



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

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In the Matter of

**Docket No. 11-14-EA**  
**Docket No. 11-16-ST**

**HEALTH OPPORTUNITY  
TECHNICAL CENTER,**

Federal Student Aid  
Proceeding

Respondent.

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Appearances: Gregory M. Ochalek, Esq., Miami, Florida, for Health Opportunity Technical Center.

Russell B. Wolff, Esq., Office of the General Counsel, United States Department of Education, Washington, D.C., for Office of Federal Student Aid.

Before: Richard F. O'Hair, Administrative Judge

**DECISION**

Health Opportunity Technical Center (respondent) a proprietary school located in Miami, Florida, is a participant in the various federal student aid programs authorized under Title IV of the Higher Education Act of 1965, as amended (Title IV), 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* The Office of Federal Student Aid (FSA) of the United States Department of Education (Department) administers these programs. By letter dated February 8, 2011, FSA imposed an emergency action against respondent under the authority of § 487(c)(1)(G) of Title IV, and the Department's regulations at 34 C.F.R. § 600.41A(a)(3) and § 668.83. In the same letter FSA notified respondent that it intended to terminate respondent's eligibility to participate in programs authorized under Title IV. Respondent filed a timely appeal of this determination on February 19, 2011. Pursuant to my Order Governing Proceedings, briefs have been filed by both parties to this proceeding.

Respondent executed a program participation agreement (PPA) with the Department, effective August 14, 2007, which authorized it to participate in Title IV, HEA programs. One of the prerequisites to receive and maintain this Title IV eligibility is that the institution must be accredited by a nationally recognized accrediting agency. 20 U.S.C. § 1001(a)(5); 34 C.F.R. § 600.4(a)(5)(i). At the time respondent executed this PPA, it was accredited by the Accrediting Bureau of Health Education Schools (ABHES). ABHES notified respondent in a letter dated January 27, 2011, that it was affirming an earlier denial of respondent's application for a continued grant of accreditation. The letter further informed respondent that no additional appeal was available and that it could not apply for initial accreditation for two years from August, 17, 2010, the date of the initial denial action.

Respondent, on appeal, recognizes that the regulations and case law surrounding this proceeding leave it with little chance of success on appeal. Despite this, respondent said it felt compelled to deny that it had done, or failed to do, anything to warrant the withdrawal of its accreditation; and it also questions the impartiality of the process utilized by ABHES in making its final determination on appeal. Additionally, respondent reaffirms its challenge of the legal sufficiency of the notice document in which FSA imposed an emergency action and informed respondent it intended to terminate its Title IV eligibility. In that regard, respondent maintains it was confused by the use of an incorrect acronym in the body of the February 8, 2011, FSA notice. Respondent previously raised this issue to this tribunal during a telephone conference call with counsel for both parties. I consider the source of the objection to be a minor, administrative error which did not render the notice legally deficient and did not hamper respondent's ability to understand the nature of the proceeding or submit its appeal. I dismissed respondent's objection at that time and do the same here.

Congress provides that only accredited institutions are eligible to participate in Title IV programs. It is unequivocal that respondent's accreditation ceased to be effective on August 17, 2010, and it is not qualified to re-apply for accreditation with ABHES until August 17, 2012. Furthermore, the governing regulations, found at 34 C.F.R. § 600.41(e)(1) provide that if the loss of eligibility is based solely on the loss of accreditation, the presiding official has no authority to consider any challenges to the propriety of the decisions of the accrediting agency.<sup>1</sup>

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<sup>1</sup> See, e.g., *In the Matter of International Academy of Hair Design and Technology*, U.S. Dep't of Educ., Dkt. No. 93-124-ST (Aug. 4, 1994); *In the Matter of Medical Arts Training Center*, U.S. Dep't of Educ., Dkt. No. 94-3-ST (Jan. 17, 1995); *In the Matter of Wheeling College of Hair Design*, U.S. Dep't of Educ., Dkt. No. 95-68-ST (Jul. 31, 1995), *aff'd* by the Secretary (Nov. 22, 1995); *In the Matter of La Newton School of Beauty Culture*, U.S. Dep't of Educ., Dkt. No. 97-11-ST (April 10, 1997), *aff'd* by the Secretary (Dec. 30, 1997); *In the Matter of Sue Bennett College*, U.S. Dep't of Educ., Dkt. Nos. 97-143-EA, 97-145-ST (Feb. 10 1998); *In the Matter of Philadelphia Wireless Technical Institute*, U.S. Dep't of Educ., Dkt. Nos. 99-75-EA, 99-76-ST (Mar. 8, 2000); *In the Matter of Clerical Art School*, U.S. Dep't of Educ., Dkt. No. 00-04-ST (May 9, 2000).

Based on the foregoing, I find that FSA has met its burden of proving respondent lost its accreditation effective August 17, 2010, and it remains unaccredited at this time. Accordingly, I find that FSA's implementation of an emergency action was appropriate and I affirm that action. Additionally, I find that, for the same reason, FSA's termination of respondent's eligibility to participate in Title IV programs is also appropriate.

**ORDER**

On the basis of the foregoing, it is hereby **ORDERED** that Health Opportunity Technical Center's eligibility to participate in further the U.S. Department of Education's Federal Student Aid programs is terminated.

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Judge Richard F. O'Hair

Dated: May 5, 2011

**SERVICE**

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

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