

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF HEARINGS AND APPEALS

In the Matter of

ARTISTIC BEAUTY COLLEGE
Indianapolis, IN

Docket No. 93-109-EA

Emergency Action
Show Cause Proceeding

DECISION

On October 4, 1993, a hearing in the above-captioned matter was held by teleconference call to grant Artistic Beauty College of Indianapolis, Indiana, the opportunity to show cause why the emergency action imposed on September 8, 1993, by the U.S. Department of Education (ED) was not warranted. This hearing was held in tandem with a companion show cause proceeding, Artistic Beauty College of Shelbyville, Indiana, Docket No. 93-108-EA. Pursuant to my powers under a delegation of authority from the Secretary to me of November 1, 1993, I presided over the hearing.

The facts at issue are not in dispute. On July 8, 1993, Artistic Beauty College filed for bankruptcy protection with the United States Bankruptcy Court for the Southern District of Indiana. Pursuant to the Higher Education Act of 1965, as amended (HEA), and 34 CFR § 600.41 and § 668.83, ED imposed an emergency action against the school on September 8, 1993. The applicable section of the HEA, section 481 (a) (4), provides that an institution shall not be considered to meet the definition of an institution of higher education for the purposes of eligibility to participate in the Title IV, HEA programs if such institution has filed for bankruptcy; no distinction is made between the various forms of bankruptcy.

The section at issue is virtually self-executing. Artistic Beauty College conceded that it has filed for bankruptcy protection. As such, it can no longer meet the definition of an eligible institution of higher education as described above. Action by the Department was, therefore, necessary to prevent the misuse of Federal funds. Moreover, it is apparent, under the circumstances, that the likelihood of loss outweighs the importance of the procedures for termination.

In conclusion, I am constrained to find that it no longer meets the definition of an institution of higher education for the purposes contemplated under the HEA. I further find that the school has failed to meet its burden of showing that the emergency action is not warranted. Therefore, the emergency action is hereby **AFFIRMED**.

Ernest C. Canellos

DATE: October 4, 1993