

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

In the Matter of

**Docket No. 99-75-EA
99-76-ST**

**PHILADELPHIA WIRELESS TECHNICAL
INSTITUTE,**
Respondent.

Student Financial
Assistance Proceeding

Appearances: George Bochetto, Esq., Philadelphia, Pennsylvania, for Respondent.

Renée S. Orleans, Esq., Office of the General Counsel, United States Department of Education,
Washington, D.C., for Office of Student Financial Assistance Programs.

Before: Judge Richard F. O'Hair

DECISION

Philadelphia Wireless Technical Institute, the Respondent in this proceeding, is a private, non-profit institution which participates in the student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended (Title IV). 20 U.S.C. ' 1070 *et seq.* The Office of Student Financial Assistance Programs (OSFAP), U.S. Department of Education, notified Respondent by letter on October 22, 1999, of the former=s imposition of an emergency action which immediately withdrew the authority of Respondent to obligate and disburse funds under the Title IV programs. That same letter also informed Respondent of OSFAP=s intention to terminate Respondent=s eligibility to participate in the Title IV programs. By letter dated November 8, 1999, Respondent requested a hearing to show cause why the emergency action was unwarranted. This request was later modified when on December 7, 1999, Respondent informed this Tribunal that it no longer desired an emergency action hearing, but rather was electing to focus its attention on the termination issues and was awaiting a briefing schedule and a hearing date notice.

I issued an Order Governing Proceedings on December 8, 1999, ordering OSFAP to file a brief on the issues by January 7, 2000, and Respondent to file a reply brief on February 4, 2000. OSFAP complied, but Respondent did not. This prompted OSFAP to file a Motion for Default Judgment on February 16, 2000. On February 17, 2000, I ordered Respondent to show cause, by February 27, 2000, why I should not terminate the hearing process and issue a decision against Respondent. Respondent has not complied with that Order. Pursuant to my obligation to regulate the course of this proceeding, I have the authority to terminate the hearing process and to issue a decision against a party if that party does not meet the time limits established by my orders. 34 C.F.R. ' 668.117(c)(3) (1999). Accordingly, I find that Respondent=s failure to file a brief by the time required warrants the termination of this hearing process and the

issuance of a decision.

OSFAP presented evidence with its brief that Respondent=s eligibility to participate in the Title IV programs should be terminated because Respondent does not meet the statutory definition of an Ainstitution of higher education.@ One of the components of this definition is that the institution must be accredited by a nationally recognized accrediting agency or association, a prerequisite for Title IV eligibility. See 20 U.S.C. " 1001(a)(5), 1002(a)(1), 1096(a) & (d). The evidence demonstrates that Respondent is no longer accredited. Prior to August 12, 1998, Respondent was accredited by the Accrediting Commission of Career Schools and Colleges of Technology (ACCSCT). On that date, the ACCSCT=s executive director informed Respondent that its appeal of a May 4, 1998, decision to remove the school from the accredited list had been considered by ACCSCT=s Appeals Panel. The director reported that the Appeals Panel found the earlier decision was not arbitrary or capricious and was supported by substantial evidence, and it voted to uphold the Commission=s decision to remove the school from the accredited list.

There is sufficient evidence before the tribunal to demonstrate a *prima facie* showing that as of August 12, 1998, Respondent no longer met the statutory definition of an Ainstitution of higher education@ for Title IV purposes because of its loss of accreditation. The Respondent has failed to meet its burden of persuasion to the contrary. Even if Respondent had filed a brief in compliance with my Order Governing Proceedings, the tribunal=s discretion is limited in that it has no authority to consider any of Respondent=s challenges to ACCSCT=s removal of its accreditation. 34 C.F.R. ' 600.41(e)(1). Therefore, as of August 12, 1998, it became ineligible to participate in the Title IV programs. 34 C.F.R. " 600.40(a)(1)(i) & (d)(2).

ORDER

On the basis of the foregoing, it is hereby ORDERED that Philadelphia Wireless Technical Institute=s eligibility to participate in Title IV programs is terminated.

Judge Richard F. O'Hair

Dated: March 8, 2000

SERVICE

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

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