

In the Matter of WHEELING COLLEGE OF HAIR DESIGN,
Respondent.

Docket No. 95-68-ST
Student Financial Assistance Proceeding

Appearances: Robert W. Kagler, Esq., of Moundsville, West Virginia, for the Respondent.

S. Dawn Robinson, Esq., of the Office of the General Counsel, U.S. Department of Education, Washington, D.C., for the Office of Student Financial Assistance Programs.

Before: Judge Ernest C. Canellos

DECISION

Wheeling College of Hair Design (Wheeling) of Wheeling, West Virginia, is engaged in the business of educating students in the fields of barbering and cosmetology. It was certified, on July 27, 1992, as an eligible Proprietary Institution of Higher Education and an eligible Vocational School [See footnote 1 /](#) and it participates in the various student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (Title IV). Such programs are administered by the Office of Student Financial Assistance Programs (SFAP), United States Department of Education (ED).

The pertinent facts in this case are not in dispute. On February 8, 1995, Wheeling filed a petition seeking relief under Chapter 11 of Title 11 of the Bankruptcy Act with the United States Bankruptcy Court for the Northern District of West Virginia [See footnote 2](#). In addition, on April 10, 1995, the Accrediting Commission of Career Schools and Schools of Technology, an accrediting agency approved by the Secretary of Education, withdrew its approval of Wheeling's accreditation.

As a result of Wheeling's bankruptcy filing, on March 21, 1995, SFAP issued a notice of intent to terminate Wheeling's participation in the Title IV programs because Wheeling no longer satisfied the definition of an institution of higher education, as set forth in 20 U.S.C. § 1088(a)(4)(A). Satisfaction of that definition is a prerequisite for eligibility to lawfully participate in the federal student financial assistance programs authorized under Title IV. On May 15, 1995, when SFAP received notice of the withdrawal of Wheeling's accreditation, it amended its letter of notification to add that as a reason for terminating Wheeling's participation in the Title IV programs.

Wheeling filed a timely appeal requesting an administrative hearing. In its defense, Wheeling argues that it filed for reorganization under Chapter 11 of the Bankruptcy Act and not a dissolution under Chapter 7; that it did not realize the impact a bankruptcy filing would have on its Title IV eligibility, and once it did, it immediately withdrew such action. As to its loss of

accreditation, it argues that the 1992 amendments to Title IV removed the requirement that a school be accredited to be eligible to participate in Title IV.

The applicable law in this case is abundantly clear - if a previously designated eligible institution files for bankruptcy, the institution no longer satisfies the statutory requirements that define it as an eligible institution and, on that basis, ED may terminate the institution's eligibility designation. 20 U.S.C. § 1088(a)(4)(A), 34 C.F.R. § 600.7(a)(2). It is likewise clear that a proprietary institution of higher education must be accredited to be eligible to participate in Title IV, and its loss of accreditation makes the institution ineligible. 20 U.S.C. § 1088(b)(4), 34 C.F.R. § 600.5(a)(6). Accordingly, I find that Wheeling, by virtue of both its filing for bankruptcy and its loss of accreditation, fails to satisfy the definition of an institution of higher education, and as a consequence, is ineligible to participate in Title IV programs.

ORDER

On the basis of the foregoing, it is hereby ORDERED that the eligibility of Wheeling College of Hair Design to participate in the student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended, be terminated.

Judge Ernest C. Canellos

Issued: July 31, 1995
Washington, D.C.

S E R V I C E

A copy of the attached decision was sent to the following:

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Footnote: 1 The certification letter is addressed to Wheeling Barber College. However, the Program Participation Agreement lists the institution as Wheeling College of Hair Design. Since the parties apparently treat them as the same, so will I.

[Footnote: 2](#) *The petition was styled, C & T Hairdesigners, Inc., D/B/A Wheeling College of Hair Design, F/D/B/A Wheeling Barber College.*