

accreditation. 34 C.F.R.

§ 600.41(e)(1). I have no authority to consider challenges to the action of the accrediting agency. *Id.* Consequently, SBC's pending action in federal district court is neither determinative nor relevant in the instant proceedings. Accordingly, I find that SBC, by virtue of its loss of accreditation, fails to satisfy the definition of an institution of higher education, and as a consequence, is ineligible to participate in the Title IV, HEA programs.

An emergency action must be upheld if: 1) there is reliable information that SBC violated provisions of Title IV of the HEA; 2) immediate action is necessary to prevent misuse of Federal funds, and 3) the likelihood of financial loss outweighs the importance of adherence to the procedures for limitation, suspension, and termination actions. 34 C.F.R. § 668.83(c). Here, SBC failed to meet its burden of showing that it meets the statutory definition of an eligible institution. Therefore, a violation of Title IV has occurred. As such, continuing to operate within the Title IV programs would lead to further misuse of Federal funds. The final prong is irrelevant given the nature of this combined proceeding. Having found that the three- pronged test for imposition of an emergency action has been met, I affirm the emergency action.

As previously stated, if an institution loses its accreditation, the institution no longer satisfies the statutory requirements that define it as an eligible institution, and, on that basis, the Department may terminate the institution's eligibility designation. 20 U.S.C. § 1088(b)(4), 34 C.F.R. § 600.5(a)(6). *See In re Academy of Hair Design and Technology*, Docket No. 93-124- ST, U.S. Dep't of Educ. (August 4, 1994). Given my finding that SBC does not meet the definition of an eligible institution, I find that the termination action taken against SBC is warranted.

ORDER

On the basis of the foregoing, it is hereby ORDERED that the emergency action imposed against Sue Bennett College is upheld. It is FURTHER ORDERED that Sue Bennett College's eligibility to participate in the student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended, be terminated.

Judge Richard I. Slippen

Dated: February 10, 1998

SERVICE

A copy of the attached initial decision was sent by certified mail, return receipt requested to the following:

Steven J. Moore, Esq.
109 South Main Street
P.O. Box 1566
Corbin, KY 40702

Sarah J. Wanner, Esq.
Office of the General Counsel
U.S. Department of Education
600 Independence Avenue, S.W.
Washington, D.C. 20202-2110

[Footnote: 1](#) ¹See ED Ex. 2-1.
