



UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202

IN THE MATTER OF

NATIONAL HISPANIC UNIVERSITY

Respondent.

Student Financial
Assistance Proceeding

Emergency Action

DECISION

On December 17, 1992, the Office of Student Financial Assistance (OSFA) of the U.S. Department of Education (ED) imposed an emergency action against the National Hispanic University (NHU) of Oakland, California, in accordance with 20 U.S.C. §1094(c)(1)(G) and 34 C.F.R. §668.83. In response to the notice, on January 4, 1993, the NHU requested an opportunity to show cause why the emergency action is unwarranted. In addition, on January 15, 1993, ED notified NHU that it was no longer eligible to participate in the student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended.

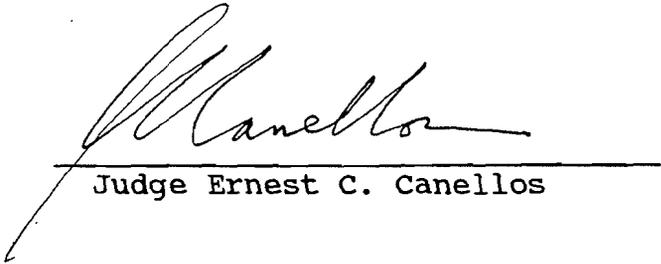
Pursuant to the Delegation of Authority from the Secretary to me to conduct proceedings and issue final decisions in such circumstances where educational institutions request an opportunity to show cause why an emergency action is unwarranted, I conducted a hearing by teleconference in Washington, D.C., on February 18, 1993. At the hearing, NHU was represented by its President, Dr. B. Roberto Cruz, while OSFA was represented by Donald Phillips, Esq., from the Office of the General Counsel.

ED's contention in this matter is that as a result of the passage of the Higher Education Act Amendments of 1992, NHU was not eligible to participate in the student financial assistance programs after October 1, 1992. Specifically, prior to October 1, 1992, NHU had been eligible to participate in these programs under the transfer of credit alternative to accreditation, commonly referred to as 3-I-C. After that date, however, an institution must be, among other things, accredited or preaccredited by a nationally recognized accrediting agency to so qualify. NHU did not qualify under either of these alternatives and, therefore, it was no longer eligible to participate in federal student financial

assistance programs.

In accordance with 20 U.S.C. § 1094(c)(1)(G) and 34 C.F.R. §668.83, an emergency action cannot exceed 30 days unless a limitation, suspension or termination proceeding is initiated within that period of time. I find that ED has not taken the steps necessary to extend the emergency action and, as a result, the emergency action has lapsed by operation of law. Counsel for ED agrees. Therefore, I hereby DISMISS the emergency action.

The emergency action is the only issue within my jurisdiction. However, for further discussion on this issue, see, generally, my decision In the Matter of Institute of Jewish Culture and Heritage, Docket No. 93-17-SX, dated March 10, 1993.



Judge Ernest C. Canellos

Dated: March 11, 1993
Washington, DC