



**UNITED STATES DEPARTMENT OF EDUCATION**  
OFFICE OF HEARINGS AND APPEALS  
400 MARYLAND AVENUE, S.W.  
WASHINGTON, D.C. 20202  
TELEPHONE (202) 245-8300

---

In the Matter of

**PROFESSIONAL CAREER TRAINING  
INSTITUTE (TX)**

**Docket No. 19-54-EA**

Federal Student Aid  
Emergency Action Proceeding

OPE-ID: 04082300

Respondent.

---

**DECISION AFFIRMING EMERGENCY ACTION**

Professional Career Training Institute (PCTI) is a proprietary for-profit institution. It participated in the Federal Pell Grant and Direct Loan Programs authorized by Title IV of the Higher Education Act of 1965, as amended 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* (Title IV). Within the U.S. Department of Education (the Department) the office having jurisdiction over and oversight of these programs is the office of Federal Student Aid (FSA).

On July 8, 2019, the Department received a written request for a Show Cause Hearing to challenge an emergency action in the above-styled proceeding. The request was filed by Carrie Poole, the Chief Executive Officer of PCTI. In addition to challenging the emergency action by the Department, PCTI also challenges its termination from participation in programs authorized under Title IV. The termination proceeding is addressed separately in Docket Number 19-55-ST. A separate Order Governing Proceedings has already been issued in that matter.

The emergency action was taken under the authority of 20 U.S.C. § 1094(c)(1)(I), and was carried out pursuant to the procedures for emergency actions set forth in the Student Assistance General Provisions regulations at 34 C.F.R. § 668.83. In the case of an emergency action involving an institution like PCTI, after the emergency action becomes effective, among other restrictions, PCTI may not make or increase awards or make other commitments of aid to a student, disburse program, institutional or other funds as assistance to a student under the applicable Title IV program, unless a particular procedure was provided for in the initiation of the emergency action. 34 C.F.R. § 668.83(d). Under the authority of 34 C.F.R. § 668.83(a), in

this emergency action, the Department withholds Title IV funds from PCTI and its students, and withdraws the authority of PCTI to obligate and disburse under a list of Title IV programs, and bars PCTI from initiating commitments of Title IV program aid to students and from using its own funds or Federal funds on hand to make further Title IV payments or to credit student accounts with respect to Title IV financial assistance. The action was taken based upon findings under 34 C.F.R. § 668.83(c). PCTI is exercising its right to show cause why the emergency action is unwarranted. 20 U.S.C. § 1094(c)(1)(G), 34 C.F.R. § 668.83(e).

PCTI's right to show cause consists of an opportunity to present evidence and argument to the undersigned show-cause official. 34 C.F.R. § 668(e)(2). In this proceeding, PCTI has the burden of persuading the show-cause official that the emergency action imposed by the notice is unwarranted or should be modified.<sup>1</sup> The argument and evidence submission was complete on September 11, 2019.<sup>2</sup>

After considering the appropriately submitted arguments and evidence presented by PCTI and the Department, the undersigned show-cause official is responsible for promptly continuing, modifying, or revoking the emergency action and notifying the institution.<sup>3</sup> 34 C.F.R. § 668.83(e)(5) and (6). Because a termination proceeding has been initiated, the emergency action continues and any action affecting the emergency action is at the sole discretion of the show-cause official until the Secretary issues a final decision in the termination proceeding. 34 C.F.R. § 668.83(f).

In its notice, the Department indicated that the emergency action was implemented because immediate action was necessary to prevent the misuse of federal funds and because of the likelihood of this loss outweighed the importance of regulatory procedures in a termination action. This conclusion was based on information obtained during a review investigation that disclosed violations of PCTI's fiduciary duties to the Department and to PCTI's students. In addition to falsifying documents, other violations listed included the obstruction of the Department's scheduled program review and investigation and the use of "deceptive and misleading tactics," to lure students into attending PCTI by promising free apartments and other amenities while attending PCTI.

The notice addresses a scheduled program review conducted by the Department, with which, as an institution participating in Title IV programs, PCTI is required to fully cooperate. In March 2019, the Department conducted one of these reviews, after providing approximately one month of advanced notice. The Department became concerned during the review when many students who were randomly selected by the Department were not present at PCTI. The

---

<sup>1</sup> In the separate termination proceeding, 19-55-ST, the Department has the burden of proving that PCTI's eligibility to participate in Title IV programs should be terminated.

<sup>2</sup> On September 22, 2019, the Department submitted a request to file a limited response to PCTI's reply brief, effectively a sur-reply brief. As noted, PCTI has the burden of persuasion in this matter, and due process and fairness dictate in this case that PCTI should have the final word on the merits of this emergency action proceeding, and the Department's sur-reply brief cannot, therefore, be considered. *See also* 34 C.F.R. § 668.83(e)(3) (authorizing the show-cause official to limit the submission of arguments and evidence). The Department's motion to file a sur-reply brief is denied and the brief is removed from the file.

<sup>3</sup> After opposing extensions for the Department to submit its brief, Respondent's counsel requested a three-week extension to file PCTI's reply brief, indicating that there was no longer a need for expedited process. Because the prompt dealing with of an emergency action is for the benefit of the institution, PCTI's request was granted.

Department's concerns increased when students approached the Department's reviewers asking to speak staff where they could have privacy from PCTI staff. Based on review of the documents obtained during the initial review and on information learned from speaking with students during the initial review, the Department made a second, unannounced visit to PCTI. During the unannounced visit, the Department obtained additional files and financial documents. Following the unannounced visit, the Department spoke to numerous students and former and current employees, including PCTI's Financial Aid Director, Lourdes Nieves. From interviews, the Department learned of efforts by PCTI to undermine the review, including falsifying records and files to cover issues with student eligibility and improper use of Title IV funds, threatening students that they had to be on campus extended hours during the review, and making students unavailable to speak to Department staff or silencing them by sending them home or paying them not to speak to Department staff. The information collected during these two visits and interviews revealed that PCTI worked with an entity, University Park Academy (UPA), to print diplomas and replace records to hide the fact that some students were not high school graduates.

The notice further addresses an "Unethical Inducement of Students to Attend [PCTI]." Specifically, the notice indicates there was an arrangement between PCTI and an organization called Helping Hands (HH), where the two entities worked together to make promises to homeless or financially struggling students if they attended PCTI. One promise was to provide free housing for a year. Later, when the students' rent payments were either cut back or stopped, some students were evicted from their apartments or faced other financial difficulties having relied upon the promise of free housing. PCTI also informed some students that their credit balances were being used to pay for students' apartments. These students never authorized PCTI to use Title IV credit balances, and they were told the apartments would be free. Some of the students did not know they even had credit balances because they had not applied for Direct Loans nor authorized PCTI to apply for the loans on their behalf.

As stated above, PCTI has the burden of persuasion in this action. PCTI must show that the emergency action is unwarranted or should be modified because (1) the grounds stated in the notice either did not or do not exist, (2) the grounds stated in the notice will not cause loss of misuse of Title IV funds, or (3) the institution will use procedures that will reliably eliminate the risk of loss from the misuse described in the notice.

PCTI challenges the Department's conclusions, by arguing that they are uncorroborated and based upon unreliable sources including students and former employees,<sup>4</sup> attempting to refute the allegations and finally by arguing that the risk of loss or misuse of funds has been eliminated because it has been placed on heightened cash monitoring by the Department and it has engaged a new financial aid administrator.

Specifically, PCTI argues that the Department reached "inaccurate conclusions" based on claims of people who cannot be trusted or who were "motivated to protect themselves" with "little or no independent corroboration for these conclusions." PCTI Initial Brief at 3-4. PCTI notes that it offers opportunities to underserved populations, including enrolling students with criminal records, highlights the different student criminal records, and argues that because these

---

<sup>4</sup> A significant portion of the information that the Department relies on is the information provided by former employee Lourdes Nieves, who was the Financial Aid Director when she approached the Department staff.

students have criminal records, sometimes involving fraud, they cannot be trusted. *Id.* at 3-4 and 9.

PCTI further attempts to refute the allegations forming the basis for the emergency action. Mostly, however, PCTI asserts that because they were not provided the names of the students making allegations they cannot respond. Where PCTI could respond to specific allegations, it relies heavily on contrary statements and explanations from its staff or the staff at other entities implicated in the allegations, like UPA, including declarations from PCTI's CEO and Owner, Carrie Poole, and PCTI's "sole Financial Aid Administrator," Lourdes Nieves. PCTI Initial Brief at 5. PCTI further provided explanations of its practices, such as that students were required to be present on campus during the review to provide more access to students and fulfill its duty to cooperate with the review and that a student who was "paid to stay away" was actually a student who was issued a disbursement during the ordinary course of business and had a history of violent and irrational behavior and was prevented from "trespassing and engaging in menacing or violent acts at PCTI." *Id.* at 7-8.

PCTI further denies that it promised students free housing for one year if they attended PCTI, and portrays the arrangement between PCTI, HH, and a non-profit, WTDI, as designed to help HH's "clientele . . . in moving towards economic self-sufficiency." Finally, in its reply brief, PCTI argues that the allegations about PCTI working with UPA to provide fake diplomas misunderstands the law related to the requirement of a high school diploma or equivalent and disregards the Career Pathway Program which allowed students who did not have a high school diploma to obtain one through classes at PCTI.

The Department responded to PCTI's initial brief and exhibits by providing substantial evidence that supported the allegations upon which the emergency action was commenced. Included among that evidence are the notes from the lead investigator, Danielle Dillon, which recount that 2 students approached the Department staff to discuss promises of free housing and other concerns. PCTI's financial advisor, Lourdes Nieves, also contacted the Department team because she was concerned about illegal actions by PCTI. These notes were supported by other evidence including a copy of the note from students requesting to meet with Ms. Dillion in Exhibit 140. Notes from that meeting, in Exhibit 141, showed numerous violations, including that students were told not to disclose certain things to the Department employees, and that PCTI accepted one student's high school diploma when it was not accredited.

In its exhibits, the Department also provided copies of multiple applications submitted by Ms. Nieves establishing that the original applications, which reported the students were not high school graduates, were falsely amended to state the students were high school graduates. The Department also filed Exhibit 147, which are notes from a March 20, 2019 call with Ms. Nieves. She stated PCTI was working with University Park Academy to print diplomas in PCTI offices for students without high school degrees. She said PCTI changed application information so it matched the UPA diplomas and that HH and PCTI promised to pay students' rent if they enrolled at PCTI.

PCTI argues that the students who were the subjects of the fraud by PCTI cannot be trusted because of their criminal records. PCTI relies heavily on Exhibits 3 and 8, the statements of PCTI's owner, Carrie Poole, and its financial aid director, Lourdes Nieves to dispute

allegations. For example, in response to the allegation that PCTI inputted inaccurate data on students' FAFSA forms, PCTI argues that the claim "boils down in its essence to the credibility of the student accusers" and Ms. Nieves. PCTI repeatedly challenges the credibility of the allegations by arguing that the statements are made against the institution by persons motivated to lie to protect themselves and their self-interests. The proof lacks credibility, and this tribunal rejects PCTI's attempt to use criminal records of its own students. Most of those records have nothing to do with credibility or truthfulness.

PCTI also responds by introducing contrary statements from Ms. Poole, the owner of PCTI. Poole has a self-interest in the continued eligibility of PCTI, her business, to receive federal funds and in avoiding the requirement to return improperly disbursed Title IV funds. *See* 34 C.F.R. § 668.14(b)(25), which notes that as part of an institution's program participation agreement to participate in Title IV programs, an institution agrees to be liable for improperly spent Title IV funds. Although Ms. Nieves signed the declaration submitted as Exhibit 8, Ms. Nieves also reached out to the Department investigator to speak about PCTI's misconduct and fraud and to provide evidence of that misconduct and fraud. *See* Department Exhibits 133 and 142. Furthermore, contrary to PCTI's contention that the allegations are unsupported, many of the allegations, especially related to changing application documents, are supported with exhibits showing changes being made to items like high school graduation status. *See* Department Exhibit 142. While PCTI presents an argument addressing high school graduation status, arguing that it would not **have needed** to change a student's applications to reflect that the student had a high school diploma, this does not eliminate the reliability of evidence showing that applications **were** changed.

Having reviewed all the exhibits submitted by PCTI, both PCTI's initial and reply briefs, and the Department's emergency action brief and exhibits submitted with that brief, PCTI has failed to persuade this tribunal that the emergency is unwarranted or that it should be modified. The Department has put forth significant evidence that it received reliable information indicating that PCTI has repeatedly committed fraud in its administration of Title IV programs, a stated example in the regulations of a violation that would cause misuse and the likely loss of Title IV program funds. 34 C.F.R. § 668.83(c)(2)(iii).<sup>5</sup> The evidence is largely from students and staff, with corroborating documents. The regulation requires an emergency action must be based on information that is reliable, but the regulation does not conclusive proof in order for the emergency action to be warranted. *See* 34 C.F.R. § 668.83(c)(1)(i). While this decision is not required to find the proof conclusive, the proof certainly is substantial evidence of fraud by PCTI, including statements provided by PCTI's financial aid director which are against her own interest. Those statements are corroborated by supporting evidence, and have indicia of reliability.<sup>6</sup>

---

<sup>5</sup> PCTI has moved to have the audio and video recordings submitted by the Department, Exhibits 143 through 146, suppressed, arguing that they were illegally obtained. Because the Department has submitted a substantial amount of evidence showing that it received reliable information demonstrating repeated incidents of fraud beyond the audio recording and video records, those pieces of evidence were not considered for this decision. It is unnecessary to determine their admissibility. PCTI further asserts that the Department has committed a felony by submitting the exhibits. This proceeding has no jurisdiction to address accusations of criminal activity. Such accusations against opposing counsel are unfortunate; however, this proceeding similarly lacks jurisdiction to consider whether such accusations undermine the civility of the proceeding.

<sup>6</sup> Federal and state courts across the country have regularly accepted that a statement against the declarant's interest

The emergency action establishes extensive fraud, and is supported by reliable information. The likelihood of loss in this case and the need for immediate action outweigh the importance of waiting for the non-emergency procedures in subparagraph (D) for terminations. The emergency action is warranted. PCTI stresses that it has engaged a new financial aid administrator and has been placed on heightened cash monitoring. These measures only offer protection if the new administrator and the Department are provided accurate information upon which to draw conclusions about the appropriateness of Title IV fund disbursements. There is abundant and reliable evidence submitted in this case showing that PCTI is willing to commit fraud.<sup>7</sup> That extraordinary level of fraud and the wholesale falsification of high school diplomas threatens the Title IV program and threatens the people who became wrongfully indebted through the scheme.

## ORDER

PCTI has failed to meet its burden of persuasion that the emergency action imposed is unwarranted or should be modified. The emergency action that was instituted by the Department against Professional Career Training Institute complied with the above-referenced statutes and regulations and is **AFFIRMED**. It is further **ORDERED** that the emergency action shall **CONTINUE WITHOUT MODIFICATION** and remains in force during the pendency of the Termination Action, Docket 19-55-ST. **Until a final decision is issued by the Secretary in the related 19-55-ST termination proceeding, any action affecting this emergency action is at the sole discretion of the show-cause official. 34 C.F.R. § 668.83(f)(2).**

**Consistent with this order and the initial emergency action, PCTI may not make or increase awards or make other commitments of aid to a student, disburse program funds, institutional funds, or other funds as assistance to a student under Title IV, HEA programs, nor certify an application for a loan, deliver loan proceeds to a student, or retain the proceeds of a loan made after this emergency action took effect under the Federal Stafford Loan or Federal Plus programs unless a particular procedure was provided for in the initiation of the emergency action. 34 C.F.R. § 668.83(d)(1).**

**The Department's additional actions also continue without modification; namely, (1) withholding Title IV funds, (2) withdrawing authority of PCTI to obligate and disburse Title IV funds, initiate commitments of Title IV program aid to students, use its own funds or Federal funds on hand to make Title IV program grants, loans, or work assistance payments to students or credit student accounts with respect to such assistance, release**

---

have reliability and would likely not be made unless true, even making an exception to the rule against the admission of hearsay evidence for such statements. *See* Fed. R. Evid. 804(b)(3)(a). It is against the interest of the financial aid director of an institution to approach Department staff and disclose incidents of financial aid fraud.

<sup>7</sup> In the case cited by PCTI, *New Concept Beauty Academy*, Dkt. No. 96-58-EA, U.S. Dep't of Educ. (June 13, 1996), the institution acknowledged that inaccurate information had been submitted in the past by the financial aid administrator and offered solutions to specifically ensure that moving forward, accurate information would be provided by the institution, namely terminating the financial aid administrator and installing a trusted individual to act in his place until an acceptable replacement was found. Given the evidence of PCTI's fraudulent activity, neither of the safeguards put in place specifically address the source of that fraud.

**Direct Loan proceeds to students or disburse or obligate any additional Title IV funds to satisfy commitments and (3) directing that any Direct Loan proceeds be returned to the Department.**

---

Robert G. Layton  
Judge

**DATE OF ORDER: OCTOBER 17, 2019**

SERVICE

This order has been sent via U.S. Postal Service, Certified Mail, Return Receipt Number 7014 0510 0000 2154 4181, and by OES electronic service to:

Yolanda Gallegos, Esq.  
Gallegos Legal Group  
315 Eighth St. SW  
Albuquerque, NM 87102

and by OES electronic service to:

Denise Morelli, Esq.  
Office of the General Counsel  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, DC 20202-2110