



UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202

In the Matter of
Emergency Action Against
European School of Beauty

DECISION

On May 28, 1992, Molly Hockman, Director, Division of Audit and Program Review, Office of Student Financial Assistance, notified the United Academies of Cosmetology (United Academies) that the Department of Education (Department) was imposing an Emergency Action against the eight institutions which comprised United Academies, pursuant to 20 U.S.C. Section 1094(c)(1)(E) and the procedures found in 34 C.F.R. Section 668.83. One of the eight institutions so notified was the European School of Beauty (European), located in Des Plains, Illinois. Of the eight institutions, only European requested an opportunity to show cause why the emergency action was unwarranted.

The matter came before me by virtue of a delegation of authority from the Secretary of Education to conduct proceedings and issue final decisions whenever an institution requests an opportunity to show cause why an emergency action is unwarranted. This designation became effective on the 11th day of November 1991.

European requested that it be authorized to submit its position through a brief and attachments rather than at an oral hearing. The request was granted by me and subsequently both European and the Department submitted their materials.

An Emergency Action may be imposed if three criteria are met. First, there must be reliable information that the institution is violating a provision of Title IV of the Higher Education Act of 1965, as amended. Second, immediate action is necessary to prevent the misuse of federal funds. Finally, the likelihood of loss must outweigh the importance of awaiting the outcome of the procedures established for termination of an institution from participation in the Title IV Programs.

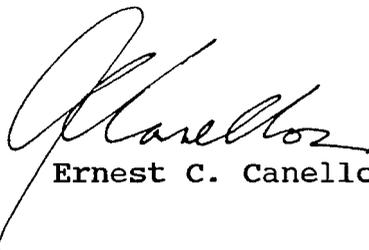
In seeking to show cause why the emergency action is inappropriate, European only contests the first criteria. It attempts to do this in two ways. First, it argues that it is not an affiliate of United Academies, therefore the conduct of United Academies and their other affiliates should not be considered against European. Second, it attempts to show that the violations attributed to European directly either did not occur or were of a substantially lesser severity than alleged.

In rebuttal, the Department offers evidence of occasions when European listed itself as being affiliated with United Academies,

even listing itself as a branch of United Academies in its own catalog. In addition, the Department points to the common elements of the violations of Title IV regulations at the eight schools of United Academies, including European, and that the student financial aid for all eight schools is processed and centrally administered at the corporate offices of United Academies. It concludes by arguing that with the interrelated ownership of the organizations, all should be barred from participation in the Title IV programs, otherwise, all federal aid could be funneled through any one of the schools to any of the others, thereby defeating the control over the loss of such funds.

After careful consideration of the evidence and the submission of the parties, I hereby affirm the emergency action. The emergency action will, therefore, remain in effect until the completion of the termination proceeding.

I find that the evidence presented meets the criteria for imposing emergency action pursuant to 20 U.S.C. Section 1094(c)(1)(E) and 34 C.F.R. Section 668.83. There is reliable evidence to show that European is violating the provisions of Title IV; that immediate action is necessary to prevent the misuse of federal funds, and, that the likelihood of loss outweighs the importance of following the procedures set forth for termination. Specifically, I find that European failed to carry its burden of showing that the emergency action is unwarranted. At most, European raises questions of fact, dispute of which must be resolved by the trier-of-fact assigned to hear the termination proceeding.


Ernest C. Canellos

Date: August 28, 1992
Washington, DC