, Rhode Island	Lincoln Technical Institute	39,000
Mahwah, New Jersey	Lincoln Technical Institute	79,000
Moorestown, New Jersey	Lincoln Technical Institute	35,000
New Britain, Connecticut	Lincoln Technical Institute	35,000
Paramus, New Jersey	Lincoln Technical Institute	30,000
Philadelphia, Pennsylvania	Lincoln Technical Institute	29,000
Queens, New York	Lincoln Technical Institute	48,000
Shelton, Connecticut	Lincoln Technical Institute and Lincoln Culinary Institute	47,000
Somerville, Massachusetts	Lincoln Technical Institute	33,000
South Plainfield, New Jersey	Lincoln Technical Institute	60,000
Union, New Jersey	Lincoln Technical Institute	56,000
Nashville, Tennessee	Lincoln College of Technology	281,000
West Orange, New Jersey	Corporate Office	52,000
Blue Bell, Pennsylvania	Corporate Office	4,000
Suffield, Connecticut	Former Lincoln Technical Institute	132,000

We believe that our facilities are suitable for their present intended purposes.

**ITEM 3. LEGAL PROCEEDINGS**

In the ordinary conduct of our business, we are subject to periodic lawsuits, investigations and claims, including, but not limited to, claims involving students or graduates and routine employment matters. Although we cannot predict with certainty the ultimate resolution of lawsuits, investigations and claims asserted against us, we do not believe that any currently pending legal proceeding to which we are a party will have a material effect on our business, financial condition, results of operations or cash flows.

As previously reported, on July 6, 2018, the Company received an administrative subpoena from the Office of the Attorney General of the State of New Jersey (“NJ OAG”). Pursuant to the subpoena, the NJ OAG requested certain documents and detailed information relating to the November 21, 2012 Civil Investigative Demand letter addressed to the Company by the Massachusetts Office of the Attorney General (“MOAG”) that resulted in a previously reported Final Judgment by Consent between the Company and the MOAG dated July 13, 2015. The Company responded to this request and, the NJ OAG issued two supplemental subpoenas requesting additional information. The Company has responded to these requests and is continuing to cooperate with the NJ OAG.

Also, on February 12, 2019, the Company received a notification from the State of Colorado Department of Law (“CDOL”) advising that it was initiating a compliance examination of one of its subsidiaries, Lincoln Technical Institute, Inc. The examination sought to review a fixed number of company transactions seeking information responsive to its examination. The Company submitted its response and, on December 5, 2019, received notifications from the CDOL that it had completed its examination with no violations reported.

**ITEM 4. MINE SAFETY DISCLOSURES**

Not applicable.

**PART II.****ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES****Market for our Common Stock**

Our common stock, no par value per share, is quoted on the Nasdaq Global Select Market under the symbol "LINC".

On March 3, 2020, the last reported sale price of our common stock on the Nasdaq Global Select Market was \$2.60 per share. As of March 3, 2020, based on the information provided by Continental Stock Transfer & Trust Company, there were 58 shareholders of record of our common stock.

**Dividend Policy**

The Company has not declared or paid any cash dividends on its common stock since the Company's Board of Directors discontinued our quarterly cash dividend program in February 2015. The Company has no current intentions to resume the payment of cash dividends in the foreseeable future.

**Share Repurchases**

The Company did not repurchase any shares of our common stock during the fourth quarter of the fiscal year ended December 31, 2019.

**Equity Compensation Plan Information**

We have various equity compensation plans under which equity securities are authorized for issuance. Information regarding these securities as of December 31, 2019 is as follows:

Plan Category	Number of Securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by security holders	116,000	\$ 10.56	1,451,656
Equity compensation plans not approved by security holders	-	-	-
Total	<u>116,000</u>	<u>\$ 10.56</u>	<u>1,451,656</u>

**ITEM 6. SELECTED FINANCIAL DATA**

Not Required.

**ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

*You should read the following discussion together with the "Selected Financial Data," "Forward-Looking Statements" and the consolidated financial statements and the related notes thereto included elsewhere in this Annual Report on Form 10-K. This discussion contains forward-looking statements that are based on management's current expectations, estimates and projections about our business and operations. Our actual results may differ materially from those currently anticipated and expressed in such forward-looking statements as a result of a number of factors, including those we discuss under "Risk Factors" and "Forward-Looking Statements" and elsewhere in this Annual Report on Form 10-K.*

**GENERAL**

Lincoln Educational Services Corporation and its subsidiaries (collectively, the "Company", "we", "our" and "us", as applicable) provide diversified career-oriented post-secondary education to recent high school graduates and working adults. The Company, which currently operates 22 schools in 14 states, offers programs in automotive technology, skilled trades (which include HVAC, welding and computerized numerical control and electrical and electronic systems technology, among other programs), healthcare services (which include nursing, dental assistant and medical administrative assistant, among other programs), hospitality services (which include culinary, therapeutic massage, cosmetology and aesthetics) and information technology (which includes information technology). The schools operate under Lincoln Technical Institute, Lincoln College of Technology, Lincoln Culinary Institute, and Euphoria Institute of Beauty Arts and Sciences and associated brand names. Most of the campuses serve major metropolitan markets and each typically offers courses in multiple areas of study. Five of the campuses are destination schools, which attract students from across the United States and, in some cases, from abroad. The Company's other campuses primarily attract students from their local communities and surrounding areas. All of the campuses are nationally or regionally accredited and are eligible to participate in federal financial aid programs by the U.S. Department of Education (the "DOE") and applicable state education agencies and accrediting commissions which allow students to apply for and access federal student loans as well as other forms of financial aid.

Our business is organized into three reportable business segments: (a) Transportation and Skilled Trades, (b) Healthcare and Other Professions ("HOPS"), and (c) Transitional, which refers to our campus operations which have been closed prior to 2019.

As of December 31, 2019, we had 11,285 students enrolled at 22 campuses.

Our campuses, a majority of which serve major metropolitan markets, are located throughout the United States. Five of our campuses are destination schools, which attract students from across the United States and, in some cases, from abroad. Our other campuses primarily attract students from their local communities and surrounding areas. All of our schools are either nationally or regionally accredited and are eligible to participate in federal financial aid programs.

Our revenues consist primarily of student tuition and fees derived from the programs we offer. Our revenues are reduced by scholarships granted to our students. We recognize revenues from tuition and one-time fees, such as application fees, ratably over the length of a program, including internships or externships that take place prior to graduation. We also earn revenues from our bookstores, dormitories, cafeterias and contract training services. These non-tuition revenues are recognized upon delivery of goods or as services are performed and represent less than 10% of our revenues.

Our revenues are directly dependent on the average number of students enrolled in our schools and the courses in which they are enrolled. Our average enrollment is impacted by the number of new students starting, re-entering, graduating and withdrawing from our schools. Our diploma/certificate programs range from 19 to 136 weeks, our associate's degree programs range from 64 to 98 weeks, and students attend classes for different amounts of time per week depending on the school and program in which they are enrolled. Because we start new students every month, our total student population changes monthly. The number of students enrolling or re-entering our programs each month is driven by the demand for our programs, the effectiveness of our marketing and advertising, the availability of financial aid and other sources of funding, the number of recent high school graduates, the job market and seasonality. Our retention and graduation rates are influenced by the quality and commitment of our teachers and student services personnel, the effectiveness of our programs, the placement rate and success of our graduates and the availability of financial aid. Although similar courses have comparable tuition rates, the tuition rates vary among our numerous programs.

The majority of students enrolled at our schools rely on funds received under various government-sponsored student financial aid programs to pay a substantial portion of their tuition and other education-related expenses. The largest of these programs are Title IV Programs which represented approximately 78% of our revenue on a cash basis while the remainder is primarily derived from state grants and cash payments made by students during both 2019 and 2018. The Higher Education Act of 1965, as amended (the "HEA") requires institutions to use the cash basis of accounting when determining its compliance with the 90/10 rule.

We extend credit for tuition and fees to many of our students that attend our campuses. Our credit risk is mitigated through the students' participation in federally funded financial aid programs unless students withdraw prior to the receipt by us of Title IV Program funds for those students. Under Title IV Programs, the government funds a certain portion of a student's tuition, with the remainder, referred to as "the gap," financed by the students themselves under private party loans, including credit extended by us. The gap amount has continued to increase over the last several years as we have raised tuition on average for the last several years by 2-3% per year and restructured certain programs to reduce the amount of financial aid available to students, while funds received from Title IV Programs increased at lower rates.

The additional financing that we are providing to students may expose us to greater credit risk and can impact our liquidity. However, we believe that these risks are somewhat mitigated due to the following:

- Our internal financing is provided to students only after all other funding resources have been exhausted; thus, by the time this funding is available, students have completed approximately two-thirds of their curriculum and are more likely to graduate;
- Funding for students who interrupt their education is typically covered by Title IV Program funds as long as they have been properly packaged for financial aid; and
- Creditworthy criteria to demonstrate a student's ability to pay.

The operating expenses associated with an existing school do not increase or decrease proportionally as the number of students enrolled at the school increases or decreases. We categorize our operating expenses as:

- *Educational services and facilities.* Major components of educational services and facilities expenses include faculty compensation and benefits, expenses of books and tools, facility rent, maintenance, utilities, depreciation and amortization of property and equipment used in the provision of education services and other costs directly associated with teaching our programs excluding student services which is included in selling, general and administrative expenses.
- *Selling, general and administrative.* Selling, general and administrative expenses include compensation and benefits of employees who are not directly associated with the provision of educational services (such as executive management and school management, finance and central accounting, legal, human resources and business development), marketing and student enrollment expenses (including compensation and benefits of personnel employed in sales and marketing and student admissions), costs to develop curriculum, costs of professional services, bad debt expense, rent for our corporate headquarters, depreciation and amortization of property and equipment that is not used in the provision of educational services and other costs that are incidental to our operations. Selling, general and administrative expenses also includes the cost of all student services including financial aid and career services. All marketing and student enrollment expenses are recognized in the period incurred.

## **RECENT TRANSACTIONS**

On November 14, 2019, we entered into a Securities Purchase Agreement with Juniper Investment Company, Inc. ("Juniper Purchasers") and Talanta Investment Group, Inc. ("Talanta") with their affiliates, to sell an aggregate of 12,700 shares of Series A 9.6% Convertible Preferred Stock, no par value per share (the "Series A Preferred Stock") for a total purchase price of \$12.7 million. Each share of Series A Preferred Stock is initially convertible into approximately 424 shares of the Company's common stock, representing a conversion premium of 39% based upon Lincoln's closing stock price of \$1.70 per share on the NASDAQ on November 14, 2019. Beginning November 14, 2024, the Company can redeem outstanding Series A Preferred Stock under certain circumstances at a price determined pursuant to the terms of the agreement. The Series A Preferred Stock may be voted on an as-converted basis with the common stock, however both the voting rights and conversion rights are subject to a 19.99% ownership cap for each investor. The proceeds from the offering are intended to be used to provide flexibility to execute long-term growth initiatives such as expansion of existing high demand programs, the addition of new programs with strong employer demand and the expansion of the existing call center which reaches prospective students throughout the country. In addition, the Company plans to explore strategic acquisitions consistent with the Company's core business, upgrade training equipment to enhance the student experience, and increase marketing investments that will cost-effectively expand our reach to potential new students in key markets while raising overall brand awareness. See Note 10 of the Notes to our Consolidated Financial Statements contained elsewhere in this Annual Report on Form 10-K for further discussion.

Additionally, on November 14, 2019, the Company executed a new credit agreement with Sterling National Bank (the "Lender") replacing our prior facility. The credit facility is comprised of four separate facilities providing in the aggregate \$60 million comprised of: (1) a \$20 million term loan funded at closing to refinance the existing facility, (2) a \$10 million delayed draw term loan, (3) a \$15 million committed revolving line of credit, with a sublimit of up to \$10 million for standby letters of credit, and (4) a \$15 million cash collateralized line of credit. All of the facilities are senior secured with the term loans maturing in five years, the revolving line of credit maturing in three years, and the cash collateralized line of credit maturing on January 31, 2021. The credit facility increases the Company's available liquidity by approximately \$25.0 million supporting working capital and growth initiatives. The Company further anticipates realizing annualized interest savings of approximately \$1.0 million as a result of a reduction in the interest rate by an anticipated 30%. The Company's prior credit facility as of the closing had an outstanding balance of \$21.8 million. See Note 9 of the Notes to our Consolidated Financial Statements contained elsewhere in this Annual Report on Form 10-K for further discussion.



## **CRITICAL ACCOUNTING POLICIES AND ESTIMATES**

Our discussions of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America, or GAAP. The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the period. On an ongoing basis, we evaluate our estimates and assumptions, including those related to revenue recognition, bad debts, fixed assets, goodwill and other intangible assets, income taxes and certain accruals. Actual results could differ from those estimates. The critical accounting policies discussed herein are not intended to be a comprehensive list of all of our accounting policies. In many cases, the accounting treatment of a particular transaction is specifically dictated by GAAP and does not result in significant management judgment in the application of such principles. We believe that the following accounting policies are most critical to us in that they represent the primary areas where financial information is subject to the application of management's estimates, assumptions and judgment in the preparation of our consolidated financial statements.

### ***Revenue recognition.***

#### ***Prior to adoption of ASU 2014-09***

Revenues are derived primarily from programs taught at our schools. Tuition revenues, textbook sales and one-time fees, such as nonrefundable application fees and course material fees, are recognized on a straight-line basis over the length of the applicable program as the student proceeds through the program, which is the period of time from a student's start date through his or her graduation date (including internships or externships, if any, occurring prior to graduation), and we complete the performance of teaching the student entitling us to the revenue. Other revenues, such as tool sales and contract training revenues, are recognized as goods are delivered or training completed. On an individual student basis, tuition earned in excess of cash received is recorded as accounts receivable, and cash received in excess of tuition earned is recorded as unearned tuition.

We evaluate whether collectability of revenue is reasonably assured prior to the student commencing a program by attending class and reassess collectability of tuition and fees when a student withdraws from a course. We calculate the amount to be returned under Title IV Programs and its stated refund policy to determine eligible charges and, if there is a balance due from the student after this calculation, we expect payment from the student. We have a process to pursue uncollected accounts whereby, based upon the student's financial means and ability to pay, a payment plan is established with the student to ensure that collectability is reasonable. We continuously monitor our historical collections to identify potential trends that may impact our determination that collectability of receivables for withdrawn students is realizable. If a student withdraws from a program prior to a specified date, any paid but unearned tuition is refunded. Refunds are calculated and paid in accordance with federal, state and accrediting agency standards. Generally, the amount to be refunded to a student is calculated based upon the period of time the student has attended classes and the amount of tuition and fees paid by the student as of his or her withdrawal date. These refunds typically reduce deferred tuition revenue and cash on our consolidated balance sheets as we generally do not recognize tuition revenue in our consolidated statements of income (loss) until the related refund provisions have lapsed. Based on the application of our refund policies, we may be entitled to incremental revenue on the day the student withdraws from one of our schools. We record revenue for students who withdraw from one of our schools when payment is received because collectability on an individual student basis is not reasonably assured.

#### ***After adoption of ASU 2014-09***

On January 1, 2018, we adopted the new standard on revenue recognition promulgated by the Federal Accounting Standards Board (the "FASB"), Accounting Standards Update ("ASU") 2014-09, using the modified retrospective approach of ASU 2016-10. The adoption of the guidance in ASU 2014-09 as amended by ASU 2016-10 did not have a material impact on the Company's measurement or recognition of revenue in any prior or current reporting periods and there was no adjustment to retained earnings. The core principle of the new standard is that a company should recognize revenue to depict the transfer of promised goods or services to students in an amount that reflects the consideration to which the company expects to be entitled in exchange for such goods or services.

Substantially all of our revenues are considered to be revenues from contracts with students. The related accounts receivable balances are recorded in our balance sheets as student accounts receivable. We do not have significant revenue recognized from performance obligations that were satisfied in prior periods, and we do not have any transaction price allocated to unsatisfied performance obligations other than in our unearned tuition. We record revenue for students who withdraw from one of our schools only to the extent that it is probable that a significant reversal in the amount of cumulative revenue recognized will not occur. Unearned tuition represents contract liabilities primarily related to our tuition revenue. We have elected not to provide disclosure about transaction prices allocated to unsatisfied performance obligations if contract durations are less than one-year, or if we have the right to consideration from a student in an amount that corresponds directly with the value provided to the student for performance obligations completed to date. We have assessed the costs incurred to obtain a contract with a student and determined them to be immaterial.

**Allowance for uncollectible accounts.** Based upon experience and judgment, we establish an allowance for uncollectible accounts with respect to tuition receivables. We use an internal group of collectors in our collection efforts. In establishing our allowance for uncollectible accounts, we consider, among other things, current and expected economic conditions, a student's status (in-school or out-of-school), whether or not a student is currently making payments, and overall collection history. Changes in trends in any of these areas may impact the allowance for uncollectible accounts. The receivables balances of withdrawn students with delinquent obligations are reserved for based on our collection history. Although we believe that our reserves are adequate, if the financial condition of our students deteriorates, resulting in an impairment of their ability to make payments, additional allowances may be necessary, which will result in increased selling, general and administrative expenses in the period such determination is made.

Our bad debt expense as a percentage of revenues for the years ended December 31, 2019, 2018 and 2017 was 7.6%, 6.7% and 5.2%, respectively. A 1% increase in our bad debt expense as a percentage of revenues for the years ended December 31, 2019, 2018 and 2017 would have resulted in an increase in bad debt expense of \$2.7 million, \$2.6 million and \$2.6 million, respectively.

We do not believe that there is any direct correlation between tuition increases, the credit we extend to students and our loan commitments. Our loan commitments to our students are made on a student-by-student basis and are predominantly a function of the specific student's financial condition. We only extend credit to the extent there is a financing gap between the tuition and fees charged for the program and the amount of grants, loans and parental loans each student receives. Each student's funding requirements are unique. Factors that determine the amount of aid available to a student include whether they are dependent or independent students, Pell grants awarded, Federal Direct loans awarded, Plus loans awarded to parents and the student's personal resources and family contributions. As a result, it is extremely difficult to predict the number of students that will need us to extend credit to them. Our tuition increases have averaged 2-3% annually and have not meaningfully impacted overall funding requirements, since the amount of financial aid funding available to students in recent years has increased at greater rates than our tuition increases.

Because a substantial portion of our revenues are derived from Title IV Programs, any legislative or regulatory action that significantly reduces the funding available under Title IV Programs or the ability of our students or schools to participate in Title IV Programs could have a material effect on the realizability of our receivables.

**Goodwill.** We test our goodwill for impairment annually, or whenever events or changes in circumstances indicate an impairment may have occurred, by comparing its fair value to its carrying value. Impairment may result from, among other things, deterioration in the performance of the acquired business, adverse market conditions, adverse changes in applicable laws or regulations, including changes that restrict the activities of the acquired business, and a variety of other circumstances. If we determine that impairment has occurred, we are required to record a write-down of the carrying value and charge the impairment as an operating expense in the period the determination is made. In evaluating the recoverability of the carrying value of goodwill and other indefinite-lived intangible assets, we must make assumptions regarding estimated future cash flows and other factors to determine the fair value of the acquired assets. Changes in strategy or market conditions could significantly impact these judgments in the future and require an adjustment to the recorded balances.

Goodwill represents a significant portion of our total assets. As of December 31, 2019, goodwill was approximately \$14.5 million, or 7.5%, of our total assets, from approximately \$14.5 million, or 10.0%, of our total assets at December 31, 2018. The goodwill is allocated among nine reporting units within the Transportation and Skilled Trades Segment.

When we test goodwill balances for impairment, we determine the fair value of each of our reporting units using an equal weighting of the discounted cash flow model and the market approach. The determination of fair value using the discounted cash flow model requires significant estimates and assumptions related to forecasts of future revenues, which is driven by student start growth, EBITDA (Earnings Before Interest, Tax, Depreciation, and Amortization) margins, the long-term growth rate used in the calculation of the terminal value, and the discount rate to apply against each reporting unit's financial metrics. The determination of fair value using the market approach requires significant estimates and assumptions related to the selection of EBITDA multiples and the control premiums. Changes in these assumptions could have a significant impact on either the fair value, the amount of any goodwill impairment charge, or both.

Although we believe our projected future operating results and cash flows and related estimates regarding fair values are based on reasonable assumptions, historically projected operating results and cash flows have not always been achieved. The failure of one of our reporting units to achieve projected operating results and cash flows in the near term or long term may reduce the estimated fair value of the reporting unit below its carrying value and result in the recognition of a goodwill impairment charge. Significant management judgment is necessary to evaluate the impact of operating and macroeconomic changes and to estimate future cash flows. Assumptions used in our impairment evaluations, such as forecasted growth rates and our cost of capital, are based on the best available market information and are consistent with our internal forecasts and operating plans. In addition to cash flow estimates, our valuations are sensitive to the rate used to discount cash flows and future growth assumptions.

At December 31, 2019, 2018 and 2017, we conducted our annual test for goodwill impairment and determined we did not have an impairment.

**Income taxes.** We account for income taxes in accordance with Accounting Standards Codification (“ASC”) Topic 740, “Income Taxes” (“ASC 740”) which requires an asset and a liability approach for measuring deferred taxes based on temporary differences between the financial statement and tax bases of assets and liabilities existing at each balance sheet date using enacted tax rates for years in which taxes are expected to be paid or recovered.

In accordance with ASC 740, we assess our deferred tax asset to determine whether all or any portion of the asset is more likely than not unrealizable. A valuation allowance is required to be established or maintained when, based on currently available information, it is more likely than not that all or a portion of a deferred tax asset will not be realized. In accordance with ASC 740, our assessment considers whether there has been sufficient income in recent years and whether sufficient income is expected in future years in order to utilize the deferred tax asset. In evaluating the realizability of deferred income tax assets we considered, among other things, historical levels of income, expected future income, the expected timing of the reversals of existing temporary reporting differences, and the expected impact of tax planning strategies that may be implemented to prevent the potential loss of future income tax benefits. Significant judgment is required in determining the future tax consequences of events that have been recognized in our consolidated financial statements and/or tax returns. Differences between anticipated and actual outcomes of these future tax consequences could have a material impact on our consolidated financial position or results of operations. Changes in, among other things, income tax legislation, statutory income tax rates, or future income levels could materially impact our valuation of income tax assets and liabilities and could cause our income tax provision to vary significantly among financial reporting periods.

We recognize accrued interest and penalties related to unrecognized tax benefits in income tax expense. During the years ended December 31, 2019 and 2018, we did not record any interest and penalties expense associated with uncertain tax positions.

On December 22, 2017, the U.S. government enacted comprehensive tax legislation known as the Tax Cuts and Jobs Act (the "Tax Act"). The Tax Act establishes new tax laws that took effect in 2018, including, but not limited to (1) reduction of the U.S. federal corporate tax rate from a maximum of 35% to 21%; (2) elimination of the corporate alternative minimum tax (AMT); (3) a new limitation on deductible interest expense; (4) the repeal of the domestic production activity deduction; (5) limitations on the deductibility of certain executive compensation; and (6) limitation on net operating losses (NOLs) generated after December 31, 2017, to 80% of taxable income. In addition, certain changes were made to the bonus depreciation rules that impacted fiscal year 2017.

### Results of Continuing Operations for the Three Years Ended December 31, 2019

The following table sets forth selected consolidated statements of continuing operations data as a percentage of revenues for each of the periods indicated:

	Year Ended Dec 31,		
	2019	2018	2017
Revenue	100.0%	100.0%	100.0%
Costs and expenses:			
Educational services and facilities	45.2%	47.6%	49.4%
Selling, general and administrative	53.1%	53.7%	53.0%
(Gain) loss on sale of assets	-0.2%	0.2%	-0.6%
Total costs and expenses	98.1%	101.5%	101.8%
Operating income (loss)	1.9%	-1.5%	-1.8%
Interest expense, net	-1.1%	-0.9%	-2.7%
Other income	0.0%	0.0%	0.0%
Income (loss) from operations before income taxes	0.8%	-2.4%	-4.5%
Provision (benefit) for income taxes	0.1%	0.1%	-0.1%
Net income (loss)	0.7%	-2.5%	-4.4%

### Year Ended December 31, 2019 Compared to Year Ended December 31, 2018

#### Consolidated Results of Operations

**Revenue.** Revenue increased \$10.1 million, or 3.9% to \$273.3 million for the year ended December 31, 2019 from \$263.2 million in the prior fiscal year. The increase in revenue was a result of over two years of consistent student start growth which drove a 10.7% and 3.9% increase in average student population in both the Healthcare and Other Professions segment and the Transportation and Skilled Trades segment, respectively. Further contributing to the revenue increase year over year was increased focus on student retention which increased retention rates. Excluding the Transitional segment, which had revenue of zero and \$5.8 million during the years ended December 31, 2019 and 2018, respectively, revenue would have increased \$15.9 million or 6.2% year over year.

Total student starts increased 3.8% for the fiscal year ended December 31, 2019 as compared to the prior year comparable period. Excluding the Transitional segment, student starts would have increased 5.0%. Contributing to the increase in the student start rates were improved high school student starts, which are up 2.7% year over year. We attribute the consistent growth to our investments in marketing and admissions.

For a general discussion of trends in our student enrollment, see Part II, Item 7. “Management’s Discussion and Analysis of Financial Condition and Results of Operations - Seasonality and Outlook” below.

**Educational services and facilities expense.** Our educational services and facilities expense decreased \$1.9 million, or 1.5%, to \$123.5 million for the fiscal year ended December 31, 2019 from \$125.4 million in the prior fiscal year. Excluding the Transitional segment, which had expense of zero and \$5.3 million in the current and prior year, respectively, educational services and facilities expense increased \$3.4 million. The increase was primarily the result of increases in instructional salaries and benefits expense and books and tools expense resulting from a larger student population year over year. Partially offsetting the increases in expense were cost savings in facilities expense resulting from the successful negotiation of more favorable lease terms at two of our campuses. Educational services and facilities expense, as a percentage of revenue, decreased to 45.2% from 47.6% for the years ended December 31, 2019 and 2018, respectively.

**Selling, general and administrative expense.** Our selling general and administrative expense increased \$4.0 million, or 2.8% to \$145.2 million for the fiscal year ended December 31, 2019 from \$141.2 million in the prior fiscal year. Excluding the Transitional segment, which had expense of zero and \$6.5 million in the current and prior year, respectively, selling general and administrative expense increased \$10.4 million. Increases in expense were due in part to several factors including additional bad debt expense; investments made in sales expense and marketing expense; increases in salaries and benefits expense resulting from a larger student population and costs incurred in connections with strategic initiatives intended to increase shareholder value. No additional costs pertaining to these strategic initiatives will be incurred going forward.

Bad debt expense increased due to certain factors including tuition increases along with a slight increase in reserve rates due to lower historical repayment rates. In addition, modifications were made to our institutional loan program to address student affordability barriers both at the time of enrollment and while in school. Although these student friendly changes have positively impacted student starts and retention, it may have resulted in lower repayment rates. As of December 31, 2019, less than one third of the student population relied on the institutional loan program to help subsidize their education.

Marketing investments were up year over year primarily to capitalize on cost effective lead generating opportunities in higher converting channels, while also investing in greater brand awareness. Although marketing spend was up, cost per start was down for the year ended December 31, 2019. The reduced cost per start is a positive indicator demonstrating a strong return on investment.

Sales expense also increased during the year and is tied in part to additional marketing investments, which are generating more leads and requiring additional resources.

Selling general and administrative expenses, as a percentage of revenue, decreased to 53.1% for the fiscal year ended December 31, 2019 from 53.7% in the prior fiscal year.

**Net interest expense.** Net interest expense for the fiscal year ended December 31, 2019 increased by \$0.6 million, or 23.6% to \$3.0 million from \$2.4 million in the prior fiscal year. This increase was driven by \$0.5 million in additional expense in the current year resulting from the write-off of previously capitalized costs incurred under our prior credit agreement. With the execution of the new senior secured credit agreement with Sterling National Bank and approximately \$12.0 million in net proceeds obtained through the issuance of 12,700 shares of Series A Convertible Preferred Stock.

**Income taxes.** Our provision for income taxes was \$0.3 million, or 11.7% of pretax income, for the fiscal year ended December 31, 2019, compared to a benefit for income taxes of \$0.2 million, or 3.2% of pretax loss, in the prior fiscal year. No federal or state income tax benefit was recognized for the current period loss due to the recognition of a full valuation allowance. Income tax expense resulted from various minimal state tax expenses.

## **Segment Results of Operations**

We operate our business in three reportable segments: (a) the Transportation and Skilled Trades segment; (b) the Healthcare and Other Professions (“HOPS”) segment; and (c) the Transitional segment. Our reportable segments have been determined based on a method by which we now evaluate performance and allocate resources. Each reportable segment represents a group of post-secondary education providers that offer a variety of degree and non-degree academic programs. These segments are organized by key market segments to enhance operational alignment within each segment to more effectively execute our strategic plan. Each of the Company’s schools is a reporting unit and an operating segment. Our operating segments are described below.

**Transportation and Skilled Trades** – The Transportation and Skilled Trades segment offers academic programs mainly in the career-oriented disciplines of transportation and skilled trades (e.g. automotive, diesel, HVAC, welding and manufacturing).

**Healthcare and Other Professions** – The Healthcare and Other Professions segment offers academic programs in the career-oriented disciplines of health sciences, hospitality and business and information technology (e.g. dental assistant, medical assistant, practical nursing, culinary arts and cosmetology).

**Transitional** – The Transitional segment refers to campus operations which have been closed prior to 2019. The schools in the Transitional segment employed a gradual teach-out process that enabled the schools to continue to operate to allow their current students to complete their course of study.

The Company continually evaluates each campus for profitability, earning potential, and customer satisfaction. This evaluation takes several factors into consideration, including the campus’s geographic location and program offerings, as well as skillsets required of our students by their potential employers. The purpose of this evaluation is to ensure that our programs provide our students with the best possible opportunity to succeed in the marketplace with the goals of attracting more students to our programs and, ultimately, to provide our shareholders with the maximum return on their investment. As of December 31, 2019, no campuses have been categorized in the Transitional segment.

We evaluate segment performance based on operating results. Adjustments to reconcile segment results to consolidated results are included under the caption “Corporate,” which primarily includes unallocated corporate activity.

For all prior periods presented, the Company reclassified its Marietta, Georgia campus from the HOPS segment to the Transportation and Skilled Trades segment. This reclassification occurred to address how the Company evaluates performance and allocates resources and was approved by the Company’s Board of Directors.

The following table present results for our three reportable segments for the years ended December 31, 2019 and 2018:

	<b>Twelve Months Ended Dec 31,</b>		
	<b>2019</b>	<b>2018</b>	<b>% Change</b>
<b>Revenue:</b>			
Transportation and Skilled Trades	\$ 193,722	\$ 185,263	4.6%
Healthcare and Other Professions	79,620	72,135	10.4%
Transitional	-	5,802	-100.0%
Total	<u>\$ 273,342</u>	<u>\$ 263,200</u>	<u>3.9%</u>
<b>Operating Income (Loss):</b>			
Transportation and Skilled Trades	\$ 21,979	\$ 17,661	24.4%
Healthcare and Other Professions	7,588	6,469	17.3%
Transitional	-	(5,994)	100.0%
Corporate	(24,329)	(22,090)	-10.1%
Total	<u>\$ 5,238</u>	<u>\$ (3,954)</u>	<u>232.5%</u>
<b>Starts:</b>			
Transportation and Skilled Trades	8,548	8,294	3.1%
Healthcare and Other Professions	4,386	4,023	9.0%
Transitional	-	140	-100.0%
Total	<u>12,934</u>	<u>12,457</u>	<u>3.8%</u>
<b>Average Population:</b>			
Transportation and Skilled Trades	7,319	7,042	3.9%
Healthcare and Other Professions	3,666	3,312	10.7%
Transitional	-	237	-100.0%
Total	<u>10,985</u>	<u>10,591</u>	<u>3.7%</u>
<b>End of Period Population:</b>			
Transportation and Skilled Trades	7,349	6,988	5.2%
Healthcare and Other Professions	3,936	3,537	11.3%
Transitional	-	-	-
Total	<u>11,285</u>	<u>10,525</u>	<u>7.2%</u>

## Year Ended December 31, 2019 Compared to Year Ended December 31, 2018

### Transportation and Skilled Trades

Student start results increased 3.1% to 8,548 for the fiscal year ended December 31, 2019 from 8,294 in the prior fiscal year.

Operating income increased \$4.3 million, or 24.4% to \$22.0 million for the fiscal year ended December 31, 2019 from \$17.7 million in the prior fiscal year. The increase fiscal year over year was mainly driven by the following factors:

- Revenue increased \$8.5 million, or 4.6% to \$193.7 million for the fiscal year ended December 31, 2019 from \$185.3 million in the prior fiscal year. This increase was a result of over two years of consistent student start growth, which has driven average population up 3.9% year over year.
- Educational services and facilities expense increased \$0.4 million, or less than one percent to \$85.7 million for the fiscal year ended December 31, 2019 from \$85.4 million in the prior fiscal year. The increase year over year is primarily a result of a larger student population driving a \$1.7 million, or 3.4% increase in instructional expense and books and tools expense. Partially offsetting this increase are cost savings of \$1.3 million in facilities expense primarily resulting from the successful negotiation of more favorable lease terms at two of our campuses.
- Selling, general and administrative expense increased \$4.3 million, or 5.2% to \$86.6 million for the fiscal year ended December 31, 2019 from \$82.3 million in the prior fiscal year. Increases in expense were primarily the result of additional bad debt expense; increases in marketing expense and sales expense and increases in salaries and benefits expense. Additional expense incurred for bad debt, marketing and sales are detailed in the consolidated results of operations. Increases in salaries and benefits expense were due in part to a growing student population.

### Healthcare and Other Professions

Student start results increased 9.0% to 4,386 for the fiscal year ended December 31, 2019 from 4,023 in the prior fiscal year.

Operating income increased 17.3% to \$7.6 million for the fiscal year ended December 31, 2019 from \$6.5 million in the prior fiscal year. The \$1.1 million increase was mainly driven by the following factors:

- Revenue increased by \$7.5 million, or 10.4% to \$79.6 million for the fiscal year ended December 31, 2019 from \$72.1 million in the prior fiscal year. This increase was a result of over two years of consistent student start growth, which has driven average population up 10.7% year over year.
- Educational services and facilities expense increased by \$3.0 million, or 8.8% to \$37.8 million for the fiscal year ended December 31, 2019 from \$34.7 million in the prior fiscal year. The increase in expense year over year was primarily due to a larger student population driving a \$2.6 million, or 10.2% increase in instructional expense and books and tools expense.
- Selling, general and administrative expense increased \$3.3 million to \$34.3 million for the fiscal year ended December 31, 2019 from \$31.0 million in the prior fiscal year. Increases in expense were primarily the result of additional bad debt expense in combination with additional investments in marketing expense and sales expense as detailed in the consolidated results of operations.

### Transitional

During the year ended December 31, 2018, one campus, the LCNE campus at Southington, Connecticut was categorized in the Transitional segment. This campus was fully taught out as of December 31, 2018 and financial information for this campus was included in the Transitional segment for the year ended December 31, 2018. As of December 31, 2019, no campuses were categorized in the Transitional segment.

Revenue was zero and \$5.8 million for the year ended December 31, 2019 and 2018, respectively. Operating loss was zero and \$6.0 million for the year ended December 31, 2019 and 2018, respectively

### Corporate and Other

This category includes unallocated expenses incurred on behalf of the entire Company. Corporate and other expenses were \$24.3 million for the fiscal year ended December 31, 2019 as compared to \$22.1 million, in the prior fiscal year. The increase in expense was due to costs incurred in connection with the evaluation of strategic initiatives intended to increase shareholder value. No additional costs pertaining to these strategic initiatives will be incurred going forward. In addition, in the prior fiscal period, a \$0.4 million loss on the sale of a corporate property was realized.

**LIQUIDITY AND CAPITAL RESOURCES**

Our primary capital requirements are for maintenance and expansion of our facilities and the development of new programs. Our principal sources of liquidity have been cash provided by operating activities and borrowings under our credit facility. The following chart summarizes the principal elements of our cash flow for each of the three fiscal years in the period ended December 31, 2019:

	<b>2019</b>	<b>2018</b>	<b>2017</b>
	<b>(In thousands)</b>		
Net cash provided by (used in) operating activities	\$ 988	\$ (1,694)	\$ (11,321)
Net (cash used) provided by in investing activities	\$ (4,810)	\$ (2,349)	\$ 10,707
Net (cash used) provided by in financing activities	\$ (3,480)	\$ (4,565)	\$ 7,453

As of December 31, 2019, the Company had a net cash balance of \$4.6 million compared to a net debt balance of \$3.4 million as of December 31, 2018. The net cash balance is calculated as our cash, cash equivalents and both short and long-term restricted cash less both short and long-term portion of the credit agreement. The increase in cash position was primarily attributable to net proceeds of approximately \$12.0 million obtained through the issuance in November 2019 of 12,700 shares of Series A Convertible Preferred Stock, no par value, the termination of our prior credit facility and the execution of a new senior secured credit facility with Sterling National Bank increasing aggregate borrowings to \$60 million from \$47 million, and net income generated for the year ended December 31, 2019 of approximately \$2.0 million. Partially offsetting the increases in liquidity were repayments made on net borrowings of \$14.5 million as of December 31, 2019.

To fund our business plans, including any anticipated future losses, purchase commitments, capital expenditures and principal and interest payments on borrowings, we leveraged our owned real estate. We are also continuing to take actions to improve cash flow by aligning our cost structure to our student population, in addition to our current sources of capital that provide short term liquidity.

Our primary source of cash is tuition collected from our students. The majority of students enrolled at our schools rely on funds received under various government-sponsored student financial aid programs to pay a substantial portion of their tuition and other education-related expenses. The most significant source of student financing is Title IV Programs, which represented approximately 78% of our cash receipts relating to revenues in 2019. Pursuant to applicable regulations, students must apply for a new loan for each academic period. Federal regulations dictate the timing of disbursements of funds under Title IV Programs and loan funds are generally provided by lenders in two disbursements for each academic year. The first disbursement is usually received approximately 31 days after the start of a student's academic year and the second disbursement is typically received at the beginning of the sixteenth week from the start of the student's academic year. Certain types of grants and other funding are not subject to a 31-day delay. In certain instances, if a student withdraws from a program prior to a specified date, any paid but unearned tuition or prorated Title IV Program financial aid is refunded according to federal, state and accrediting agency standards.

As a result of the significant amount of Title IV Program funds received by our students, we are highly dependent on these funds to operate our business. Any reduction in the level of Title IV Program funds that our students are eligible to receive or any restriction on our eligibility to receive Title IV Program funds would have a significant impact on our operations and our financial condition. For more information, see Part I, Item 1A. "Risk Factors - Risks Related to Our Industry".

**Operating Activities**

Net cash provided by operating activities was \$1.0 million for the fiscal year ended December 31, 2019 compared to net cash used in operating activities of \$1.7 million in the prior fiscal year. The increase of \$2.7 million was driven by net income generated for the year ended December 31, 2019 in combination with other working capital items such as accounts receivable, accounts payable, accrued expenses and unearned tuition year over year.

**Investing Activities**

Net cash used in investing activities was \$4.8 million for the fiscal year ended December 31, 2019 compared to \$2.3 million in the prior fiscal year. The increase of \$2.5 million was primarily the result of the sale of the Mangonia Park, Florida property on August 23, 2018 which generated a cash inflow of \$2.3 million in the prior year.

One of our primary uses of cash in investing activities was capital expenditures associated with investments in training technology, classroom furniture, and new program buildouts.

We currently lease a majority of our campuses. We own our real property in Grand Prairie, Texas; Nashville, Tennessee; and Denver, Colorado and our former school property located in Suffield, Connecticut.



Capital expenditures were 2% of revenues in 2020 and are expected to approximate 2% of revenues in 2021. We expect to fund future capital expenditures with cash generated from operating activities and borrowings under our credit facility.

### **Financing Activities**

Net cash used in financing activities was \$3.5 million for the fiscal year ended December 31, 2019 compared \$4.6 million in the prior fiscal year. The decrease of \$1.1 million was primarily due to net proceeds of approximately \$12.0 million from the issuance of Series A Convertible Preferred Stock in November 2019, partially offset by an increase in net payments on borrowings year over year of \$10.4 million.

Net payments on borrowings consisted of: (a) total borrowing to date under our secured credit facility of \$40 million; and (b) \$54.5 million in total repayments made by the Company.

### **Credit Agreement**

As noted above under “Recent Transactions,” on November 14, 2019, the Company entered into a new senior secured credit agreement (the “2019 Credit Agreement”) with its Lender pursuant to which the Company obtained a credit facility in the aggregate principal amount of up to \$60 million (the “2019 Credit Facility”). The 2019 Credit Facility replaced the Company’s existing facility with the Lender and, among other things, increased aggregate borrowing from \$47 million to \$60 million.

The 2019 Credit Facility is comprised of four facilities: a \$20 million senior secured term loan maturing on December 1, 2024 (the “Term Loan”), with monthly interest and principal payments based on 120-month amortization with the outstanding balance due on the maturity date; a \$10 million senior secured delayed draw term loan maturing on December 1, 2024 (the “Delayed Draw Term Loan”), with monthly interest payments for the first 18 months and thereafter monthly payments of interest and principal based on 120-month amortization and all balances due on the maturity date; a \$15 million senior secured committed revolving line of credit providing a sublimit of up to \$10 million for standby letters of credit maturing on November 13, 2022 (the “Revolving Loan”), with monthly payments of interest only, and a \$15 million senior secured non-restoring line of credit maturing on January 31, 2021 (the “Line of Credit Loan”).

The 2019 Credit Facility is secured by a first priority lien in favor of the Lender on substantially all of the personal property owned by the Company, as well as a pledge of the stock and other equity in the Company’s subsidiaries and mortgages on parcels of real property owned by the Company in Colorado, Tennessee and Texas, at which three of the Company’s schools are located, as well as a former school property owned by the Company located in Connecticut.

At the closing of the 2019 Credit Facility, the Lender advanced the Term Loan to the Company, the net proceeds of which was \$19.7 million after deduction of the Lender’s origination fee in the amount of \$0.3 million and other Lender fees and reimbursements to the Lender that are customary for facilities of this type. The Company used the net proceeds of the Term Loan, together with cash on hand, to repay the existing credit facility and transaction expenses.

Pursuant to the terms of the 2019 Credit Agreement, letters of credit issued under the Revolving Loan reduce dollar for dollar the availability of borrowings under the Revolving Loan. Borrowings under the Line of Credit Loan are to be secured by cash collateral.

Borrowing under the Delayed Draw Term Loan is available during the period commencing on the closing date of the 2019 Credit Facility and ending on May 31, 2021. Any amounts not borrowed during this period will not be available to the Company. As of December 31, 2019 there were no amounts borrowed under the Delayed Draw Term Loan

Accrued interest on each loan under the 2019 Credit Facility is being paid monthly in arrears. The Term Loan and the Delayed Draw Term Loan each bear interest at a floating interest rate based on the then one month London Interbank Offered Rate (“LIBOR”) plus 3.50%. At the closing of the 2019 Credit Facility, the Company entered into a swap transaction with the Lender for 100% of the principal balance of the Term Loan, which matures on the same date as the Term Loan at a fixed interest rate of 5.36%. At the end of the borrowing availability period for the Delayed Draw Term Loan, the Company is required to enter into a swap transaction with the Lender for 100% of the principal balance of the Delayed Draw Term Loan, which will mature on the same date as the Delayed Draw Term Loan, pursuant to a swap agreement between the Company and the Lender or the Lender’s affiliate. The Term Loan and Delayed Draw Term Loan are subject to a LIBOR interest rate floor of .25% if there is no swap agreement.

Revolving Loans will bear interest at a floating interest rate based on the then LIBOR plus an indicative spread determined by the Company’s leverage as defined in the 2019 Credit Agreement or, if the borrowing of a Revolving Loan is to be repaid within 30 days of such borrowing, the Revolving Loan will accrue interest at the Lender’s prime rate plus .50% with a floor of 4.0%. Line of Credit Loans will bear interest at a floating interest rate based on the Lender’s prime rate of interest. Revolving Loans are subject to a LIBOR interest rate floor of .00%.

Letters of credit will be charged an annual fee equal to (i) an applicable margin determined by the leverage ratio of the Company less (ii) .25%, paid quarterly in arrears, in addition to the Lender's customary fees for issuance, amendment and other standard fees. Letters of credit totaling \$4 million that were outstanding under the existing credit facility are treated as letters of credit under the Revolving Loan.

Under the terms of the 2019 Credit Agreement, the Company may prepay the Term Loan and/or the Delayed Draw Term Loan in full or in part without penalty except for any amount required to compensate the Lender for any swap breakage or other costs incurred in connection with such prepayment. The Lender receives an annual unused facility fee of 0.50% payable quarterly in arrears on the unused portions of the Revolving Loan and the Line of Credit Loan.

In addition to the foregoing, the 2019 Credit Agreement contains customary representations, warranties and affirmative and negative covenants (including financial covenants that (i) restrict capital expenditures, (ii) restrict leverage, (iii) require maintaining minimum tangible net worth, (iv) require maintaining a minimum fixed charge coverage ratio and (v) require the maintenance of a minimum of \$5 million in quarterly average aggregate balances on deposit with the Lender, which, if not maintained, will result in the assessment of a quarterly fee of \$12,500), as well as events of default customary for facilities of this type. As of December 31, 2019, the Company is in compliance with all covenants.

As of December 31, 2019, the Company had \$34.8 million outstanding under the 2019 Credit Facility; offset by \$0.8 million of deferred finance fees. As of December 31, 2018, the Company had \$49.3 million outstanding under the 2019 Credit Facility, offset by \$0.5 million of deferred finance fees, which were written-off. As of December 31, 2019 and December 31, 2018, letters of credit in the aggregate outstanding principal amount of \$4.0 million and \$1.8 million, respectively, were outstanding under the 2019 Credit Facility.

Long-term debt and lease obligations consist of the following:

	As of December 31,	
	2019	2018
Credit agreement	\$ 34,833	\$ 49,301
Deferred financing fees	(805)	(532)
Subtotal	34,028	48,769
Less current maturities	(2,000)	(15,000)
Total long-term debt	<u>\$ 32,028</u>	<u>\$ 33,769</u>

As of December 31, 2019, we had outstanding loan commitments to our students of \$75.5 million, as compared to \$63.1 million at December 31, 2018. Loan commitments, net of interest that would be due on the loans through maturity, were \$54.7 million at December 31, 2019, as compared to \$46.2 million at December 31, 2018.

## Climate Change

Climate change has not had and is not expected to have a significant impact on our operations.

## Contractual Obligations

**Current portion of Long-Term Debt, Long-Term Debt and Lease Commitments.** As of December 31, 2019, our current portion of long-term debt and long-term debt consisted of borrowings under our Credit Facility. We lease offices, educational facilities and various items of equipment for varying periods through the year 2030 at basic annual rentals (excluding taxes, insurance, and other expenses under certain leases).

The following table contains supplemental information regarding our total contractual obligations as of December 31, 2019:

	Payments Due by Period				
	Total	Less than 1 year	1-3 years	3-5 years	More than 5 years
Credit facility*	\$ 34,833	\$ 2,000	\$ 19,000	\$ 13,833	\$ -
Operating leases	79,508	15,510	25,254	18,737	20,007
Interest on Term Loan **	4,057	1,031	1,793	1,233	-
Total contractual cash obligations	<u>\$ 118,398</u>	<u>\$ 18,541</u>	<u>\$ 46,047</u>	<u>\$ 33,803</u>	<u>\$ 20,007</u>

\* Excludes deferred finance fees of \$0.8 million.

\*\* Includes fixed rate interest payment resulting from the cash flow hedge.

## **OFF-BALANCE SHEET ARRANGEMENTS**

We had no off-balance sheet arrangements as of December 31, 2019, except for surety bonds. At December 31, 2019, we posted surety bonds in the total amount of approximately \$12.8 million. We are required to post surety bonds on behalf of our campuses and education representatives with multiple states to maintain authorization to conduct our business. These off-balance sheet arrangements do not adversely impact our liquidity or capital resources.

## **SEASONALITY AND OUTLOOK**

### ***Seasonality***

Our revenue and operating results normally fluctuate as a result of seasonal variations in our business, principally due to changes in total student population. Student population varies as a result of new student enrollments, graduations and student attrition. Historically, our schools have had lower student populations in our first and second quarters and we have experienced larger class starts in the third quarter and higher student attrition in the first half of the year. Our second half growth is largely dependent on a successful high school recruiting season. We recruit our high school students several months ahead of their scheduled start dates and, thus, while we have visibility on the number of students who have expressed interest in attending our schools, we cannot predict with certainty the actual number of new student enrollments and the related impact on revenue. Our expenses, however, typically do not vary significantly over the course of the year with changes in our student population and revenue. During the first half of the year, we make significant investments in marketing, staff, programs and facilities to meet our second half of the year targets and, as a result, such expenses do not fluctuate significantly on a quarterly basis. To the extent new student enrollments, and related revenue, in the second half of the year fall short of our estimates, our operating results could be negatively impacted. We expect quarterly fluctuations in operating results to continue as a result of seasonal enrollment patterns. Such patterns may change as a result of new school openings, new program introductions, and increased enrollments of adult students and/or acquisitions.

### ***Outlook***

Our nation is facing a skills gap caused by technological, demographic and policy changes. Technology is permeating every industry and job necessitating retraining of the existing workforce in order to remain productive and engaged. At the same time, the retirement of baby boomers in large numbers is forcing companies to look for replacement employees. Unfortunately, there are not enough new skilled employees to replace those retiring. A major reason for this shortfall is caused by the reduction of career education in many high schools starting in the 1980s as policy makers decided more students needed to attend college and resources and programs were steered in that direction. Consequently, today there are more job openings than qualified individuals to fill them. This problem, we believe presents a great opportunity for our Company.

Traditionally, our enrollments decline in a low unemployment environment. However, for the last seven quarters, we have achieved growth despite declining unemployment levels. We attribute this growth to both better marketing of our high return-on-investment programs and a growing awareness that four year post-secondary degrees along with their attendant high costs may not be the best option for everyone. By partnering with industry and increasing our advertising spend, we expect to continue to grow awareness of our schools and increase our enrollments as we seek to eliminate the skills gap. Employers are reaching out to us seeking to employ our graduates. Like the economy in general, we have more job requests from employers than graduates to fill them.

Furthermore, when the economy slows down, we expect that our enrollments will also increase as more people are displaced from the workforce and need to acquire different or additional skills to find employment.

### ***Effect of Inflation***

Inflation has not had and is not expected to have a significant impact on our operations.

## **ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

We are exposed to certain market risks as part of our on-going business operations. Our obligations under our credit facility are secured by a lien on substantially all of our assets and any assets that we or our subsidiaries may acquire in the future. As of December 31, 2019, we had \$34.8 million outstanding under the 2019 Credit Agreement for which we hedged 57% of the amount outstanding by entering into a cash flow hedge with a fixed interest rate of 5.36%.

Based on our remaining unhedged outstanding debt balance as of December 31, 2019, a change of one percent in the interest rate would have caused a change in our interest expense of approximately \$0.2 million, or \$0.01 per basic share, on an annual basis. Changes in interest rates could have an impact on our operations, which are greatly dependent on our students' ability to obtain financing and, as such, any increase in interest rates could greatly impact our ability to attract students and have an adverse impact on the results of our operations.

The use of the derivative instrument exposes us to credit risk if the counterparty fails to perform when the fair value of a derivative instrument contract is positive. If the counterparty fails to perform, collateral is not required by any party whether derivatives are in an asset or liability position.

**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

See “Index to Consolidated Financial Statements” on page F-1 of this Annual Report on Form 10-K.

**ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

None.

**ITEM 9A. CONTROLS AND PROCEDURES**

**Evaluation of disclosure controls and procedures**

Our Chief Executive Officer and Chief Financial Officer, after evaluating, together with management, the effectiveness of our disclosure controls and procedures (as defined in Securities Exchange Act Rule 13a-15(e)) as of December 31, 2019 have concluded that our disclosure controls and procedures are effective to reasonably ensure that material information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified by Securities and Exchange Commissions’ Rules and Forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

**Internal Control Over Financial Reporting**

During the quarter ended December 31, 2019, there has been no change in our internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting. We implemented internal controls to ensure that we adequately evaluated our contracts and properly assessed the impact of the new accounting standards related to leases on our financial statements to facilitate their adoption on January 1, 2019. There were no significant changes to our internal control over financial reporting due to the adoption of the new standard.

**Management’s Annual Report on Internal Control over Financial Reporting**

The management of the Company is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) under the Securities Exchange Act of 1934, as amended. The Company’s internal control system was designed to provide reasonable assurance to the Company’s management and Board of Directors regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles.

Management assessed the effectiveness of the Company’s internal control over financial reporting as of December 31, 2019, based on the framework set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control—Integrated Framework (2013)*. Based on its assessment, management believes that, as of December 31, 2019, the Company’s internal control over financial reporting is effective.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

The Company’s independent auditors, Deloitte & Touche LLP, an independent registered public accounting firm, audited the Company’s internal control over financial reporting as of December 31, 2019, as stated in their report included in this Form 10-K that follows.

**ITEM 9B. OTHER INFORMATION**

None.

## PART III.

Certain information required by this item will be included in a definitive proxy statement for the Company's annual meeting of shareholders or an amendment to this Annual Report on Form 10-K, in either case filed with the Securities and Exchange Commission within 120 days after December 31, 2019, and is incorporated by reference herein.

### ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

#### Directors and Executive Officers

Certain information required by this Item 10 of Part III is incorporated by reference from a definitive proxy statement or an amendment to this Annual Report on Form 10-K that will be filed with the Securities and Exchange Commission within 120 days after December 31, 2019.

#### Code of Ethics

We have adopted a Code of Conduct and Ethics applicable to our directors, officers and employees and certain other persons, including our Chief Executive Officer and Chief Financial Officer. A copy of our Code of Ethics is available on our website at [www.lincolntech.edu](http://www.lincolntech.edu). If any amendments to or waivers from the Code of Conduct are made, we will disclose such amendments or waivers on our website.

### ITEM 11. EXECUTIVE COMPENSATION

The information required by this Item 11 of Part III is incorporated by reference from a definitive proxy statement or an amendment to this Annual Report on Form 10-K that will be filed with the Securities and Exchange Commission within 120 days after December 31, 2019.

### ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The information required by this Item 12 of Part III is incorporated by reference from a definitive proxy statement or an amendment to this Annual Report on Form 10-K that will be filed with the Securities and Exchange Commission within 120 days after December 31, 2019.

### ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

The information required by this Item 13 of Part III is incorporated by reference from a definitive proxy statement or an amendment to this Annual Report on Form 10-K that will be filed with the Securities and Exchange Commission within 120 days after December 31, 2019.

### ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

The information required by this Item 14 of Part III is incorporated by reference from a definitive proxy statement or an amendment to this Annual Report on Form 10-K that will be filed with the Securities and Exchange Commission within 120 days after December 31, 2019.

**PART IV.****ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES****1. Financial Statements**

See “Index to Consolidated Financial Statements” on page F-1 of this Annual Report on Form 10-K.

**2. Financial Statement Schedule**

See “Index to Consolidated Financial Statements” on page F-1 of this Annual Report on Form 10-K.

**3. Exhibits Required by Securities and Exchange Commission Regulation S-K**

<u>Exhibit Number</u>	<u>Description</u>
<a href="#">3.1</a>	Amended and Restated Certificate of Incorporation of the Company (incorporated by reference to the Company’s Registration Statement on Form S-1/A (Registration No. 333-123644) filed June 7, 2005).
<a href="#">3.2</a>	Certificate of Amendment, dated November 14, 2019, to the Amended and Restated Certificate of Incorporation of the Company (incorporated by reference to the Company’s Quarterly Report on Form 10-Q filed November 14, 2019)
<a href="#">3.3</a>	Bylaws of the Company, as amended on March 8, 2019 (incorporated by reference to the Company’s Form 8-K filed June 28 2005).
<a href="#">4.1</a>	Specimen Stock Certificate evidencing shares of common stock (incorporated by reference to the Company’s Registration Statement on Form S-1/A (Registration No. 333-123644) filed June 21, 2005).
<a href="#">4.2</a>	Registration Rights Agreement, dated as of November 14, 2019, between the Company and the investors parties thereto (incorporated by reference to the Company’s Quarterly Report on Form 10-Q filed November 14, 2019).
<a href="#">4.3*</a>	Description of Securities of the Company
<a href="#">10.1</a>	Employment Agreement, dated as of November 8, 2017, between the Company and Scott M. Shaw (incorporated by reference to the Company’s Quarterly Report on Form 10-Q filed November 13, 2017).
<a href="#">10.2</a>	Employment Agreement, dated as of November 7, 2018, between the Company and Scott M. Shaw (incorporated by reference to the Company’s Quarterly Report on Form 10-Q filed November 9, 2018).
<a href="#">10.3</a>	Employment Agreement, dated as of November 8, 2017, between the Company and Brian K. Meyers (incorporated by reference to the Company’s Quarterly Report on Form 10-Q filed November 13, 2017).
<a href="#">10.4</a>	Employment Agreement, dated as of November 7, 2018, between the Company and Brian K. Meyers (incorporated by reference to the Company’s Quarterly Report on Form 10-Q filed November 9, 2018).
<a href="#">10.5</a>	Change in Control Agreement, dated as of November 7, 2018, between the Company and Stephen M. Buchenot (incorporated by reference to the Company’s Quarterly Report on Form 10-Q filed November 9, 2018).
<a href="#">10.6</a>	Lincoln Educational Services Corporation Amended and Restated 2005 Long-Term Incentive Plan (incorporated by reference to the Company’s Form 8-K filed May 6, 2013).
<a href="#">10.7</a>	Lincoln Educational Services Corporation Amended and Restated 2005 Non-Employee Directors Restricted Stock Plan (incorporated by reference to the Company’s Registration Statement on Form S-8 (Registration No. 333-211213) filed May 6, 2016).

<a href="#">10.8</a>	Lincoln Educational Services Corporation 2005 Deferred Compensation Plan (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-123644) filed March 29, 2005).
<a href="#">10.9</a>	Form of Stock Option Agreement under our 2005 Long-Term Incentive Plan (incorporated by reference to the Company's Annual Report on Form 10-K for the year ended December 31, 2007).
<a href="#">10.10</a>	Form of Restricted Stock Agreement under our 2005 Long-Term Incentive Plan (incorporated by reference to the Company's Annual Report on Form 10-K for the year ended December 31, 2012).
<a href="#">10.11</a>	Form of Performance-Based Restricted Stock Award Agreement under our Amended & Restated 2005 Long-Term Incentive Plan (incorporated by reference to the Company's Form 8-K filed May 5, 2011).
<a href="#">10.12</a>	Securities Purchase Agreement, dated as of November 14, 2019, between the Company and the investors parties thereto (incorporated by reference to the Company's Quarterly Report on Form 10-Q filed November 14, 2019).
<a href="#">10.13</a>	Credit Agreement, dated as of November 14, 2019, among the Company, Lincoln Technical Institute, Inc. and its subsidiaries, and Sterling National Bank (incorporated by reference to the Company's Quarterly Report on Form 10-Q filed November 14, 2019).
<a href="#">10.14</a>	Form of Indemnification Agreement between the Company and each director of the Company (incorporated by reference to the Company's Quarterly Report on Form 10-Q filed November 14, 2019).
<a href="#">10.15</a>	Indemnification Agreement between the Company and John A. Bartholdson (incorporated by reference to the Company's Quarterly Report on Form 10-Q filed November 14, 2019).
<a href="#">21.1*</a>	Subsidiaries of the Company.
<a href="#">23*</a>	Consent of Independent Registered Public Accounting Firm.
<a href="#">24*</a>	Power of Attorney (included on the Signatures page of the Company's Annual Report on Form 10-K filed March 6, 2020).
<a href="#">31.1*</a>	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
<a href="#">31.2*</a>	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
<a href="#">32*</a>	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101**	The following financial statements from Lincoln Educational Services Corporation's Annual Report on Form 10-K for the year ended December 31, 2019, formatted in XBRL: (i) Consolidated Statements of Operations, (ii) Consolidated Balance Sheets, (iii) Consolidated Statements of Cash Flows, (iv) Consolidated Statements of Comprehensive (Loss) Income, (v) Consolidated Statement of Changes in Stockholders' Equity and (vi) the Notes to Consolidated Financial Statements, tagged as blocks of text and in detail.

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\* Filed herewith.

\*\* As provided in Rule 406T of Regulation S-T, this information is furnished and not filed for purposes of Sections 11 and 12 of the Securities Act of 1933 and Section 18 of the Securities Exchange Act of 1934.

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: March 6, 2020

LINCOLN EDUCATIONAL SERVICES CORPORATION

By: /s/ Brian Meyers  
 Brian Meyers  
 Executive Vice President, Chief Financial Officer and Treasurer  
 (Principal Accounting and Financial Officer)

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each of the undersigned constitutes and appoints Scott M. Shaw and Brian K. Meyers, and each of them, as attorneys-in-fact and agents, with full power of substitution and re-substitution, for and in the name, place and stead of the undersigned, in any and all capacities, to sign any and all amendments to this Annual Report on Form 10-K, and to file the same, with all exhibits thereto and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as the undersigned might or could do in person, hereby ratifying and confirming all that each of said attorney-in-fact or substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Scott M. Shaw</u> Scott M. Shaw	Chief Executive Officer and Director	March 6, 2020
<u>/s/ Brian K. Meyers</u> Brian K. Meyers	Executive Vice President, Chief Financial Officer and Treasurer (Principal Accounting and Financial Officer)	March 6, 2020
<u>/s/ Alvin O. Austin</u> Alvin O. Austin	Director	March 6, 2020
<u>/s/ John A. Bartholdson</u> John A. Bartholdson	Director	March 6, 2020
<u>/s/ Peter S. Burgess</u> Peter S. Burgess	Director	March 6, 2020
<u>/s/ James J. Burke, Jr.</u> James J. Burke, Jr.	Director	March 6, 2020
<u>/s/ Celia H. Currin</u> Celia H. Currin	Director	March 6, 2020
<u>/s/ Ronald E. Harbour</u> Ronald E. Harbour	Director	March 6, 2020
<u>/s/ J. Barry Morrow</u> J. Barry Morrow	Director	March 6, 2020



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## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and Board of Directors of Lincoln Educational Services Corporation

### Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Lincoln Educational Services Corporation and subsidiaries (the “Company”) as of December 31, 2019 and 2018, and the related consolidated statements of operations, comprehensive income (loss), changes in convertible preferred stock and stockholders’ equity, and cash flows, for each of the three years in the period ended December 31, 2019, and the related notes and the schedule listed in the Index at Item 15 (collectively referred to as the “financial statements”). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2019 and 2018, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2019, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company’s internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated March 6, 2020, expressed an unqualified opinion on the Company’s internal control over financial reporting.

### Change in Accounting Principle

As discussed in Note 1 to the financial statements, effective January 1, 2019, the Company adopted FASB Accounting Standards Update 2016-02, *Leases*, using the modified retrospective approach.

### Basis for Opinion

These financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ Deloitte & Touche LLP  
Parsippany, New Jersey  
March 6, 2020

We have served as the Company’s auditor since 1999.

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and Board of Directors of Lincoln Educational Services Corporation

### Opinion on Internal Control over Financial Reporting

We have audited the internal control over financial reporting of Lincoln Educational Services Corporation and subsidiaries (the “Company”) as of December 31, 2019, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by COSO.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated financial statements as of and for the year ended December 31, 2019, of the Company and our report dated March 6, 2020, expressed an unqualified opinion on those consolidated financial statements and included an explanatory paragraph regarding the Company’s adoption of a new accounting standard.

### Basis for Opinion

The Company’s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management’s Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company’s internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

### Definition and Limitations of Internal Control over Financial Reporting

A company’s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company’s internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company’s assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Deloitte & Touche LLP  
Parsippany, New Jersey  
March 6, 2020

## LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES

## CONSOLIDATED BALANCE SHEETS

(In thousands, except share amounts)

	December 31,	
	2019	2018
<b>ASSETS</b>		
<b>CURRENT ASSETS:</b>		
Cash and cash equivalents	\$ 23,644	\$ 17,571
Restricted cash	-	16,775
Accounts receivable, less allowance of \$18,107 and \$15,590 at December 31, 2019 and 2018, respectively	20,652	18,675
Inventories	1,608	1,451
Prepaid income taxes and income taxes receivable	383	178
Prepaid expenses and other current assets	4,190	2,461
Total current assets	<u>50,477</u>	<u>57,111</u>
<b>PROPERTY, EQUIPMENT AND FACILITIES - At cost, net of accumulated depreciation and amortization of \$172,408 and \$171,109 at December 31, 2019 and 2018, respectively</b>		
	<u>49,345</u>	<u>49,292</u>
<b>OTHER ASSETS:</b>		
Noncurrent restricted cash	15,000	11,600
Noncurrent receivables, less allowance of \$2,260 and \$1,403 at December 31, 2019 and 2018, respectively	15,337	12,175
Deferred income taxes, net	-	424
Operating lease right-of-use assets	49,065	-
Goodwill	14,536	14,536
Other assets, net	1,003	900
Total other assets	<u>94,941</u>	<u>39,635</u>
<b>TOTAL ASSETS</b>	<u>\$ 194,763</u>	<u>\$ 146,038</u>

See notes to consolidated financial statements.

## LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES

## CONSOLIDATED BALANCE SHEETS

(In thousands, except share amounts)

(Continued)

	December 31,	
	2019	2018
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES:</b>		
Current portion of credit agreement	\$ 2,000	\$ 15,000
Unearned tuition	23,411	22,545
Accounts payable	14,584	14,107
Accrued expenses	7,869	10,605
Current portion of operating lease liabilities	9,142	-
Other short-term liabilities	199	2,324
Total current liabilities	<u>57,205</u>	<u>64,581</u>
<b>NONCURRENT LIABILITIES:</b>		
Long-term credit agreement	32,028	33,769
Pension plan liabilities	4,015	4,271
Deferred income taxes, net	153	-
Long-term portion of operating lease liabilities	46,018	-
Accrued rent	-	3,410
Other long-term liabilities	214	141
Total liabilities	<u>139,633</u>	<u>106,172</u>
<b>COMMITMENTS AND CONTINGENCIES</b>		
<b>SERIES A CONVERTIBLE PREFERRED STOCK</b>		
Preferred stock, no par value - 10,000,000 shares authorized, Series A convertible preferred shares, 12,700 shares issued and outstanding at December 31, 2019 and no shares issued and outstanding at December 31, 2018	11,982	-
<b>STOCKHOLDERS' EQUITY:</b>		
Common stock, no par value - authorized 100,000,000 shares at December 31, 2019 and 2018, issued and outstanding 31,142,251 shares at December 31, 2019 and 30,552,333 shares at December 31, 2018	141,377	141,377
Additional paid-in capital	30,145	29,484
Treasury stock at cost - 5,910,541 shares at December 31, 2019 and 2018	(82,860)	(82,860)
Accumulated deficit	(42,058)	(44,073)
Accumulated other comprehensive loss	(3,456)	(4,062)
Total stockholders' equity	<u>43,148</u>	<u>39,866</u>
<b>TOTAL LIABILITIES, SERIES A CONVERTIBLE PREFERRED STOCK AND EQUITY</b>	<u>\$ 194,763</u>	<u>\$ 146,038</u>

See notes to consolidated financial statements.

## LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES

## CONSOLIDATED STATEMENTS OF OPERATIONS

(In thousands, except per share amounts)

	Year Ended December 31,		
	2019	2018	2017
REVENUE	\$ 273,342	\$ 263,200	\$ 261,853
COSTS AND EXPENSES:			
Educational services and facilities	123,495	125,373	129,413
Selling, general and administrative	145,176	141,244	138,779
(Gain) loss on sale of assets	(567)	537	(1,623)
Total costs and expenses	268,104	267,154	266,569
OPERATING INCOME (LOSS)	5,238	(3,954)	(4,716)
OTHER:			
Interest income	8	31	56
Interest expense	(2,963)	(2,422)	(7,098)
INCOME (LOSS) BEFORE INCOME TAXES	2,283	(6,345)	(11,758)
PROVISION (BENEFIT) FOR INCOME TAXES	268	200	(274)
NET INCOME (LOSS)	\$ 2,015	\$ (6,545)	\$ (11,484)
Basic			
Earnings (loss) per share	\$ 0.08	\$ (0.27)	\$ (0.48)
Diluted			
Earnings (loss) per share	\$ 0.08	\$ (0.27)	\$ (0.48)
Weighted average number of common shares outstanding:			
Basic	24,554	24,423	23,906
Diluted	24,554	24,423	23,906

See notes to consolidated financial statements

**LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF OTHER COMPREHENSIVE INCOME (LOSS)**

**(In thousands)**

	<b>2019</b>	<b>December 31, 2018</b>	<b>2017</b>
Net income (loss)	\$ 2,015	\$ (6,545)	\$ (11,484)
Other comprehensive income (loss)			
Derivative qualifying as cash flow hedge	(174)	-	-
Employee pension plan adjustments	780	448	1,591
Comprehensive income (loss)	<u>\$ 2,621</u>	<u>\$ (6,097)</u>	<u>\$ (9,893)</u>

See notes to consolidated financial statements

**LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES**
**CONSOLIDATED STATEMENTS OF CHANGES IN CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' EQUITY**
**(In thousands, except share amounts)**

	Stockholders' Equity							Series A Convertible Preferred Stock	
	Common Shares	Stock Amount	Additional Paid-in Capital	Treasury Stock	Retained Earnings (Accumulated Deficit)	Accumulated Other Comprehensive Income (Loss)	Total	Shares	Amount
BALANCE - January 1, 2017	30,685,017	\$ 141,377	\$ 28,554	\$ (82,860)	\$ (26,044)	\$ (6,101)	\$ 54,926	-	\$ -
Net loss	-	-	-	-	(11,484)	-	(11,484)	-	-
Employee pension plan adjustments	-	-	-	-	-	1,591	1,591	-	-
Stock-based compensation expense Restricted stock	128,810	-	1,220	-	-	-	1,220	-	-
Net share settlement for equity-based compensation	(189,420)	-	(440)	-	-	-	(440)	-	-
BALANCE - December 31, 2017	30,624,407	141,377	29,334	(82,860)	(37,528)	(4,510)	45,813	-	-
Net loss	-	-	-	-	(6,545)	-	(6,545)	-	-
Employee pension plan adjustments	-	-	-	-	-	448	448	-	-
Stock-based compensation expense Restricted stock	135,568	-	522	-	-	-	522	-	-
Net share settlement for equity-based compensation	(207,642)	-	(372)	-	-	-	(372)	-	-
BALANCE - December 31, 2018	30,552,333	141,377	29,484	(82,860)	(44,073)	(4,062)	39,866	-	-
Net income	-	-	-	-	2,015	-	2,015	-	-
Employee pension plan adjustments	-	-	-	-	-	780	780	-	-
Derivative qualifying as cash flow hedge	-	-	-	-	-	(174)	(174)	-	-
Issuance of series A convertible preferred stock, net of issuance costs	-	-	-	-	-	-	-	12,700	11,982
Stock-based compensation expense Restricted stock	595,436	-	679	-	-	-	679	-	-
Net share settlement for equity-based compensation	(5,518)	-	(18)	-	-	-	(18)	-	-
BALANCE - December 31, 2019	<u>31,142,251</u>	<u>\$ 141,377</u>	<u>\$ 30,145</u>	<u>\$ (82,860)</u>	<u>\$ (42,058)</u>	<u>\$ (3,456)</u>	<u>\$ 43,148</u>	<u>12,700</u>	<u>\$ 11,982</u>

See notes to consolidated financial statements.



**LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(In thousands)

	Year Ended December 31,		
	2019	2018	2017
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>			
Net income (loss)	\$ 2,015	\$ (6,545)	\$ (11,484)
Adjustments to reconcile net income (loss) to net cash (used in) provided by operating activities:			
Depreciation and amortization	8,116	8,421	8,702
Amortization of deferred finance costs	190	369	583
Write-off of deferred finance charges	512	-	2,161
Deferred income taxes	153	-	(424)
(Gain) loss on disposition of assets	(567)	537	(1,623)
Fixed asset donation	(1,084)	-	(19)
Provision for doubtful accounts	20,847	17,705	13,720
Stock-based compensation expense	679	522	1,220
Deferred rent	-	(958)	(1,312)
(Increase) decrease in assets:			
Accounts receivable	(25,986)	(23,836)	(15,733)
Inventories	(157)	206	30
Prepaid income taxes and income taxes receivable	219	29	55
Prepaid expenses and current assets	(502)	(109)	532
Other assets	(1,368)	(191)	(1,163)
Increase (decrease) in liabilities:			
Accounts payable	444	3,753	(3,193)
Accrued expenses	(1,687)	(1,136)	(3,613)
Unearned tuition	866	(2,102)	(131)
Other liabilities	(1,702)	1,641	371
Total adjustments	(1,027)	4,851	163
Net cash provided by (used in) operating activities	988	(1,694)	(11,321)
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>			
Capital expenditures	(5,385)	(4,697)	(4,755)
Proceeds from insurance settlement	575	-	-
Proceeds from sale of property and equipment	-	2,348	15,462
Net cash (used in) provided by investing activities	(4,810)	(2,349)	10,707
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>			
Proceeds from borrowings	40,045	31,000	75,900
Payments on borrowings	(54,514)	(35,099)	(66,766)
Payment of deferred finance fees	(975)	(94)	(1,241)
Net share settlement for equity-based compensation	(18)	(372)	(440)
Proceeds from sale of convertible preferred stock	12,700	-	-
Payment of convertible preferred stock issuance costs	(718)	-	-
Net cash (used in) provided by financing activities	(3,480)	(4,565)	7,453
<b>NET (DECREASE) INCREASE IN CASH, CASH EQUIVALENTS AND RESTRICTED CASH</b>	<b>(7,302)</b>	<b>(8,608)</b>	<b>6,839</b>
<b>CASH, CASH EQUIVALENTS AND RESTRICTED CASH—Beginning of year</b>	<b>45,946</b>	<b>54,554</b>	<b>47,715</b>
<b>CASH, CASH EQUIVALENTS AND RESTRICTED CASH—End of year</b>	<b>\$ 38,644</b>	<b>\$ 45,946</b>	<b>\$ 54,554</b>

See notes to consolidated financial statements.

**LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES****CONSOLIDATED STATEMENTS OF CASH FLOWS****(In thousands)****(Continued)**

	<b>Year Ended December 31,</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>
<b>SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION:</b>			
Cash paid during the year for:			
Interest	\$ 2,155	\$ 2,030	\$ 2,790
Income taxes	\$ 118	\$ 191	\$ 139
<b>SUPPLEMENTAL SCHEDULE OF NONCASH INVESTING AND FINANCING ACTIVITIES:</b>			
Liabilities accrued for or noncash purchases of fixed assets	\$ 2,852	\$ 265	\$ 1,447

See notes to consolidated financial statements.

## LINCOLN EDUCATIONAL SERVICES CORPORATION AND SUBSIDIARIES

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

AS OF DECEMBER 31, 2019 AND 2018 AND FOR THE THREE YEARS ENDED DECEMBER 31, 2019

(In thousands, except share and per share amounts, schools, training sites, campuses and unless otherwise stated)

## 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

**Business Activities**—Lincoln Educational Services Corporation and its subsidiaries (collectively, the “Company”, “we”, “our” and “us”, as applicable) provide diversified career-oriented post-secondary education to recent high school graduates and working adults. The Company, which currently operates 22 schools in 14 states, offers programs in automotive technology, skilled trades (which include HVAC, welding and computerized numerical control and electronic systems technology, among other programs), healthcare services (which include nursing, dental assistant and medical administrative assistant, among other programs), hospitality services (which include culinary, therapeutic massage, cosmetology and aesthetics) and information technology. The schools operate under Lincoln Technical Institute, Lincoln College of Technology, Lincoln Culinary Institute, and Euphoria Institute of Beauty Arts and Sciences and associated brand names. Most of the campuses serve major metropolitan markets and each typically offers courses in multiple areas of study. Five of the campuses are destination schools, which attract students from across the United States and, in some cases, from abroad. The Company’s other campuses primarily attract students from their local communities and surrounding areas. All of the campuses are nationally or regionally accredited and are eligible to participate in federal financial aid programs by the U.S. Department of Education (the “DOE”) and applicable state education agencies and accrediting commissions which allow students to apply for and access federal student loans as well as other forms of financial aid.

The Company’s business is organized into three reportable business segments: (a) Transportation and Skilled Trades, (b) Healthcare and Other Professions (“HOPS”), and (c) Transitional, which refers to our campus operations which have been closed prior to 2019.

**Liquidity**—For several years, the Company and the proprietary school sector have faced deteriorating earnings. Government regulations have negatively impacted earnings by making it more difficult for potential students to obtain loans, which, when coupled with the overall economic environment, have discouraged potential students from enrolling in post-secondary schools. In light of these factors, the Company has incurred significant operating losses as a result of lower student population. However, over the last two years earnings have been improving and the Company had net income for the year ended December 31, 2019. As of December 31, 2019, the Company had a net cash balance of \$4.6 million calculated as cash, cash equivalents and both short and long-term restricted cash less both short and long-term portion of the Company’s credit facility. The increase in cash position was primarily attributable to net proceeds of approximately \$12.0 million obtained through the sale in November, 2019 of 12,700 shares of Series A Convertible Preferred Stock, no par value, the termination of our prior credit facility and the execution of a new senior secured credit facility with Sterling National Bank increasing available borrowings to \$60 million from \$47 million, and net income generated for the year ended December 31, 2019 of approximately \$2.0 million. At December 31, 2019, the Company’s sources of cash primarily included cash and cash equivalents of \$38.6 million (of which \$15.0 million is restricted). In addition, the Company has availability to borrow additional funds under its credit facility for an additional \$25.0 million. The Company is also continuing to take actions to improve cash flow by aligning its cost structure to its student population. The Company believes that the likely sources of cash should be sufficient to fund operations for the next twelve months and thereafter for the foreseeable future.

**Principles of Consolidation**—The accompanying consolidated financial statements include the accounts of Lincoln Educational Services Corporation and its wholly-owned subsidiaries. All intercompany accounts and transactions have been eliminated.

**Cash and Cash Equivalents**—Cash and cash equivalents include all cash balances and highly liquid short-term investments, which contain original maturities within three months of purchase. Pursuant to the DOE’s cash management requirements, the Company retains funds from financial aid programs under Title IV of the Higher Education Act in segregated cash management accounts. The segregated accounts do not require a restriction on use of the cash and, as such, these amounts are classified as cash and cash equivalents on the consolidated balance sheet.

**Restricted Cash**—Restricted cash consists of deposits maintained at financial institutions under a cash collateral agreement pursuant to the Company’s credit facility and cash collateral for letters of credit as to 2018 under the Company’s prior credit facility. The amounts of \$15.0 million and \$11.6 million as of December 31, 2019 and 2018, respectively, of restricted cash are included in long-term assets in the consolidated balance sheets as the restrictions are greater than one year. Refer to Note 9 for more information on the Company’s credit facility.

**Accounts Receivable**—The Company reports accounts receivable at net realizable value, which is equal to the gross receivable less an estimated allowance for uncollectible accounts. Noncurrent accounts receivable represent amounts due from graduates in excess of 12 months from the balance sheet date.

**Allowance for Uncollectible Accounts**—Based upon experience and judgment, an allowance is established for uncollectible accounts with respect to tuition receivables. In establishing the allowance for uncollectible accounts, the Company considers, among other things, current and expected economic conditions, a student’s status (in-school or out-of-school), whether or not a student is currently making payments, and overall collection history. Changes in trends in any of these areas may impact the allowance for uncollectible accounts. The receivables balances of withdrawn students with delinquent obligations are reserved for based on our collection history.

**Inventories**—Inventories consist mainly of textbooks, computers, tools and supplies. Inventories are valued at the lower of cost or market on a first-in, first-out basis.

**Property, Equipment and Facilities—Depreciation and Amortization**—Property, equipment and facilities are stated at cost. Major renewals and improvements are capitalized, while repairs and maintenance are expensed when incurred. Upon the retirement, sale or other disposition of assets, costs and related accumulated depreciation are eliminated from the accounts and any gain or loss is reflected in operating income (loss). For financial statement purposes, depreciation of property and equipment is computed using the straight-line method over the estimated useful lives of the assets, and amortization of leasehold improvements is computed over the lesser of the term of the lease or its estimated useful life.

**Advertising Costs**—Costs related to advertising are expensed as incurred and approximated \$29.8 million, \$29.4 million and \$27.0 million for the years ended December 31, 2019, 2018 and 2017, respectively. These amounts are included in selling, general and administrative expenses in the consolidated statements of operations.

**Goodwill and Other Intangible Assets**— The Company tests its goodwill for impairment annually, or whenever events or changes in circumstances indicate an impairment may have occurred, by comparing its reporting unit’s carrying value to its implied fair value. Impairment may result from, among other things, deterioration in the performance of the acquired business, adverse market conditions, adverse changes in applicable laws or regulations, reductions in market value of the Company, and changes that restrict the activities of the acquired business, and a variety of other circumstances. If the Company determines that an impairment has occurred, it is required to record a write-down of the carrying value and charge the impairment as an operating expense in the period the determination is made. In evaluating the recoverability of the carrying value of goodwill and other indefinite-lived intangible assets, the Company must make assumptions regarding estimated future cash flows and other factors to determine the fair value of the acquired assets. Changes in strategy or market conditions could significantly impact these judgments in the future and require an adjustment to the recorded balances. The goodwill is allocated among nine reporting units within the Transportation and Skilled Trades Segment.

When we test goodwill balances for impairment, we determine the fair value of each of our reporting units using an equal weighting of the discounted cash flow model and the market approach. The determination of fair value using the discounted cash flow model requires significant estimates and assumptions related to forecasts of future revenues, which is driven by student start growth, EBITDA (Earnings Before Interest, Tax, Depreciation, and Amortization) margins, the long-term growth rate used in the calculation of the terminal value, and the discount rate to apply against each reporting unit’s financial metrics. The determination of fair value using the market approach requires significant estimates and assumptions related to the selection of EBITDA multiples and the control premiums. Changes in these assumptions could have a significant impact on either the fair value, the amount of any goodwill impairment charge, or both.

Although we believe our projected future operating results and cash flows and related estimates regarding fair values are based on reasonable assumptions, historically projected operating results and cash flows have not always been achieved. The failure of one of our reporting units to achieve projected operating results and cash flows in the near term or long term may reduce the estimated fair value of the reporting unit below its carrying value and result in the recognition of a goodwill impairment charge. Significant management judgment is necessary to evaluate the impact of operating and macroeconomic changes and to estimate future cash flows. Assumptions used in our impairment evaluations, such as forecasted growth rates and our cost of capital, are based on the best available market information and are consistent with our internal forecasts and operating plans. In addition to cash flow estimates, our valuations are sensitive to the rate used to discount cash flows and future growth assumptions.

At December 31, 2019, 2018 and 2017, we conducted our annual test for goodwill impairment and determined we did not have an impairment.

**Impairment of Long-Lived Assets**—The Company reviews the carrying value of its long-lived assets and identifiable intangibles for possible impairment whenever events or changes in circumstances indicate that the carrying amounts may not be recoverable. The Company evaluates long-lived assets for impairment by examining estimated future cash flows using Level 3 inputs. These cash flows are evaluated by using weighted probability techniques as well as comparisons of past performance against projections. Assets may also be evaluated by identifying independent market values. If the Company determines that an asset’s carrying value is impaired, it will record a write-down of the carrying value of the asset and charge the impairment as an operating expense in the period in which the determination is made.

The Company concluded that for the years ended December 31, 2019, 2018 and 2017, there were no long-lived asset impairments.

**Concentration of Credit Risk**—Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of temporary cash investments. The Company places its cash and cash equivalents with high credit quality financial institutions. The Company’s cash balances with financial institutions typically exceed the Federal Deposit Insurance Corporation (“FDIC”) limit of \$0.25 million. The Company’s cash balances on deposit at December 31, 2019, exceeded the balance insured by the FDIC by approximately \$38.0 million. The Company has not experienced any losses to date on its invested cash.

The Company extends credit for tuition and fees to many of its students. The credit risk with respect to these accounts receivable is mitigated through the students’ participation in federally funded financial aid programs unless students withdraw prior to the receipt of federal funds for those students. In addition, the remaining tuition receivables are primarily comprised of smaller individual amounts due from students.

With respect to student receivables, the Company had no significant concentrations of credit risk as of December 31, 2019 and 2018.

**Use of Estimates in the Preparation of Financial Statements**—The preparation of financial statements in conformity with generally accepted accounting principles in the United States (“GAAP”) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the period. On an ongoing basis, the Company evaluates the estimates and assumptions, including those used to determine the incremental borrowing rate to calculate lease liabilities and right-of-use (“ROU”) assets, lease term to calculate lease cost, revenue recognition, bad debts, impairments, fixed assets, income taxes, benefit plans and certain accruals. Actual results could differ from those estimates.

**Income Taxes**—The Company accounts for income taxes in accordance with Accounting Standards Codification (“ASC”) Topic 740, “Income Taxes” (“ASC 740”). This statement requires an asset and a liability approach for measuring deferred taxes based on temporary differences between the financial statement and tax bases of assets and liabilities existing at each balance sheet date using enacted tax rates for years in which taxes are expected to be paid or recovered.

In accordance with ASC 740, the Company assesses our deferred tax asset to determine whether all or any portion of the asset is more likely than not unrealizable. A valuation allowance is required to be established or maintained when, based on currently available information, it is more likely than not that all or a portion of a deferred tax asset will not be realized. In accordance with ASC 740, our assessment considers whether there has been sufficient income in recent years and whether sufficient income is expected in future years in order to utilize the deferred tax asset. In evaluating the realizability of deferred income tax assets, the Company considered, among other things, historical levels of income, expected future income, the expected timing of the reversals of existing temporary reporting differences, and the expected impact of tax planning strategies that may be implemented to prevent the potential loss of future income tax benefits. Significant judgment is required in determining the future tax consequences of events that have been recognized in our consolidated financial statements and/or tax returns. Differences between anticipated and actual outcomes of these future tax consequences could have a material impact on the Company’s consolidated financial position or results of operations. Changes in, among other things, income tax legislation, statutory income tax rates, or future income levels could materially impact the Company’s valuation of income tax assets and liabilities and could cause our income tax provision to vary significantly among financial reporting periods. See information regarding the impact of the Tax Cuts and Jobs Act in Note 12.

The Company recognizes accrued interest and penalties related to unrecognized tax benefits in income tax expense. During the years ended December 31, 2019 and 2018, we did not record any interest and penalties expense associated with uncertain tax positions.

**Derivative Instruments**—The Company records the fair value of derivative instruments as either assets or liabilities on the balance sheet. The accounting for gains and losses resulting from changes in fair value is dependent on the use of the derivative and whether it is designated and qualifies for hedge accounting.

All qualifying hedging activities are documented at the inception of the hedge and must meet the definition of highly effective in offsetting changes to future cash. The Company utilizes the change in variable cash flows method to evaluate hedge effectiveness quarterly. We record the fair value of the qualifying hedges in other long-term liabilities (for derivative liabilities) and other assets (for derivative assets). All unrealized gains and losses on derivatives that are designated and qualify for hedge accounting are reported in other comprehensive income (loss) and recognized when the underlying hedged transaction affects earnings. Changes in the fair value of these derivatives are recognized in other comprehensive income (loss). The Company classifies the cash flows from a cash flow hedge within the same category as the cash flows from the items being hedged.

The Company adopted Accounting Standards Update (“ASU”) 2017-12, *Derivatives and Hedging (Topic 815): Targeted Improvements to Accounting for Hedging Activities*, on January 1, 2019, which changes the recognition and presentation requirements of hedge accounting, including eliminating the requirement to separately measure and report hedge ineffectiveness and presenting all items that affect earnings in the same income statement line item as the hedged item. The ASU also provides new alternatives for applying hedge accounting to additional hedging strategies, measuring the hedged item in fair value hedges of interest rate risk, reducing the cost and complexity of applying hedge accounting by easing the requirements for effectiveness testing, hedge documentation and application of the critical terms match method and reducing the risk of a material error correction if a company applies the shortcut method inappropriately. The adoption of ASU 2017-12 had no impact on the Company’s consolidated financial statements.

**Start-up Costs**—Costs related to the start of new campuses are expensed as incurred.

### ***New Accounting Pronouncements***

In December 2019, the Financial Accounting Standards Board (the “FASB”) issued Accounting Standards Update (“ASU”) 2019-12, *“Simplifying the Accounting for Income Taxes”*, which simplifies the accounting for income taxes by removing certain exceptions to the general principles of ASC 740, Income Taxes. The amendments also improve consistent application of and simplify GAAP for other areas of Topic 740 by clarifying and amending existing guidance. This ASU is effective for fiscal years beginning after December 15, 2020 and early adoption is permitted. Depending on the amendment, adoption may be applied on a retrospective, modified retrospective or prospective basis. The Company is currently assessing the effect that this ASU will have on its consolidated financial statements and related disclosures.

In July 2019, the FASB issued ASU No. 2019-07, *“Codification Updates to SEC Sections,”* to reflect the recently adopted amendments to the SEC final rules that were done to modernize and simplify certain reporting requirements for public companies, investment advisers and investment companies. This ASU is effective upon issuance and did not have a significant impact on the Company’s consolidated financial statements and related disclosures.

In August 2018, the FASB issued ASU 2018-14, *“Compensation – Retirement Benefits – Defined Benefit Plans – General (Subtopic 715-20): Disclosure Framework—Changes to the Disclosure Requirements for Defined Benefit Plans”*. This ASU adds, modifies and clarifies several disclosure requirements for employers that sponsor defined benefit pension or other postretirement plans. This guidance is effective for fiscal years ending after December 15, 2020. Early adoption is permitted. The Company is currently assessing the effect that this ASU will have on its consolidated financial statements and related disclosures.

In August 2018, the FASB issued ASU No. 2018-13, *Disclosure Framework - Changes to the Disclosure Requirements for Fair Value Measurement* (“ASU No. 2018-13”), which eliminates, adds and modifies certain fair value measurement disclosure requirements of Accounting Standards Codification 820, *Fair Value Measurement*. The amendments in this ASU are effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2019. The Company adopted ASU No. 2018-13 on January 1, 2020. The Company will apply these changes to its related disclosures.

In July 2018, FASB issued ASU No. 2018-10, *Codification Improvements to Topic 842, Leases* (“ASU No. 2018-10”) to further clarify, correct and consolidate various areas previously discussed in ASU 2016-02. FASB also issued ASU No. 2018-11, *Leases: Targeted Improvements* (“ASU 2018-11”) to provide entities another option for transition and lessors with a practical expedient. The transition option allows entities to not apply ASU No. 2016-02 in comparative periods in the financial statements in the year of adoption. The practical expedient offers lessors an option to not separate non-lease components from the associated lease components when certain criteria are met.

The amendments to ASU No. 2016-02, ASU No. 2018-10 and ASU No. 2018-11 are effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years, and allow for modified retrospective adoption with early adoption permitted. The Company adopted the amendments on January 1, 2019 using the modified retrospective approach and elected the transition relief package of practical expedients by applying previous accounting conclusions under ASC 840 to all leases that existed prior to the transition date. As a result, the Company did not reassess (1) whether existing or expired contracts contain leases, 2) lease classification for any existing or expired leases and 3) whether lease origination costs qualified as initial direct costs. The Company did not elect the practical expedient to use hindsight in determining a lease term and impairment of the ROU assets at the adoption date. Additionally, the Company did not separate lease components from non-lease components for the specified asset classes.

Upon adoption of the new leasing standards, the Company recognized a lease liability of \$42.3 million and a right-to-use asset of \$37.9 million on our consolidated balance sheet. There was no impact to retained earnings.

In June 2018, FASB issued ASU No. 2018-07, *“Improvements to Nonemployee Share-Based Payment Accounting”* (“ASU No. 2018-07”), which intended to reduce cost and complexity and to improve financial reporting for share-based payments issued to nonemployees. This ASU expands the scope of Topic 718, *“Compensation - Stock Compensation”* (“Topic 718”), to include share-based payment transactions for acquiring goods and services from nonemployees. An entity should apply the requirements of Topic 718 to nonemployee awards except for specific guidance on inputs to an option pricing model and the attribution of cost. The Company adopted ASU No. 2018-07 on January 1, 2019. The adoption of this ASU did not have a material impact on the Company’s consolidated financial statements and related disclosures.



In February 2018, the FASB issued ASU 2018-02, “*Income Statement-Reporting Comprehensive Income (Topic 220)*”. The updated guidance allows entities to reclassify stranded income tax effects resulting from the Tax Cuts and Jobs Act (the “Tax Act”) from accumulated other comprehensive income to retained earnings in their consolidated financial statements. Under the Tax Act, deferred taxes were adjusted to reflect the reduction of the historical corporate income tax rate to the newly enacted corporate income tax rate, which left the tax effects on items within accumulated other comprehensive income stranded at an inappropriate tax rate. The updated guidance is effective for fiscal years beginning after December 15, 2018, including interim periods within those years. The Company adopted this ASU on January 1, 2019 and it did not have a material impact on the Company’s consolidated financial statements and related disclosures.

In June 2016, the FASB issued ASU 2016-13, “*Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*” and subsequently issued additional guidance that modified ASU 2016-13. ASU 2016-13 and the subsequent modifications are identified as Accounting Standards Codification (“ASC”) 326. The standard requires an entity to change its accounting approach in determining impairment of certain financial instruments, including trade receivables, from an “incurred loss” to a “current expected credit loss” model. Further, the FASB issued ASU No. 2019-04, ASU No. 2019-05 and ASU 2019-11 to provide additional guidance on the credit losses standard. In November 2019, FASB issued ASU No. 2019-10, “*Financial Instruments – Credit Losses (Topic 326), Derivatives and Hedging (Topic 815), and Leases (Topic 842)*”. This ASU defers the effective date of ASU 2016-13 for public companies that are considered smaller reporting companies as defined by the SEC to fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. Early adoption is permitted. We are currently assessing the effect that this ASC will have on our consolidated financial statements and related disclosures.

## 2. FINANCIAL AID AND REGULATORY COMPLIANCE

### Financial Aid

The Company’s schools and students participate in a variety of government-sponsored financial aid programs that assist students in paying the cost of their education. The largest source of such support is the federal programs of student financial assistance under Title IV of the Higher Education Act of 1965, as amended, commonly referred to as the Title IV Programs, which are administered by the U.S. Department of Education (the “DOE”). During the years ended December 31, 2019, 2018 and 2017, approximately 78%, 78% and 78%, respectively, of net revenues on a cash basis were indirectly derived from funds distributed under Title IV Programs.

For the years ended December 31, 2019, 2018 and 2017, the Company calculated that no individual DOE reporting entity received more than 90% of its revenue, determined on a cash basis under DOE regulations, from the Title IV Program funds. The Company’s calculations may be subject to review by the DOE. Under DOE regulations, a proprietary institution that derives more than 90% of its total revenue from the Title IV Programs for two consecutive fiscal years becomes immediately ineligible to participate in the Title IV Programs and may not reapply for eligibility until the end of two fiscal years. An institution with revenues exceeding 90% for a single fiscal year, will be placed on provisional certification and may be subject to other enforcement measures. If one of the Company’s institutions violated the 90/10 Rule and became ineligible to participate in Title IV Programs but continued to disburse Title IV Program funds, the DOE would require the institution to repay all Title IV Program funds received by the institution after the effective date of the loss of eligibility.

### Regulatory Compliance

To participate in Title IV Programs, a school must be authorized to offer its programs of instruction by relevant state education agencies, be accredited by an accrediting commission recognized by the DOE and be certified as an eligible institution by the DOE. For this reason, the schools are subject to extensive regulatory requirements imposed by all of these entities. After the schools receive the required certifications by the appropriate entities, the schools must demonstrate their compliance with the DOE regulations of the Title IV Programs on an ongoing basis. Included in these regulations is the requirement that the institution must satisfy specific standards of financial responsibility. The DOE evaluates institutions for compliance with these standards each year, based upon the institution’s annual audited financial statements, as well as following a change in ownership resulting in a change of control of the institution. The DOE calculates the institution’s composite score for financial responsibility based on its (i) equity ratio, which measures the institution’s capital resources, ability to borrow and financial viability; (ii) primary reserve ratio, which measures the institution’s ability to support current operations from expendable resources; and (iii) net income ratio, which measures the institution’s ability to operate at a profit. This composite score can range from -1 to +3.



The composite score must be at least 1.5 for the institution to be deemed financially responsible without the need for further oversight. If an institution's composite score is below 1.5, but is at least 1.0, it is in a category denominated by the DOE as "the zone." Under the DOE regulations, institutions that are in the zone typically may be permitted by the DOE to continue to participate in the Title IV Programs by choosing one of two alternatives: (1) the "Zone Alternative" under which an institution is required to make disbursements to students under the Heightened Cash Monitoring 1 ("HCM1") payment method and to notify the DOE within 10 days after the occurrence of certain oversight and financial events or (2) submit a letter of credit to the DOE equal to 50 percent of the Title IV Program funds received by the institution during its most recent fiscal year. The DOE permits an institution to participate under the "Zone Alternative" for a period of up to three consecutive fiscal years. Under the HCM1 payment method, the institution is required to make Title IV Program disbursements to eligible students and parents before it requests or receives funds for the amount of those disbursements from the DOE. As long as the student accounts are credited before the funding requests are initiated, an institution is permitted to draw down funds through the DOE's electronic system for grants management and payments for the amount of disbursements made to eligible students. Unlike the Heightened Cash Monitoring 2 ("HCM2") used under circumstances where an institution's composite score is below 1.0 and reimbursement payment methods, the HCM1 payment method typically does not require schools to submit documentation to the DOE and wait for DOE approval before drawing down Title IV Program funds. Effective July 1, 2016, a school under HCM1, HCM2 or reimbursement payment methods must also pay any credit balances due to a student before drawing down funds for the amount of those disbursements from the DOE, even if the student or parent provides written authorization for the school to hold the credit balance.

If an institution's composite score is below 1.0, the institution is considered by the DOE to lack financial responsibility. If the DOE determines that an institution does not satisfy the DOE's financial responsibility standards, depending on its composite score and other factors, that institution may establish its eligibility to participate in the Title IV Programs on an alternative basis by, among other things:

- Posting a letter of credit in an amount equal to at least 50% of the total Title IV Program funds received by the institution during the institution's most recently completed fiscal year; or
- Posting a letter of credit in an amount equal to at least 10% of the Title IV Program funds received by the institution during its most recently completed fiscal year accepting provisional certification; complying with additional DOE monitoring requirements and agreeing to receive Title IV Program funds under an arrangement other than the DOE's standard advance funding arrangement

The DOE has evaluated the financial responsibility of our institutions on a consolidated basis. We have submitted to the DOE our audited financial statements for the 2018 and 2017 fiscal years reflecting a composite score of 1.1 and 1.1, respectively, based upon our calculations. The DOE determined in a January 13, 2020, letter that our institutions are "in the zone" based on our composite scores for the 2018 and 2017 fiscal years and that we are required to operate under the Zone Alternative requirements, including the requirement to make disbursements under the HCM1 payment method and to notify the DOE within 10 days of the occurrence of certain oversight and financial events. We also are required to submit to the DOE bi-weekly cash balance submissions outlining our available cash on hand, monthly actual and projected cash flow statements, and monthly student rosters.

For the 2019 fiscal year, we calculated our composite score to be 1.6. This score is subject to determination by the DOE based on its review of our consolidated audited financial statements for the 2019 fiscal year, but we believe it is likely that the DOE will determine that our institutions comply with the composite score requirement and no longer require us to operate under the Zone Alternative requirements after it makes its determination, although we cannot be certain how long it will take for the DOE to make its determination and it is possible that it may elect to retain following its determination some of the conditions and reporting requirements previously imposed on us.

An institution participating in Title IV Programs must calculate the amount of unearned Title IV Program funds that have been disbursed to students who withdraw from their educational programs before completing them, and must return those unearned funds to the DOE or the applicable lending institution in a timely manner, which is generally within 45 days from the date the institution determines that the student has withdrawn.

If an institution is cited in an audit or program review for returning Title IV Program funds late for 5% or more of the students in the audit or program review sample or if the regulatory auditor identifies a material weakness in the institution's report on internal controls relating to the return of unearned Title IV Program funds, the institution may be required to post a letter of credit in favor of the DOE in an amount equal to 25% of the total amount of Title IV Program funds that should have been timely returned for students who withdrew in the institution's previous fiscal year.

### **3. EARNINGS PER SHARE**

The Company presents basic and diluted earnings (loss) per share using the two-class method which requires all outstanding Series A Preferred Stock and unvested restricted stock that contain rights to non-forfeitable dividends and therefore participate in undistributed earnings with common shareholders be included in computing earnings per share. Under the two-class method, net income is reduced by the amount of dividends declared in the period for each class of common stock and participating security. The remaining undistributed earnings are then allocated to common stock and participating securities, based on their respective rights to receive dividends. Series A Preferred Stock and unvested restricted stock contain non-forfeitable rights to dividends on an if-converted basis and on the same basis as common shares, respectively, and are considered participating securities. Basic

earnings (loss) per share has been computed by dividing net income (loss) allocated to common shareholders by the weighted-average number of common shares outstanding.

The Series A Preferred Stock and unvested restricted stock are not included in the computation of basic earnings (loss) per share in periods in which we have a net loss, as the Series A Preferred Stock and unvested restricted stock are not contractually obligated to share in our net losses. The two-class method was not applicable for the years ended December 31, 2018 and 2017 and was calculated using the treasury stock method. Dilutive potential common shares include outstanding stock options, unvested restricted stock and Series A Preferred Stock. The Company uses the more dilutive method of calculating the diluted earnings per share by applying the more dilutive of either (a) the treasury stock method, if-converted method, or (b) the two-class method in its diluted EPS calculation. Potentially dilutive shares are determined by applying the treasury stock method to the assumed exercise of outstanding stock options and the assumed vesting of restricted stock. Potentially dilutive shares issuable upon conversion of the Series A Preferred Stock are calculated using the if-converted method.

For the year ended December 31, 2019, diluted earnings per share was calculated using the two-class method because these amounts are more dilutive than applying the treasury stock method and if-converted methods which yielded antidilutive shares of 692,942 and 88,848 for Series A Preferred Stock and restricted shares, respectively, for the year ended December 31, 2019.

For the years ended December 31, 2018, and 2017, options to acquire 50,422, and 570,306 shares, respectively, were excluded from the below table because the Company reported a net loss for the year and, therefore, their impact on reported loss per share would have been antidilutive. For the years ended December 31, 2019, 2018 and 2017, options to acquire 116,000, 139,000, and 167,667 shares, respectively, were excluded from the below table because they have an exercise price that is greater than the average market price of the Company's common stock and, therefore, their impact on reported loss per share would have been antidilutive.

The following is a reconciliation of the numerator and denominator of the diluted net income (loss) per share computations for the periods presented below:

	Year Ended December 31,		
	2019	2018	2017
<i>(in thousands, except share data)</i>			
<b>Numerator:</b>			
Net income (loss)	\$ 2,015	\$ (6,545)	\$ (11,484)
Less: preferred stock dividend	-	-	-
Less: allocation to preferred stockholders	(54)	-	-
Less: allocation to restricted stockholders	(38)	-	-
Net income (loss) allocated to common stockholders	<u>\$ 1,923</u>	<u>\$ (6,545)</u>	<u>\$ (11,484)</u>
<b>Basic earnings (loss) per share:</b>			
<b>Denominator:</b>			
Weighted average common shares outstanding	24,554,033	24,423,479	23,906,395
Basic earnings (loss) per share	<u>\$ 0.08</u>	<u>\$ (0.27)</u>	<u>\$ (0.48)</u>
<b>Diluted earnings (loss) per share:</b>			
<b>Denominator:</b>			
Weighted average number of:			
Common shares outstanding	24,554,033	24,423,479	23,906,395
Dilutive potential common shares outstanding:			
Series A Preferred Stock	-	-	-
Unvested restricted stock	-	-	-
Stock options	-	-	-
Dilutive shares outstanding	<u>24,554,033</u>	<u>24,423,479</u>	<u>23,906,395</u>
Diluted earnings (loss) per share	<u>\$ 0.08</u>	<u>\$ (0.27)</u>	<u>\$ (0.48)</u>

#### 4. REVENUE RECOGNITION

##### ***Prior to adoption of ASU 2014-09***

Revenues are derived primarily from programs taught at our schools. Tuition revenues, textbook sales and one-time fees, such as nonrefundable application fees and course material fees, are recognized on a straight-line basis over the length of the applicable program as the student proceeds through the program, which is the period of time from a student's start date through his or her graduation date (including internships or externships, if any, occurring prior to graduation), and we complete the performance of teaching the student entitling us to the revenue. Other revenues, such as tool sales and contract training revenues, are recognized as goods are delivered or training completed. On an individual student basis, tuition earned in excess of cash received is recorded as accounts receivable, and cash received in excess of tuition earned is recorded as unearned tuition.

We evaluate whether collectability of revenue is reasonably assured prior to the student commencing a program by attending class and reassess collectability of tuition and fees when a student withdraws from a course. We calculate the amount to be returned under Title IV Programs and its stated refund policy to determine eligible charges and, if there is a balance due from the student after this calculation, we expect payment from the student. We have a process to pursue uncollected accounts whereby, based upon the student's financial means and ability to pay, a payment plan is established with the student to ensure that collectability is reasonable. We continuously monitor our historical collections to identify potential trends that may impact our determination that collectability of receivables for withdrawn students is realizable. If a student withdraws from a program prior to a specified date, any paid but unearned tuition is refunded. Refunds are calculated and paid in accordance with federal, state and accrediting agency standards. Generally, the amount to be refunded to a student is calculated based upon the period of time the student has attended classes and the amount of tuition and fees paid by the student as of his or her withdrawal date. These refunds typically reduce deferred tuition revenue and cash on our consolidated balance sheets as we generally do not recognize tuition revenue in our consolidated statements of income (loss) until the related refund provisions have lapsed. Based on the application of our refund policies, we may be entitled to incremental revenue on the day the student withdraws from one of our schools. We record revenue for students who withdraw from one of our schools when payment is received because collectability on an individual student basis is not reasonably assured.

##### ***After adoption of ASU 2014-09***

On January 1, 2018, we adopted the new standard on revenue recognition, ASU 2014-09, using the modified retrospective approach of ASU 2016-10. The adoption of the guidance in ASU 2014-09 as amended by ASU 2016-10 did not have a material impact on the measurement or recognition of revenue in any prior or current reporting periods and there was no adjustment to retained earnings. The core principle of the new standard is that a company should recognize revenue to depict the transfer of promised goods or services to students in an amount that reflects the consideration to which the company expects to be entitled in exchange for such goods or services. Substantially all of our revenues are considered to be revenues from contracts with students. The related accounts receivable balances are recorded in our balance sheets as student accounts receivable. We do not have significant revenue recognized from performance obligations that were satisfied in prior periods, and we do not have any transaction price allocated to unsatisfied performance obligations other than in our unearned tuition. We record revenue for students who withdraw from our schools only to the extent that it is probable that a significant reversal in the amount of cumulative revenue recognized will not occur. Unearned tuition represents contract liabilities primarily related to our tuition revenue. We have elected not to provide disclosure about transaction prices allocated to unsatisfied performance obligations if contract durations are less than one-year, or if we have the right to consideration from a student in an amount that corresponds directly with the value provided to the student for performance obligations completed to date. We have assessed the costs incurred to obtain a contract with a student and determined them to be immaterial.

Unearned tuition in the amount of \$23.4 million and \$22.5 million is recorded in the current liabilities section of the accompanying condensed consolidated balance sheets as of December 31, 2019 and 2018, respectively. The change in this contract liability balance during the year ended December 31, 2019 is the result of payments received in advance of satisfying performance obligations, offset by revenue recognized during that period. Revenue recognized for the year ended December 31, 2019 that was included in the contract liability balance at the beginning of the year was \$21.7 million.

The following table depicts the timing of revenue recognition:

	Year ended December 31, 2019			
	Transportation and Skilled Trades Segment	Healthcare and Other Professions Segment	Transitional Segment	Consolidated
<b>Timing of Revenue Recognition</b>				
Services transferred at a point in time	\$ 11,881	\$ 4,521	\$ -	\$ 16,402
Services transferred over time	181,841	75,099	-	256,940
Total revenues	<u>\$ 193,722</u>	<u>\$ 79,620</u>	<u>\$ -</u>	<u>\$ 273,342</u>

	Year ended December 31, 2018			
	Transportation and Skilled Trades Segment	Healthcare and Other Professions Segment	Transitional Segment	Consolidated
<b>Timing of Revenue Recognition</b>				
Services transferred at a point in time	\$ 10,351	\$ 3,834	\$ 72	\$ 14,257
Services transferred over time	174,912	68,301	5,730	248,943
Total revenues	<u>\$ 185,263</u>	<u>\$ 72,135</u>	<u>\$ 5,802</u>	<u>\$ 263,200</u>

	Year ended December 31, 2017			
	Transportation and Skilled Trades Segment	Healthcare and Other Professions Segment	Transitional Segment	Consolidated
<b>Timing of Revenue Recognition</b>				
Services transferred at a point in time	\$ 8,987	\$ 2,860	\$ 28	\$ 11,875
Services transferred over time	172,341	60,781	16,856	249,978
Total revenues	<u>\$ 181,328</u>	<u>\$ 63,641</u>	<u>\$ 16,884</u>	<u>\$ 261,853</u>

## 5. LEASES

In February 2016, the FASB issued ASU No. 2016-02, Leases (“ASU No. 2016-02”). This guidance amends the existing accounting considerations and treatments for leases through the creation of Topic 842, Leases, to increase transparency and comparability among organizations by requiring the recognition of right-of-use assets and lease liabilities on the balance sheet. Lessees and lessors are required to disclose qualitative and quantitative information about leasing arrangements to enable a user of the financial statements to assess the amount, timing and uncertainty of cash flows arising from such leases.

The Company determines if an arrangement is a lease at inception. The Company considers any contract where there is an identified asset and that it has the right to control the use of such asset in determining whether the contract contains a lease. An operating lease ROU asset represents the Company’s right to use an underlying asset for the lease term and lease liabilities represent its obligation to make lease payments arising from the lease. Operating lease ROU assets and liabilities are to be recognized at commencement date based on the present value of lease payments over the lease term. As all of the Company’s operating leases do not provide an implicit rate, the Company uses an incremental borrowing rate based on the information available on the adoption date in determining the present value of lease payments. We estimate the incremental borrowing rate based on a yield curve analysis, utilizing the interest rate derived from the fair value analysis of our credit facility and adjusting it for factors that appropriately reflect the profile of secured borrowing over the expected term of the lease. The operating lease ROU assets include any lease payments made prior to the rent commencement date and exclude lease incentives. Our leases have remaining lease terms of one year to 11 years. Lease terms may include options to extend the lease term used in determining the lease obligation when it is reasonably certain that the Company will exercise that option. Lease expense for lease payments are recognized on a straight-line basis over the lease term for operating leases.

The following table present the cumulative effect of the changes made to the condensed consolidated balance sheets as of January 1, 2019, as a result of the adoption of ASC Topic 842:

	<u>December 31, 2018</u>	<u>ASC 842</u>	<u>January 1, 2019</u>
Operating lease right-of-use asset	\$ -	\$ 37,993	\$ 37,993
Current portion of operating lease liability	\$ -	\$ 8,999	\$ 8,999
Other short-term liabilities	\$ 968	\$ (968)	\$ -
Long-term portion of operating lease liability	\$ -	\$ 33,372	\$ 33,372
Accrued rent	\$ 3,410	\$ (3,410)	\$ -

Our operating lease cost for the year ended December 31, 2019 was \$14.5 million. Our variable lease cost for the year ended December 31, 2019 was \$2.9 million. The net change in ROU asset amortization, operating lease liability amortization, and impact from re-measurements of \$0.9 million is included in other assets in the condensed consolidated cash flows for the year ended December 31, 2019.

Supplemental cash flow information and non-cash activity related to our operating leases are as follows:

	<u>December 31, 2019</u>
<b>Operating cash flow information:</b>	
Cash paid for amounts included in the measurement of operating lease liabilities	\$ 12,926
<b>Non-cash activity:</b>	
Lease liabilities arising from obtaining right-of-use assets*	\$ 63,911

\* Includes effect of adoption of ASU 2016-02 and related amendments and a new lease entered into on January 1, 2019 of \$5.6 million.

Weighted-average remaining lease term and discount rate for our operating leases is as follows:

	<u>Year Ended December 31, 2019</u>
Weighted-average remaining lease term	6.22 years
Weighted-average discount rate	12.86%

Maturities of lease liabilities by fiscal year for our operating leases as of December 31, 2019 are as follows:

<u>Year ending December 31,</u>	
2020	15,412
2021	13,600
2022	11,607
2023	9,988
2024	8,749
Thereafter	20,008
<b>Total lease payments</b>	<b>79,364</b>
Less: imputed interest	(24,204)
<b>Present value of lease liabilities</b>	<b>\$ 55,160</b>

As of December 31, 2018, minimum lease payments under non-cancelable operating leases by period were expected to be as follows:

2019	\$ 16,939
2020	14,183
2021	10,708
2022	8,180
2023	5,811
Thereafter	17,610
	<u>\$ 73,431</u>

**6. GOODWILL**

Changes in the carrying amount of goodwill during the years ended December 31, 2019 and 2018 are as follows:

	Gross Goodwill Balance	Accumulated Impairment Losses	Net Goodwill Balance
Balance as of January 1, 2018	\$ 117,176	\$ 102,640	\$ 14,536
Adjustments	-	-	-
Balance as of December 31, 2018	117,176	102,640	14,536
Adjustments	-	-	-
Balance as of December 31, 2019	<u>\$ 117,176</u>	<u>\$ 102,640</u>	<u>\$ 14,536</u>

As of December 31, 2019 and 2018, the goodwill balance of \$14.5 million is related to the Transportation and Skilled Trades segment.

**7. PROPERTY, EQUIPMENT AND FACILITIES**

Property, equipment and facilities consist of the following:

	Useful life (years)	At December 31,	
		2019	2018
Land	-	\$ 6,969	\$ 6,969
Buildings and improvements	1-25	131,739	128,431
Equipment, furniture and fixtures	1-7	81,900	83,766
Vehicles	3	825	916
Construction in progress	-	320	319
		221,753	220,401
Less accumulated depreciation and amortization		(172,408)	(171,109)
		<u>\$ 49,345</u>	<u>\$ 49,292</u>

Depreciation and amortization expense of property, equipment and facilities was \$8.1 million, \$8.4 million and \$8.7 million for the years ended December 31, 2019, 2018 and 2017, respectively.

**8. ACCRUED EXPENSES**

Accrued expenses consist of the following:

	At December 31,	
	2019	2018
Accrued compensation and benefits	\$ 3,785	\$ 4,337
Accrued rent and real estate taxes	1,763	3,057
Other accrued expenses	2,321	3,211
	<u>\$ 7,869</u>	<u>\$ 10,605</u>

**9. LONG-TERM DEBT**

Long-term debt consists of the following:

	<b>At December 31,</b>	
	<b>2019</b>	<b>2018</b>
Credit agreement	\$ 34,833	\$ 49,301
Deferred financing fees	(805)	(532)
	<u>34,028</u>	<u>48,769</u>
Less current maturities	(2,000)	(15,000)
	<u>\$ 32,028</u>	<u>\$ 33,769</u>

***\$60 Million Credit Facility with Sterling National Bank***

On November 14, 2019, the Company entered into a new senior secured credit agreement (the “2019 Credit Agreement”) with its lender, Sterling National Bank (the “Lender”), pursuant to which the Company obtained a new credit facility in the aggregate principal amount of up to \$60 million (the “2019 Credit Facility”). The 2019 Credit Facility replaces the Company’s existing facility with the Lender and, among other things, increases aggregate borrowing from \$47 million to \$60 million.

The 2019 Credit Facility is comprised of four facilities: a \$20 million senior secured term loan maturing on December 1, 2024 (the “Term Loan”), with monthly interest and principal payments based on 120-month amortization with the outstanding balance due on the maturity date; a \$10 million senior secured delayed draw term loan maturing on December 1, 2024 (the “Delayed Draw Term Loan”), with monthly interest payments for the first 18 months and thereafter monthly payments of interest and principal based on 120-month amortization and all balances due on the maturity date; a \$15 million senior secured committed revolving line of credit providing a sublimit of up to \$10 million for standby letters of credit maturing on November 13, 2022 (the “Revolving Loan”), with monthly payments of interest only; and a \$15 million senior secured non-restoring line of credit maturing on January 31, 2021 (the “Line of Credit Loan”).

The 2019 Credit Facility is secured by a first priority lien in favor of the Lender on substantially all of the personal property owned by the Company, as well as a pledge of the stock and other equity in the Company’s subsidiaries and mortgages on parcels of real property owned by the Company in Colorado, Tennessee and Texas, at which three of the Company’s schools are located, as well as a former school property owned by the Company located in Connecticut.

At the closing of the 2019 Credit Facility, the Lender advanced the Term Loan to the Company, the net proceeds of which was \$19.7 million after deduction of the Lender’s origination fee in the amount of \$0.3 million and other Lender fees and reimbursements to the Lender that are customary for facilities of this type. The Company used the net proceeds of the Term Loan, together with cash on hand, to repay the existing credit facility and transaction expenses.

Pursuant to the terms of the 2019 Credit Agreement, letters of credit issued under the Revolving Loan reduce dollar for dollar the availability of borrowings under the Revolving Loan. Borrowings under the Line of Credit Loan are to be secured by cash collateral.

Borrowing under the Delayed Draw Term Loan is available during the period commencing on the closing date of the 2019 Credit Facility and ending on May 31, 2021. Any amounts not borrowed during this period will not be available to the Company.

Accrued interest on each loan under the 2019 Credit Facility will be payable monthly in arrears. The Term Loan and the Delayed Draw Term Loan will bear interest at a floating interest rate based on the then one month London Interbank Offered Rate (“LIBOR”) plus 3.50%. At the closing of the 2019 Credit Facility, the Company entered into a swap transaction with the Lender for 100% of the principal balance of the Term Loan, which matures on the same date as the Term Loan, pursuant to a swap agreement between the Company and the Lender. At the end of the borrowing availability period for the Delayed Draw Term Loan, the Company is required to enter into a swap transaction with the Lender for 100% of the principal balance of the Delayed Draw Term Loan, which will mature on the same date as the Delayed Draw Term Loan, pursuant to a swap agreement between the Company and the Lender or the Lender’s affiliate. The Term Loan and Delayed Draw Term Loan are subject to a LIBOR interest rate floor of .25% if there is no swap agreement.

Revolving Loans bear interest at a floating interest rate based on the then LIBOR plus an indicative spread determined by the Company’s leverage as defined in the 2019 Credit Agreement or, if the borrowing of a Revolving Loan is to be repaid within 30 days of such borrowing, the Revolving Loan will accrue interest at the Lender’s prime rate plus .50% with a floor of 4.0%. Line of Credit Loans will bear interest at a floating interest rate based on the Lender’s prime rate of interest. Revolving Loans are subject to a LIBOR interest rate floor of .00%.



Letters of credit will be charged an annual fee equal to (i) an applicable margin determined by the leverage ratio of the Company less (ii) .25%, paid quarterly in arrears, in addition to the Lender's customary fees for issuance, amendment and other standard fees. Letters of credit totaling \$4 million that were outstanding under the existing credit facility are treated as letters of credit under the Revolving Loan.

Under the terms of the 2019 Credit Agreement, the Company may prepay the Term Loan and/or the Delayed Draw Term Loan in full or in part without penalty except for any amount required to compensate the Lender for any swap breakage or other costs incurred in connection with such prepayment. The Lender receives an unused facility fee of 0.50% per annum payable quarterly in arrears on the unused portions of the Revolving Loan and the Line of Credit Loan.

In addition to the foregoing, the 2019 Credit Agreement contains customary representations, warranties and affirmative and negative covenants (including financial covenants that (i) restrict capital expenditures, (ii) restrict leverage, (iii) require maintaining minimum tangible net worth, (iv) require maintaining a minimum fixed charge coverage ratio and (v) require the maintenance of a minimum of \$5 million in quarterly average aggregate balances on deposit with the Lender, which, if not maintained, will result in the assessment of a quarterly fee of \$12,500), as well as events of default customary for facilities of this type.

As of December 31, 2019, the Company had \$34.8 million outstanding under the 2019 Credit Facility; offset by \$0.8 million of deferred finance fees. In January 2020, the Company repaid the \$15.0 million outstanding on the Line of Credit Loan which was fully cash collateralized. As of December 31, 2018, the Company had \$49.3 million outstanding under the its prior credit facility, offset by \$0.5 million of deferred finance fees, which were written-off. As of December 31, 2019 and December 31, 2018, letters of credit in the aggregate outstanding principal amount of \$4.0 million and \$1.8 million, respectively, were outstanding under the Credit Facility.

On March 31, 2017, the Company obtained a secured credit facility from the Lender pursuant to a credit agreement dated March 31, 2017 among the Company, the Company's subsidiaries and the Lender, which was subsequently amended on each of November 29, 2017, February 23, 2018, July 11, 2018 and March 6, 2019. This credit facility was subsequently terminated on November 14, 2019 at which time the outstanding balance was \$22.1 million at an incurred interest rate of 7.85%.

Scheduled maturities of long-term debt at December 31, 2019 are as follows:

<u>Year ending December 31,</u>	
2020	\$ 2,000
2021	17,000
2022	2,000
2023	2,000
2024	11,833
	<u>\$ 34,833</u>

## 10. STOCKHOLDERS' EQUITY

### *Common Stock*

Holders of our common stock are entitled to receive dividends when and as declared by our Board of Directors and have the right to one vote per share on all matters requiring shareholder approval. The Company has not declared or paid any cash dividends on our common stock since the Company's Board of Directors discontinued our quarterly cash dividend program in February 2015. The Company has no current intentions to resume the payment of cash dividends in the foreseeable future.

### *Preferred Stock*

On November 14, 2019, the Company raised gross proceeds of \$12.7 million from the sale of 12,700 shares of its newly designated Series A 9.6% Convertible Preferred Stock, no par value per share (the "Series A Preferred Stock"). The Series A Preferred Stock was designated by the Company's Board of Directors pursuant to a certificate of amendment to the Company's amended and restated certificate of incorporation. The liquidation preference associated with the Series A Preferred Stock was \$1,000 per share at December 31, 2019. The Company incurred issuance cost of \$0.7 million as part of this transaction.

The description below provides a summary of certain material terms of the Series A Preferred Stock pursuant to the Securities Purchase Agreement and set forth in the Certificate of Amendment (the "Charter Amendment") affecting the Series A Preferred Stock:

## **Securities Purchase Agreement.**

The Series A Preferred Stock was sold by the Company pursuant to a Securities Purchase Agreements dated as of November 14, 2019 (the “SPA”) among the Company, Juniper Targeted Opportunity Fund, L.P. and Junior Targeted Opportunities, L.P. (together, “Juniper Purchasers”) Talanta Investment, Inc. (“Talanta”, together with Juniper Purchasers, the “Investors”). Among other things, the SPA includes covenants relating to the appointment of a director to the Company’s Board of Directors to be selected solely by the holders of the Series A Preferred Stock.

**Dividends.** Dividends on the Series A Preferred Stock (“Series A Dividends”), at the initial annual rate of 9.6% is to be paid, in advance, from the date of issuance quarterly on each December 31, March 31, June 30 and September 30 with September 30, 2020 as the first dividend payment date. The Company, at its option, may pay dividends in cash or dividends will accrue and thereby increase the number of shares issuable upon conversion of the Series A Preferred Stock. The dividend rate is subject to increase (a) 2.4% per annum on the fifth anniversary of the issuance of the Series A Preferred Stock (b) by 2% per annum but in no event above 14% per annum should the Company fail to perform certain obligations under the Charter Amendment. The Series A Preferred Stock is not currently redeemable and it is not probable it will become redeemable in the future. As a result, the Company is not required to re-measure the Series A Preferred Stock and does not accrete changes in the redemption value. As of December 31, 2019, undeclared accrued dividends are approximately \$0.2 million.

**Series A Preferred Stock Holders Right to Convert into common stock.** Each share of Series A Preferred Stock, at any time, is convertible into a number of shares of common stock equal to (“Convertible Formula”) the quotient of (i) the sum of (A) \$1,000 (subject to adjustment as provided in the Charter Amendment) plus (B) the dollar amount of any declared Series A Dividends not paid in cash divided by (ii) the Series A Conversion Price (as defined and adjusted in the Charter Amendment) as of the applicable Conversion Date (as defined in the Charter Amendment). The initial Conversion Price is \$2.36. At all times, however, the number of Conversion Shares that can be issued to any Series A Preferred Stock Holder may not result in such holder and its affiliates owning more than 19.99% of the total number of shares of common stock outstanding after giving effect to the conversion (the “Hard Cap”), unless prior shareholder approval is obtained or no longer required by the rules of the principal stock exchange on which the Company’s common stock trade.

**Mandatory Conversion.** If, at any time following November 14, 2022 the volume weighted average price of the Company’s common stock equals or exceeds 2.25 times the Conversion Price for a period of 20 consecutive trading days and on each such trading day at least 20,000 shares of common stock was traded, the Company may, at its option and subject to the Hard Cap, require that any or all of the then outstanding shares of Series A Preferred Stock be automatically converted into shares of common stock at the then applicable convertible Formula at the Company’s discretion.

**Redemption.** Beginning November 14, 2024, the Company may redeem all or any of the Series A Preferred Stock for a cash price equal to the greater of (“Liquidation Preference”) (i) the sum of \$1,000 (subject to adjustment as provided in the Charter Amendment) plus the dollar amount of any declared Series A Dividends not paid in cash and (ii) the value of the Conversion Shares were such Series A Preferred Stock converted (as determined in the Charter Amendment) without regard to the Hard Cap.

**Change of Control.** In the event of certain changes of control, some of which are not in the Company’s control, as defined in the Charter Amendment as a “Fundamental Change” or a “Liquidation” (as defined in the Charter Amendment), the Series A Preferred Stockholders shall be entitled to receive the Liquidation Preference, unless such Fundamental Change is a stock merger in which certain value and volume requirements are met, in which case the Series A Preferred Stock will be converted into common stock in connection with such stock merger. The Company has classified the Series A Preferred Stock as mezzanine equity on the Consolidated Balance Sheet based upon the terms of a change of control which could be outside the Company’s control.

**Voting.** Holders of shares of Series A Preferred Stock will be entitled to vote with the holders of shares of common stock and not as a separate class, at any annual or special meeting of shareholders of the Company, on an as-converted basis, in all cases subject to the Hard Cap. In addition, a majority of the voting power of the Series A Preferred Stock must approve certain significant actions of the Company, including (i) declaring a dividend or otherwise redeeming or repurchasing any shares of common stock and other junior securities, if any, subject to certain exceptions, (ii) incurring indebtedness, except for certain permitted indebtedness and (iii) creating a subsidiary other than a wholly-owned subsidiary.

**Additional Provisions.** The Series A Preferred Stock is perpetual and therefore does not have a maturity date. The conversion price of the Series A Preferred Stock is subject to anti-dilution protections if the Company affects a stock split, stock dividend, subdivision, reclassification or combination of its common stock and certain other economically dilutive events.

**Registration Rights Agreement.** The Company also is a party to a Registration Rights Agreement (“RRA”) with the investors of the Series A Preferred Stock. The RRA provides for unlimited demand registration rights, of which there can be two underwritten offerings each for at least \$5 million in gross proceeds, and piggyback registration rights, with respect to the Conversion Shares.

**Restricted Stock**

The Company has two stock incentive plans: a Long-Term Incentive Plan (the “LTIP”) and a Non-Employee Directors Restricted Stock Plan (the “Non-Employee Directors Plan”).

Under the LTIP, certain employees received awards of restricted shares of common stock based on service and performance. The number of shares granted to each employee is based on the fair market value of a share of common stock on the date of grant.

On February 28, 2019, restricted shares were granted to certain employees of the Company, which shares ratably vest over three years. There is no restriction on the right to vote or the right to receive dividends with respect to any of such restricted shares.

On February 23, 2018, restricted shares of common stock of the Company were granted to certain employees of the Company, which shares vested immediately. There is no restriction on the right to vote or the right to receive dividends with respect to any of such restricted shares; however, the recipient can only sell or otherwise transfer the shares after the expiration of a specified period of time ranging from 120 to 240 days following the date of grant.

On May 13, 2016 and January 16, 2017, performance-based restricted shares were granted to certain employees of the Company, which vest on March 15, 2017 and March 15, 2018 based upon the attainment of a financial metric during each fiscal year ending December 31, 2016 and 2017. These shares were fully vested as of March 31, 2018 and are held without restriction.

Pursuant to the Non-Employee Directors Plan, each non-employee director of the Company receives an annual award of restricted shares of common stock on the date of the Company’s annual meeting of shareholders. The number of shares granted to each non-employee director is based on the fair market value of a share of common stock on that date. There is no restriction on the right to vote or the right to receive dividends with respect to any of the restricted shares.

In 2019, 2018 and 2017, the Company completed a net share settlement for 5,518, 207,642 and 189,420 restricted shares and stock options exercised, respectively, on behalf of certain employees that participate in the LTIP upon the vesting of the restricted shares pursuant to the terms of the LTIP or exercise of the stock options. The net share settlement was in connection with income taxes incurred on restricted shares or stock option exercises that vested and were transferred to the employee during 2019, 2018 and/or 2017, creating taxable income for the employee. At the employees’ request, the Company will pay these taxes on behalf of the employees in exchange for the employees returning an equivalent value of restricted shares or shares acquired upon the exercise of stock options to the Company. These transactions resulted in a decrease of approximately less than \$0.1 million, \$0.4 million and \$0.4 million in 2019, 2018 and 2017, respectively, to equity as the cash payment of the taxes effectively was a repurchase of the restricted shares or shares acquired through the exercise of stock options granted in previous years.

The following is a summary of transactions pertaining to restricted stock:

	<b>Shares</b>	<b>Weighted Average Grant Date Fair Value Per Share</b>
Nonvested restricted stock outstanding at December 31, 2017	607,994	\$ 1.90
Granted	135,568	1.60
Cancelled	-	-
Vested	(707,654)	1.82
Nonvested restricted stock outstanding at December 31, 2018	35,908	2.23
Granted	598,982	3.15
Cancelled	(3,546)	3.17
Vested	(35,908)	2.23
Nonvested restricted stock outstanding at December 31, 2019	<u>595,436</u>	3.15

The restricted stock expense for each of the years ended December 31, 2019, 2018 and 2017 was \$0.7 million, \$0.5 million and \$1.2 million, respectively. The unrecognized restricted stock expense as of December 31, 2019 and 2018 was \$1.2 million and \$0.1 million, respectively. As of December 31, 2019, unrecognized restricted stock expense will be expensed over the weighted-average period of approximately 12 months. As of December 31, 2019, outstanding restricted shares under the LTIP had an aggregate intrinsic value of \$1.6 million.

## Stock Options

During 2019, 2018 and 2017 there were no new stock option grants. The following is a summary of transactions pertaining to the option plans:

	Shares	Weighted Average Exercise Price Per Share	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value
Outstanding January 1, 2017	218,167	\$ 12.11	3.33 years	\$ -
Cancelled	(50,500)	12.09		-
Outstanding December 31, 2017	167,667	12.11	2.97 years	-
Cancelled	(28,667)	11.98		-
Outstanding December 31, 2018	139,000	12.14	2.53 years	-
Cancelled	(23,000)	20.15		-
Outstanding December 31, 2019	<u>116,000</u>	10.56	1.83 years	-
Vested as of December 31, 2019	<u>116,000</u>	10.56	1.83 years	-
Exercisable as of December 31, 2019	<u>116,000</u>	10.56	1.83 years	-

As of December 31, 2019, there are no unrecognized pre-tax compensation expense for unvested stock option awards.

The following table presents a summary of options outstanding at December 31, 2019:

Range of Exercise Prices	At December 31, 2019					
	Stock Options Outstanding			Stock Options Exercisable		
	Shares	Contractual Weighted Average life (years)	Weighted Average Exercise Price	Shares	Weighted Average Exercise Price	
\$ 7.79	91,000	2.17	\$ 7.79	91,000	\$ 7.79	
\$ 20.62	25,000	0.59	20.62	25,000	20.62	
	<u>116,000</u>	1.83	10.56	<u>116,000</u>	10.56	

**11. PENSION PLAN**

The Company sponsors a noncontributory defined benefit pension plan covering substantially all of the Company's union employees. Benefits are provided based on employees' years of service and earnings. This plan was frozen on December 31, 1994 for non-union employees.

The following table sets forth the plan's funded status and amounts recognized in the consolidated financial statements:

	Year Ended December 31,		
	2019	2018	2017
<b>CHANGES IN BENEFIT OBLIGATIONS:</b>			
Benefit obligation-beginning of year	\$ 21,105	\$ 23,492	\$ 22,916
Service cost	33	28	29
Interest cost	812	755	840
Actuarial loss (gain)	2,103	(1,951)	721
Benefits paid	(1,221)	(1,219)	(1,014)
Benefit obligation at end of year	<u>22,832</u>	<u>21,105</u>	<u>23,492</u>
<b>CHANGE IN PLAN ASSETS:</b>			
Fair value of plan assets-beginning of year	16,835	19,055	17,548
Actual return on plan assets	3,203	(1,000)	2,521
Benefits paid	(1,221)	(1,220)	(1,014)
Fair value of plan assets-end of year	<u>18,817</u>	<u>16,835</u>	<u>19,055</u>
<b>BENEFIT OBLIGATION IN EXCESS OF FAIR VALUE FUNDED STATUS:</b>	<u>\$ (4,015)</u>	<u>\$ (4,270)</u>	<u>\$ (4,437)</u>

For the year ended December 31, 2019, the actuarial loss of \$2.1 million was due to the decrease in the discount rate from 4.01% to 2.93%.

Amounts recognized in the consolidated balance sheets consist of:

	At December 31,	
	2019	2018
Noncurrent liabilities	\$ (4,015)	\$ (4,270)

Amounts recognized in accumulated other comprehensive loss consist of:

	Year Ended December 31,		
	2019	2018	2017
Accumulated loss	\$ (5,648)	\$ (6,428)	\$ (6,876)
Deferred income taxes	2,366	2,366	2,366
Accumulated other comprehensive loss	<u>\$ (3,282)</u>	<u>\$ (4,062)</u>	<u>\$ (4,510)</u>

The accumulated benefit obligation was \$22.8 million and \$21.1 million at December 31, 2019 and 2018, respectively.

The following table provides the components of net periodic cost for the plan:

	Year Ended December 31,		
	2019	2018	2017
<b>COMPONENTS OF NET PERIODIC BENEFIT COST</b>			
Service cost	\$ 33	\$ 28	\$ 29
Interest cost	812	755	840
Expected return on plan assets	(1,011)	(1,104)	(1,058)
Recognized net actuarial loss	691	601	850
Net periodic benefit cost	<u>\$ 525</u>	<u>\$ 280</u>	<u>\$ 661</u>

The estimated net loss and prior service cost for the plan that will be amortized from accumulated other comprehensive loss into net periodic benefit cost over the next year is \$0.6 million.

The following tables present plan assets using the fair value hierarchy as of December 31, 2019 and 2018. The fair value hierarchy has three levels based on the reliability of inputs used to determine fair value. Level 1 refers to fair values determined based on quoted prices in active markets for identical assets. Level 2 refers to fair values estimated using observable prices that are based on inputs not quoted in active markets but observable by market data, while Level 3 includes the fair values estimated using significant non-observable inputs. The level in the fair value hierarchy within which the fair value measurement falls is determined based on the lowest level input that is significant to the fair value measurement in its entirety.

	<b>Quoted Prices in Active Markets for Identical Assets (Level 1)</b>	<b>Significant Other Observable Inputs (Level 2)</b>	<b>Significant Unobservable Inputs (Level 3)</b>	<b>Total</b>
Equity securities	\$ 6,259	\$ -	\$ -	\$ 6,259
Fixed income	6,313	-	-	6,313
International equities	4,165	-	-	4,165
Real estate	964	-	-	964
Cash and equivalents	1,116	-	-	1,116
Balance at December 31, 2019	<u>\$ 18,817</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 18,817</u>

	<b>Quoted Prices in Active Markets for Identical Assets (Level 1)</b>	<b>Significant Other Observable Inputs (Level 2)</b>	<b>Significant Unobservable Inputs (Level 3)</b>	<b>Total</b>
Equity securities	\$ 5,428	\$ -	\$ -	\$ 5,428
Fixed income	5,852	-	-	5,852
International equities	3,734	-	-	3,734
Real estate	795	-	-	795
Cash and equivalents	1,026	-	-	1,026
Balance at December 31, 2018	<u>\$ 16,835</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 16,835</u>

Fair value of total plan assets by major asset category as of December 31:

	<b>2019</b>	<b>2018</b>
Equity securities	33%	32%
Fixed income	34%	35%
International equities	22%	22%
Real estate	5%	5%
Cash and equivalents	6%	6%
Total	<u>100%</u>	<u>100%</u>

Weighted-average assumptions used to determine benefit obligations as of December 31:

	<b>2019</b>	<b>2018</b>
Discount rate	2.93%	4.01%
Rate of compensation increase	2.75%	2.50%

Weighted-average assumptions used to determine net periodic pension cost for years ended December 31:

	<b>2019</b>	<b>2018</b>	<b>2017</b>
Discount rate	2.93%	4.01%	3.36%
Rate of compensation increase	2.75%	2.50%	2.50%
Long-term rate of return	5.75%	6.25%	6.00%

As this plan was frozen to non-union employees on December 31, 1994, the difference between the projected benefit obligation and accumulated benefit obligation is not significant in any year.

The Company invests plan assets based on a total return on investment approach, pursuant to which the plan assets include a diversified blend of equity and fixed income investments toward a goal of maximizing the long-term rate of return without assuming an unreasonable level of investment risk. The Company determines the level of risk based on an analysis of plan liabilities, the extent to which the value of the plan assets satisfies the plan liabilities and the plan's financial condition. The investment policy includes target allocations ranging from 30% to 70% for equity investments, 20% to 60% for fixed income investments and 0% to 10% for cash equivalents. The equity portion of the plan assets represents growth and value stocks of small, medium and large companies. The Company measures and monitors the investment risk of the plan assets both on a quarterly basis and annually when the Company assesses plan liabilities.

The Company uses a building block approach to estimate the long-term rate of return on plan assets. This approach is based on the capital markets assumption that the greater the volatility, the greater the return over the long term. An analysis of the historical performance of equity and fixed income investments, together with current market factors such as the inflation and interest rates, are used to help make the assumptions necessary to estimate a long-term rate of return on plan assets. Once this estimate is made, the Company reviews the portfolio of plan assets and makes adjustments thereto that the Company believes are necessary to reflect a diversified blend of equity and fixed income investments that is capable of achieving the estimated long-term rate of return without assuming an unreasonable level of investment risk. The Company also compares the portfolio of plan assets to those of other pension plans to help assess the suitability and appropriateness of the plan's investments.

The Company does not expect to make contributions to the plan in 2020. However after considering the funded status of the plan, movements in the discount rate, investment performance and related tax consequences, the Company may choose to make additional contributions to the plan in any given year.

The total amount of the Company's contributions paid under its pension plan was zero for each of the years ended December 31, 2019 and 2018, respectively.

Information about the expected benefit payments for the plan is as follows:

<b><u>Year Ending December 31,</u></b>	
2020	\$ 1,318
2021	1,325
2022	1,346
2023	1,371
2024	1,384
Years 2025-2029	6,757

The Company has a 401(k) defined contribution plan for all eligible employees. Employees may contribute up to 25% of their compensation into the plan. The Company may contribute up to an additional 30% of the employee's contributed amount up to 6% of compensation. For the years ended December 31, 2019, 2018 and 2017, the Company's expense for the 401(k) plan amounted to \$0.1 million, \$0.1 million and \$0.1 million, respectively.

**12. INCOME TAXES**

Components of the provision for income taxes were as follows:

	Year Ended December 31,		
	2019	2018	2017
<b>Current:</b>			
Federal	\$ -	\$ -	\$ -
State	115	200	150
<b>Total</b>	<b>115</b>	<b>200</b>	<b>150</b>
<b>Deferred:</b>			
Federal	120	-	(424)
State	33	-	-
<b>Total</b>	<b>153</b>	<b>-</b>	<b>(424)</b>
<b>Total provision (benefit)</b>	<b>\$ 268</b>	<b>\$ 200</b>	<b>\$ (274)</b>

**Effective Tax rate**

The reconciliation of the effective tax rate to the U.S. Statutory Federal Income tax rate was:

	Year Ended December 31,					
	2019		2018		2017	
Income (loss) before taxes	\$ 2,283		\$ (6,345)		\$ (11,758)	
Expected tax (benefit)	\$ 479	21.0%	\$ (1,332)	21.0%	\$ (4,115)	35.0%
State tax benefit (net of federal)	148	6.5	200	(3.2)	150	(1.3)
Valuation allowance	(428)	(18.8)	1,230	(19.4)	(13,920)	118.4
Federal tax reform - deferred rate change	-	-	49	(0.8)	17,671	(150.3)
Other	69	3.0	53	(0.8)	(60)	0.5
<b>Total</b>	<b>\$ 268</b>	<b>11.7%</b>	<b>\$ 200</b>	<b>(3.2%)</b>	<b>\$ (274)</b>	<b>2.3%</b>

On December 22, 2017, the U.S. government enacted comprehensive tax legislation known as the Tax Cuts and Jobs Act (the "Tax Act"). The Tax Act establishes new tax laws that took effect in 2018, including, but not limited to (1) reduction of the U.S. federal corporate tax rate from a maximum of 35% to 21%; (2) elimination of the corporate alternative minimum tax (AMT); (3) a new limitation on deductible interest expense; (4) the repeal of the domestic production activity deduction; (5) limitations on the deductibility of certain executive compensation; and (6) limitation on net operating losses generated after December 31, 2017, to 80% of taxable income. In addition, certain changes were made to the bonus depreciation rules that impacted fiscal year 2017.

Our provision for income taxes was \$0.3 million, or 11.7% of pretax income, for the year ended December 31, 2019, compared to a benefit for income taxes of \$0.2 million, or 3.2% of pretax loss, in the prior year comparable period. No federal or state income tax benefit was recognized for the current period loss due to the recognition of a full valuation allowance. Income tax expense resulted from various minimal state tax expenses.



Deferred Taxes and Valuation Allowance

The components of the non-current deferred tax (liabilities)/assets were as follows:

	<b>At December 31,</b>	
	<b>2019</b>	<b>2018</b>
Gross noncurrent deferred tax (liabilities) assets		
Allowance for bad debts	\$ 5,461	\$ 4,828
Accrued rent	-	1,833
Stock-based compensation	178	18
Lease liability	14,822	-
Right-of-use asset	(13,156)	-
163J interest limitation	-	19
Depreciation	10,981	16,259
Goodwill	(766)	(98)
Other intangibles	135	211
Pension plan liabilities	1,286	1,163
Net operating loss carryforwards	18,261	17,927
AMT credit	-	424
Gross noncurrent deferred tax assets, net	37,202	42,584
Less valuation allowance	(37,355)	(42,160)
Noncurrent deferred tax (liabilities) assets, net	<u>\$ (153)</u>	<u>\$ 424</u>

Management assesses the available positive and negative evidence to estimate if sufficient future taxable income will be generated to use the existing deferred tax assets. A significant piece of objective negative evidence was the cumulative losses incurred by the Company in recent years.

On the basis of this evaluation the Company believes it is not more likely than not that it will realize its deferred tax assets. As a result, as of December 31, 2019 and 2018, the Company has recorded a valuation allowance of \$37.4 million and \$42.2 million, respectively, against its net deferred tax assets. With respect to AMT credit, the Company has recorded a \$0.4 million receivable since it is expected that 50% will be refunded as a result of filing the Company's 2018 federal corporate income tax return and the remaining 50% will be refunded upon the filings of the Company's future federal corporate income tax returns.

As of December 31, 2019, the Company has net operating loss ("NOL") carryforwards of \$66.7 million. Of the \$66.7 million NOL carryforwards, \$58.5 million will start expiring in 2029 and ending in 2038 if unused. The net operating losses of \$8.2 million generated in 2018 can be carried over indefinitely under the Tax Act. Utilization of the NOL carryforwards may be subject to a substantial limitation due to ownership change limitations that may occur in the future, as required by Section 382 of the Internal Revenue Code of 1986, as amended (the "Code"), as well as similar state and foreign provisions. These ownership changes may limit the amount of NOL and tax credit carryforwards that can be utilized annually to offset future taxable income and tax, respectively. In general, an "ownership change" as defined by Section 382 of the Code results from a transaction or series of transactions over a three-year period resulting in an ownership change of more than 50 percentage points of the outstanding stock of a company by certain shareholders or public groups.

As of December 31, 2019, 2018 and 2017, the Company no longer has any liability for uncertain tax positions. The Company recognizes accrued interest and penalties related to uncertain tax positions in income tax expense.

The Company or one of its subsidiaries files income tax returns in the U.S. federal jurisdiction, and various states. The Company is no longer subject to U.S. federal income tax examinations for years before 2016 and, generally, is no longer subject to state and local income tax examinations by tax authorities for years before 2016 with few exceptions.

### 13. FAIR VALUE

The carrying amount and estimated fair value of the Company's financial instrument assets and liabilities, which are not measured at fair value on the Consolidated Balance Sheets, are listed in the table below:

	<b>December 31, 2019</b>				
<b>Carrying Amount</b>	<b>Quoted Prices in Active Markets for Identical Assets (Level 1)</b>	<b>Significant Other Observable Inputs (Level 2)</b>	<b>Significant Unobservable Inputs (Level 3)</b>	<b>Total</b>	
<b>Financial Assets:</b>					
Cash and cash equivalents	\$ 23,644	\$ 23,644	\$ -	\$ -	\$ 23,644
Restricted cash	15,000	15,000	-	-	15,000
Prepaid expenses and other current assets	4,190	-	4,190	-	4,190
<b>Financial Liabilities:</b>					
Accrued expenses	\$ 7,869	\$ -	\$ 7,869	\$ -	\$ 7,869
Other short term liabilities	199	-	199	-	199
Derivative qualifying as cash flow hedge	174	-	174	-	174
Credit facility	34,028	-	34,028	-	34,028
<b>December 31, 2018</b>					
<b>Carrying Amount</b>	<b>Quoted Prices in Active Markets for Identical Assets (Level 1)</b>	<b>Significant Other Observable Inputs (Level 2)</b>	<b>Significant Unobservable Inputs (Level 3)</b>	<b>Total</b>	
<b>Financial Assets:</b>					
Cash and cash equivalents	\$ 17,571	\$ 17,571	\$ -	\$ -	\$ 17,571
Restricted cash	28,375	28,375	-	-	28,375
Prepaid expenses and other current assets	2,461	-	2,461	-	2,461
<b>Financial Liabilities:</b>					
Accrued expenses	\$ 10,605	\$ -	\$ 10,605	\$ -	\$ 10,605
Other short term liabilities	2,324	-	2,324	-	2,324
Credit facility	48,769	-	43,096	-	43,096

We estimate that the carrying value of the Credit Facility approximates the fair value due to the fact that the Credit Facility was entered into in close proximity to December 31, 2019.

For the year ended December 31, 2018 we estimated the fair value of Facility 1 and Facility 2 of the revolving credit facility based on a present value analysis utilizing aggregate market yields obtained from independent pricing sources for similar financial instruments. The carrying value for Facility 3 of the revolving credit facility approximated fair value due to the fact that the borrowings were made in close proximity to December 31, 2018.

The carrying amounts reported on the Consolidated Balance Sheets for Cash and cash equivalents, Restricted cash and Noncurrent restricted cash approximate fair value because they are highly liquid.

The carrying amounts reported on the Consolidated Balance Sheets for Prepaid expenses and Other current assets, Accrued expenses and Other short term liabilities approximate fair value due to the short-term nature of these items.

#### **Qualifying Hedge Derivative**

On November 14, 2019, the Company entered into an interest rate swap for the Term Loan with a notional amount of \$20M which expires on December 1, 2024. The loan has a 10-year straight line amortization. A principal amount of \$0.2 million is paid monthly. This interest rate swap converts the floating interest rate Term Loan to a fixed rate, plus a borrowing spread. The interest rate is variable based on LIBOR plus 3.50% and the Company's fixed rate is 5.36%. The Company designated this interest rate swap as a cash flow hedge.

The Company entered into this interest rate swap to hedge exposure resulting from the interest rate risk. The purpose of this hedge is to reduce the variability of the interest rate based on LIBOR. The Company manages these exposures within specified guidelines through the use of derivatives. All of our derivative instruments are utilized for risk management purposes, and the Company does not use derivatives for speculative trading purposes.

The interest rate swap had a notional amount of \$19.8 million and a fair value of \$0.1 million as of December 31, 2019. The Company derivative liability is measured at fair value using observable market inputs such as interest rates and our own credit risk as well as an evaluation of our counterparty's credit risk. Based on these inputs the derivative liability is classified within Level 2 of the valuation hierarchy.

The interest expense recorded as a result of the interest rate swap was \$0.1 million as of December 31, 2019. The loss recognized in accumulated other comprehensive income (loss) and the derivative liability which was recorded in other long-term liabilities was \$0.1 million as of December 31, 2019.

#### 14. SEGMENT REPORTING

We operate our business in three reportable segments: (a) the Transportation and Skilled Trades segment; (b) the Healthcare and Other Professions segment; and (c) the Transitional segment. Our reportable segments have been determined based on a method by which we now evaluate performance and allocate resources. Each reportable segment represents a group of post-secondary education providers that offer a variety of degree and non-degree academic programs. These segments are organized by key market segments to enhance operational alignment within each segment to more effectively execute our strategic plan. Each of the Company's schools is a reporting unit and an operating segment. Our operating segments are described below.

**Transportation and Skilled Trades** – The Transportation and Skilled Trades segment offers academic programs mainly in the career-oriented disciplines of transportation and skilled trades (e.g. automotive, diesel, HVAC, welding and manufacturing).

**Healthcare and Other Professions** – The Healthcare and Other Professions segment offers academic programs in the career-oriented disciplines of health sciences, hospitality and business and information technology (e.g. dental assistant, medical assistant, practical nursing, culinary arts and cosmetology).

**Transitional** – The Transitional segment refers to our campus operations which have been closed prior to 2019. The schools in the Transitional segment employed a gradual teach-out process that enabled the schools to continue to operate to allow their current students to complete their course of study.

The Company continually evaluates each campus for profitability, earning potential, and customer satisfaction. This evaluation takes several factors into consideration, including the campus's geographic location and program offerings, as well as skillsets required of our students by their potential employers. The purpose of this evaluation is to ensure that our programs provide our students with the best possible opportunity to succeed in the marketplace with the goals of attracting more students to our programs and, ultimately, to provide our shareholders with the maximum return on their investment. Campuses classified in the Transitional segment have been subject to this process and have been strategically identified for closure. As of December 31, 2019, no campuses have been categorized in the Transitional segment.

We evaluate segment performance based on operating results. Adjustments to reconcile segment results to consolidated results are included under the caption "Corporate," which primarily includes unallocated corporate activity.

For all prior periods presented, the Company reclassified its Marietta, Georgia campus from the HOPS segment to the Transportation and Skilled Trades segment. This reclassification occurred to address how the Company evaluates performance and allocates resources and was approved by the Company's Board of Directors.

Summary financial information by reporting segment is as follows:

	For the Year Ended December 31,								
	Revenue						Operating Income (Loss)		
	2019	% of Total	2018	% of Total	2017	% of Total	2019	2018	2017
Transportation and Skilled Trades	\$ 193,722	70.9%	\$ 185,263	70.4%	\$ 181,328	69.2%	\$ 21,979	\$ 17,661	\$ 17,795
Healthcare and Other Professions	79,620	29.1%	72,135	27.4%	63,641	24.3%	7,588	6,469	3,937
Transitional	-	0.0%	5,802	2.3%	16,884	6.4%	-	(5,994)	(6,926)
Corporate	-	0.0%	-	0.0%	-	0.0%	(24,329)	(22,090)	(19,522)
<b>Total</b>	<b>\$ 273,342</b>	<b>100%</b>	<b>\$ 263,200</b>	<b>100%</b>	<b>\$ 261,853</b>	<b>100%</b>	<b>\$ 5,238</b>	<b>\$ (3,954)</b>	<b>\$ (4,716)</b>

	Total Assets	
	December 31, 2019	December 31, 2018
Transportation and Skilled Trades	\$ 121,611	\$ 92,070
Healthcare and Other Professions	27,945	14,078
Transitional	-	527
Corporate	45,207	39,363
<b>Total</b>	<b>\$ 194,763</b>	<b>\$ 146,038</b>

## 15. COMMITMENTS AND CONTINGENCIES

**Litigation and Regulatory Matters**— In the ordinary conduct of our business, we are subject to periodic lawsuits, investigations and claims, including, but not limited to, claims involving students or graduates and routine employment matters. Although we cannot predict with certainty the ultimate resolution of lawsuits, investigations and claims asserted against us, we do not believe that any currently pending legal proceeding to which we are a party will have a material effect on our business, financial condition, results of operations or cash flows.

As previously reported, on July 6, 2018, the Company received an administrative subpoena from the Office of the Attorney General of the State of New Jersey (“NJ OAG”). Pursuant to the subpoena, the NJ OAG requested certain documents and detailed information relating to the November 21, 2012 Civil Investigative Demand letter addressed to the Company by the Massachusetts Office of the Attorney General (“MOAG”) that resulted in a previously reported Final Judgment by Consent between the Company and the MOAG dated July 13, 2015. The Company responded to this request and, by letter dated April 11, 2019, the NJ OAG issued a supplemental subpoena requesting additional information for the time period from April 11, 2014 to the present. The Company submitted its response to the supplemental subpoena. Subsequently, by email dated August 20, 2019, the NJ OAG requested additional records of the Company from the years 2012 and 2013. The Company has responded to the NJ OAG’s most recent record request and is continuing to cooperate with the NJ OAG.

Also, on February 12, 2019, the Company received a notification from the State of Colorado Department of Law (“CDOL”) advising that it was initiating a compliance examination of one of its subsidiaries, Lincoln Technical Institute, Inc. The examination sought to review a fixed number of company transactions seeking information responsive to its examination. The Company submitted its response and, on December 5, 2019, received notifications from the CDOL that it had completed its examination with no violations reported.

**Student Loans**—At December 31, 2019, the Company had outstanding net loan commitments to its students to assist them in financing their education of approximately \$54.7 million, net of interest.

**Executive Employment Agreements**—The Company entered into employment contracts with key executives that provide for continued salary payments if the executives are terminated for reasons other than cause, as defined in the agreements. The future employment contract commitments for such employees were approximately \$4.1 million at December 31, 2019.

**Change in Control Agreements**—In the event of a change of control several key executives will receive continued salary payments based on their employment agreements.

**Surety Bonds**—Each of the Company’s campuses must be authorized by the applicable state education agency in which the campus is located to operate and to grant degrees, diplomas or certificates to its students. The campuses are subject to extensive, ongoing regulation by each of these states. In addition, the Company’s campuses are required to be authorized by the applicable state education agencies of certain other states in which the campuses recruit students. The Company is required to post surety bonds on behalf of its campuses and education representatives with multiple states to maintain authorization to conduct its business. At December 31, 2019, the Company has posted surety bonds in the total amount of approximately \$12.8 million.

**16. RELATED PARTY**

The Company has an agreement with Matco Tools, whereby Matco will provide to the Company, on an advance commission basis, credits in Matco-branded tools, tool storage, equipment, and diagnostics products. The chief executive officer of the parent company of Matco was considered an immediate family member of one of the Company's Board members, however as of December 2018, that individual is no longer considered an immediate family member. The amount of the Company's purchases from this third party was \$1.8 million for the year ended December 31, 2018. Management believes that its agreement with Matco is an arm's length transaction and on similar terms as would have been obtained from unaffiliated third parties.

**17. UNAUDITED QUARTERLY FINANCIAL INFORMATION**

The following tables have been updated to reflect changes in discontinued operations. Quarterly financial information for 2019 and 2018 is as follows:

2019	Quarter			
	First	Second	Third	Fourth
Revenue	\$ 63,263	\$ 63,569	\$ 72,594	\$ 73,915
Net (loss) income	(5,467)	(3,064)	1,340	9,206
Basic				
Net (loss) earnings per share	\$ (0.22)	\$ (0.12)	\$ 0.05	\$ 0.33
Diluted				
Net (loss) earnings per share	\$ (0.22)	\$ (0.12)	\$ 0.05	\$ 0.33
Weighted average number of common shares outstanding:				
Basic	24,534	24,555	24,563	24,563
Diluted	24,534	24,555	24,608	24,563

2018	Quarter			
	First	Second	Third	Fourth
Revenue	\$ 61,889	\$ 61,120	\$ 70,078	\$ 70,113
Net (loss) income	(6,874)	(4,104)	(600)	5,033
Basic				
Net (loss) earnings per share	\$ (0.28)	\$ (0.17)	\$ (0.02)	\$ 0.21
Diluted				
Net (loss) earnings per share	\$ (0.28)	\$ (0.17)	\$ (0.02)	\$ 0.20
Weighted average number of common shares outstanding:				
Basic	24,138	24,486	24,533	24,533
Diluted	24,138	24,486	24,533	24,562

## LINCOLN EDUCATIONAL SERVICES CORPORATION

## Schedule II—Valuation and Qualifying Accounts

(in thousands)

Description	Balance at Beginning of Period	Charged to Expense	Accounts Written-off	Balance at End of Period
<b>Allowance accounts for the year ended:</b>				
December 31, 2019 Student receivable allowance	\$ 16,993	\$ 20,847	\$ (17,473)	\$ 20,367
December 31, 2018 Student receivable allowance	\$ 13,784	\$ 17,705	\$ (14,496)	\$ 16,993
December 31, 2017 Student receivable allowance	\$ 14,794	\$ 13,720	\$ (14,730)	\$ 13,784

**DESCRIPTION OF SECURITIES REGISTERED PURSUANT TO  
SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED**

**General**

The following is a description of the material terms of our capital stock included in our amended and restated certificate of incorporation, as amended (our “certificate of incorporation”) and our bylaws, as amended (our “bylaws”) and is only a summary. Our common stock is the only class or series of our securities which has been registered under Section 12 of the Securities Exchange Act of 1934, as amended, and is listed on The Nasdaq Global Select Market under the symbol “LINC”. This summary does not purport to be complete and is subject to, and is qualified in its entirety by reference to: (i) our certificate of incorporation; (ii) our bylaws; and (iii) the applicable provisions of the New Jersey Business Corporation Act (the “NJBCA”). You should refer to complete copies of our certificate of incorporation and our bylaws, which are incorporated by reference as exhibits to the Annual Report on Form 10-K, of which this Exhibit 4.3 is a part, and to the relevant provisions of the NJBCA for additional information. Except as otherwise indicated or unless the context requires otherwise, all references herein to the “Company,” “we,” “us,” “our” and similar terms refer to Lincoln Educational Services Corporation.

We are currently authorized to issue 110,000,000 shares of capital stock, including 100,000,000 shares of common stock, no par value per share, and 10,000,000 shares of preferred stock, no par value per share. Of the 10,000,000 authorized shares of preferred stock, 12,700 shares are designated as Series A Convertible Preferred Stock, no par value per share (“Series A Preferred Stock”), and are issued and outstanding.

**Common Stock**

As of March [3], 2020 there were [25,113,569] shares of common stock outstanding, which were held of record by [10] shareholders.

**Voting rights.** Our shares of common stock are entitled to voting rights for the election of directors and for all other purposes, each holder of common stock being entitled to one vote for each share, except as otherwise required by law, and subject to the rights of the holders of preferred stock. The common stock does not have cumulative voting rights.

**Dividend rights.** Subject to any prior rights of holders of shares of any then-outstanding series of preferred stock, all shares of our common stock are entitled to share equally in any dividends that our Board of Directors may declare from legally available sources. Our existing credit agreement currently imposes restrictions on our ability to declare dividends with respect to our common stock.

**Liquidation rights.** Upon liquidation or dissolution of our Company, whether voluntary or involuntary, all shares of our common stock will be entitled to share equally in the assets available for distribution to shareholders after payment of all of our prior obligations, including obligations on our preferred stock.

**Other matters.** The holders of our common stock have no preemptive or conversion rights and our common stock is not subject to further calls or assessments by us. There are no redemption or sinking fund provisions applicable to the common stock. All outstanding shares of our common stock are fully paid and non-assessable.

**Listing and Transfer Agent.** Shares of our common stock are listed for trading on The Nasdaq Global Market under the symbol “LINC.” Continental Stock Transfer & Trust Company is the transfer agent and registrar for our common stock.

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## Preferred Stock

As of March [3], 2020, there were 12,700 shares of Series A Preferred Stock outstanding, which were held of record by three shareholders.

Our certificate of incorporation provides that the Board of Directors has the authority, without action by the shareholders, to designate and issue shares of preferred stock in one or more classes or series and to fix the powers, rights, preferences, and privileges of each class or series of preferred stock, including dividend rights, conversion rights, voting rights, terms of redemption, liquidation preferences, and the number of shares constituting any class or series, which may be greater than the rights of the holders of our common stock. Any issuance of shares of preferred stock could adversely affect the voting power of holders of common stock, and the likelihood that the holders will receive dividend payments and payments upon liquidation could have the effect of delaying, deferring, or preventing a change in control.

We are currently authorized to issue 10,000,000 shares of preferred stock, no par value per share, of which 12,700 shares are designated as Series A Convertible Preferred Stock, no par value per share, and are issued and outstanding

**Dividends.** Dividends on the Series A Preferred Stock (“Series A Dividends”), at the initial annual rate of 9.6%, are to be paid from the date of issuance quarterly on each December 31, March 31, June 30 and September 30 with September 30, 2020 as the first dividend payment date. The Company, at its option, may pay dividends in cash or by increasing the number of conversion shares issuable upon conversion of the Series A Preferred Stock (the “Conversion Shares”). The dividend rate is subject to increase (a) 2.4% per annum on the fifth anniversary of the issuance of the Series A Preferred Stock (b) by 20% per annum but in no event above 14% per annum should the Company fail to perform certain obligations under the certificate of incorporation.

**Series A Preferred Shareholders’ Right to Convert into Common Stock.** Each share of Series A Preferred Stock, at any time, is convertible into a number of shares of common stock equal to (the “Convertible Formula”) the quotient of (i) the sum of (A) \$1,000 (subject to adjustment as provided in the certificate of incorporation) plus (B) the dollar amount of any declared Series A Dividends not paid in cash divided by (ii) the Series A Conversion Price (initially \$2.36 per share subject to anti-dilution adjustments as provided in the certificate of incorporation) as of the applicable Conversion Date (as defined in the certificate of incorporation). At all times, however, the number of Conversion Shares that can be issued to any Series A Preferred Stock Holder may not result in such holder and its affiliates owning more than 19.99% of the total number of shares of common stock outstanding after giving effect to the conversion (the “Hard Cap”), unless prior shareholder approval is obtained or no longer required by the rules of the principal stock exchange on which the Company’s common stock trade.

**Mandatory Conversion.** If, at any time following November 14, 2022, the volume weighted average price of the Company’s common stock equals or exceeds 2.25 times the Conversion Price (\$5.31 per share based on the initial Conversion Price) for a period of 20 consecutive trading days and on each such trading day at least 20,000 shares of common stock was traded, the Company may, at its option and subject to the Hard Cap, require that any or all of the then outstanding shares of Series A Preferred Stock be automatically converted into shares of common stock at the then applicable Convertible Formula.

**Redemption.** Beginning November 14, 2024, the Company may redeem all or any of the Series A Preferred Stock for a cash price equal to the greater of (the “Liquidation Preference”) (i) the sum of \$1,000 (subject to adjustment as provided in the certificate of incorporation) plus the dollar amount of any declared Series A Dividends not paid in cash and (ii) the value of the Conversion Shares were such Series A Preferred Stock converted (as determined in the certificate of incorporation) without regard to the Hard Cap.

**Change of Control.** In the event of certain changes of control, some of which are not in the Company’s control, as defined in the certificate of incorporation as a “Fundamental Change” or a “Liquidation”, the Series A Preferred Shareholders shall be entitled to receive the Liquidation Preference, unless such Fundamental Change is a stock merger in which certain value and volume requirements are met, in which case the Series A Preferred Stock will be converted into common stock in connection with such stock merger.

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**Voting.** Holders of shares of Series A Preferred Stock will be entitled to vote with the holders of shares of common stock and not as a separate class, at any annual or special meeting of shareholders of the Company, on an as-converted basis, in all cases subject to the Hard Cap. In addition, a majority of the voting power of the Series A Preferred Stock must approve certain significant actions of the Company, including (i) declaring a dividend or otherwise redeeming or repurchasing any shares of common stock and other junior securities, if any, subject to certain exceptions, (ii) incurring indebtedness, except for certain permitted indebtedness or (iii) creating a subsidiary other than a wholly-owned subsidiary.

**Board Representation.** The holders of Series A Preferred Stock, voting as a separate class, have the right to appoint one director to the Board of Directors (the “Series A Director”) who may serve on any committees of the Board of Directors, until such time as the later of (i) the shares of Series A Preferred Stock have been converted into common stock or (ii) a holder still owns Conversion Shares and the sum of such Conversion Shares plus any other shares of common stock represent at least 10% of the total outstanding shares of common stock.

**Additional Provisions.** The Series A Preferred Stock is perpetual and therefore does not have a maturity date. The conversion price of the Series A Preferred Stock is subject to anti-dilution protections if the Company effects a stock split, stock dividend, subdivision, reclassification or combination of its common stock and certain other economically dilutive events.

### **Directors’ Exculpation and Indemnification**

Our certificate of incorporation provides that none of our directors shall be liable to us or our shareholders for monetary damages for any breach of fiduciary duty as a director, except to the extent otherwise required by the New Jersey Business Corporation Act, or the NJBCA. The effect of this provision is to eliminate our rights, and our shareholders’ rights, to recover monetary damages against a director for breach of a fiduciary duty of care as a director, except to the extent otherwise required by the NJBCA. This provision does not limit or eliminate our right, or the right of any shareholder, to seek non-monetary relief, such as an injunction or rescission in the event of a breach of a director’s duty of care. In addition, our amended and restated certificate of incorporation provides that, if the NJBCA is amended to authorize the further elimination or limitation of the liability of a director, then the liability of the directors shall be eliminated or limited to the fullest extent permitted by the NJBCA, as so amended. These provisions will not alter the liability of directors under federal or state securities laws.

### **Anti-Takeover Effects of New Jersey Law, the Certificate of Incorporation and the Bylaws**

Certain provisions of the NJBCA, our certificate of incorporation and our bylaws may have the effect of delaying, deferring or preventing another person from acquiring control of the Company, including takeover attempts that might result in a premium over the market price for the shares of common stock.

### ***New Jersey Law***

We are subject to the provisions of Section 14A-10A of the NJBCA, which is known as the “New Jersey Shareholders Protection Act.” Under the New Jersey Shareholders Protection Act, we are prohibited from engaging in any “business combination” with any “interested shareholder” for a period of five years following the time at which that shareholder becomes an “interested shareholder” unless the business combination is approved by our Board of Directors before that shareholder became an “interested shareholder.” After this five-year period has expired, any business combination with an “interested shareholder” must be approved by holders of 66<sup>2</sup>/<sub>3</sub>% of the voting shares not held by the “interested shareholder” or meet certain prescribed value requirements. Covered business combinations include certain mergers, dispositions of assets or shares and recapitalizations.

An “interested shareholder” is (i) any person that directly or indirectly beneficially owns 10% or more of the voting power of our outstanding voting stock; or (ii) any of our affiliates or associates (as those terms are defined in the New Jersey Shareholders Protection Act) that directly or indirectly beneficially owned 10% or more of the voting power of our then outstanding stock at any time within a five-year period immediately prior to the date in question.

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## ***Certificate of Incorporation and Bylaws***

***Authorized but Unissued Preferred Stock.*** Our certificate of incorporation and bylaws permit us to establish the rights, privileges, preferences and restrictions, including voting rights, of future series of our preferred stock and to issue such stock without approval from our common shareholders.

***Board of Directors.*** Our certificate of incorporation and bylaws provide that our Board of Directors shall consist of at least three directors but not more than eleven directors, as may be determined by the Board of Directors from time to time. Currently, our Board of Directors consists of eight directors, seven of whom are independent directors, including one designated Series A Director. Other than a vacancy arising from the departure of a Series A Director, any vacancy on our Board of Directors, including a vacancy resulting from an enlargement of our Board of Directors, may be filled only by the affirmative vote of a majority of the directors then in office, though less than a quorum. Any such director so elected shall hold office for the remainder of the full term of the director for which the vacancy was created or occurred and until his or her successor shall have been elected and qualified. The limitation on filling vacancies could make it more difficult for a third party to acquire, or discourage a third party from attempting to acquire, control of our Company.

***Removal of Directors.*** Except for the rights of Series A Preferred Stock holders entitled to elect a Series A Director separately (and who retain the right to remove the Series A Director), any director may only be removed from office, without assigning any cause, by the approval of holders of a majority of the combined voting power of the then outstanding shares of our stock entitled to vote generally in the election of directors, voting together as a single class.

***Board meetings.*** Our bylaws provide that special meetings of the Board of Directors may be called by the chairman of our Board of Directors, the president, the chief financial officer or by any two directors in office.

***Shareholder meetings.*** Our certificate of incorporation provides that any action required or permitted to be taken by our shareholders at an annual meeting or special meeting of shareholders may only be taken if it is properly brought before such meeting and may not be taken by non-unanimous written action in lieu of a meeting. Our bylaws further provide that special meetings of the shareholders may only be called by the chairman of the Board of Directors, our president, by a committee that is duly designated by the Board of Directors, by resolution adopted by the affirmative vote of the majority of the Board of Directors or pursuant to an order of the New Jersey Superior Court in accordance with NJBCA.

***Requirements for advance notification of shareholder nominations and proposals.*** Our bylaws establish advance notice procedures with respect to shareholder proposals and the nomination of candidates for election as directors, other than nominations made by or at the direction of our Board of Directors or a committee of the Board of Directors. In order for any matter to be considered “properly brought” before a meeting, a shareholder must comply with requirements regarding advance notice and provide certain information to us. These provisions could have the effect of delaying until the next shareholders meeting shareholder actions that are favored by the holders of a majority of our outstanding voting securities. These provisions could also discourage a third party from making a tender offer for our common stock, because even if it acquired a majority of our outstanding voting securities, it would be able to take action as a shareholder (such as electing new directors or approving a merger) only at a duly called shareholders meeting and not by non-unanimous written consent.

***Shareholder action by written consent.*** Our certificate of incorporation and bylaws prohibit shareholder action by non-unanimous written consent and require all such actions to be taken at a meeting of shareholders of our common stock.

***Cumulative voting.*** Our certificate of incorporation provides that our shareholders shall have no cumulative voting rights.

***Amendment of certificate of incorporation and bylaws.*** The amendment of the provisions described above in our certificate of incorporation generally will require the affirmative vote of a majority of our directors, as well as the affirmative vote of the holders of at least 66<sup>2</sup>/<sub>3</sub>% of our then-outstanding voting stock. Our bylaws may be amended (i) by the affirmative vote of the majority of our Board of Directors or (ii) by the affirmative vote of holders of a majority of our then outstanding voting stock.

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**Subsidiaries of the Company**

The following is a list of Lincoln Educational Services Corporation's subsidiaries as of December 31, 2019:

<b><u>Name</u></b>	<b><u>Jurisdiction</u></b>
Lincoln Technical Institute, Inc. (wholly owned)	New Jersey
New England Acquisition LLC (wholly owned through Lincoln Technical Institute, Inc.)	Delaware
Nashville Acquisition, LLC (wholly owned through Lincoln Technical Institute, Inc.)	Delaware
Euphoria Acquisition, LLC (wholly owned through Lincoln Technical Institute, Inc.)	Delaware
LTI Holdings, LLC (wholly owned through Lincoln Technical Institute, Inc.)	Colorado
LCT Acquisition, LLC (wholly owned through Lincoln Technical Institute, Inc.)	Delaware
NN Acquisition, LLC (wholly owned through Lincoln Technical Institute, Inc.)	Delaware

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**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in Registration Statement Nos. 333-148406 and 333-152854 on Form S-3 and 333-126066, 333-132749, 333-138715, 333-158923, 333-173880, 333-188240, 333-138715 “POS,” 333-203806 and 333-211213 on Form S-8 of our reports dated March 6, 2020, relating to the consolidated financial statements and financial statement schedule of Lincoln Educational Services Corporation and subsidiaries’, and the effectiveness Lincoln Educational Services Corporation and subsidiaries’ internal control over financial reporting, appearing in this Annual Report on Form 10-K of Lincoln Educational Services Corporation, for the year ended December 31, 2019.

/s/ Deloitte & Touche LLP  
Parsippany, New Jersey  
March 6, 2020

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## CERTIFICATION

I, Scott Shaw, certify that:

1. I have reviewed this Annual Report on Form 10-K of Lincoln Educational Services Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an Annual Report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (e) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 6, 2020

/s/ Scott Shaw

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Scott Shaw  
Chief Executive Officer

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## CERTIFICATION

I, Brian Meyers, certify that:

1. I have reviewed this Annual Report on Form 10-K of Lincoln Educational Services Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an Annual Report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 6, 2020

/s/ Brian Meyers

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Brian Meyers

Chief Financial Officer

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**CERTIFICATION****Pursuant to 18 U.S.C. 1350 as adopted by****Section 906 of the Sarbanes-Oxley Act of 2002**

Each of the undersigned, Scott Shaw, Chief Executive Officer of Lincoln Educational Services Corporation (the “Company”), and Brian Meyers, Chief Financial Officer of the Company, has executed this certification in connection with the filing with the Securities and Exchange Commission of the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2019 (the “Report”).

Each of the undersigned hereby certifies that, to his respective knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 6, 2020

/s/ Scott Shaw

Scott Shaw  
Chief Executive Officer

/s/ Brian Meyers

Brian Meyers  
Chief Financial Officer

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