



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

In the Matter of

WARDS CORNER BEAUTY ACADEMY,

Docket No. 16-51-ST

Federal Student Aid Proceeding

PRCN: 201620729223

Respondent.

DECISION OF THE SECRETARY

Wards Corner Beauty Academy (Wards) has appealed the February 27, 2017, Decision issued by Office of Hearings and Appeals (OHA) Chief Administrative Judge Ernest C. Canellos (CAJ). The Decision upheld an emergency action taken against Wards by the office of Federal Student Aid (FSA) to terminate Wards' eligibility to participate in Title IV, Higher Education Act (HEA) programs.¹

Based on the following analysis, I will affirm the CAJ's Decision.

Background

Wards was a proprietary, post-secondary educational institution offering cosmetology and barbering programs in Norfolk, Virginia.² Wards' institutional accreditor, the National Accrediting Commission of Career Arts & Sciences (NACCAS), informed Wards on March 17, 2016, that it had withdrawn Wards' accreditation.³ Subsequently, FSA both initiated an emergency action upon Wards and also informed it there would be a termination action. Wards appealed these actions.

OHA assigned docket number 16-50-EA to the emergency action and considered it first. FSA argued that the emergency action was necessary because "without an emergency action, Wards could continue to draw down federal funds up until the time that the termination action is completed"⁴ The CAJ held that "the [e]mergency [a]ction that was instituted by FSA against Ward's Corner Beauty Academy complied with the applicable laws and regulations"⁵ The CAJ reasoned that OHA is "precluded to look behind the withdrawal

¹ *Wards Corner Beauty Acad.*, Dkt. No. 16-51-ST, U.S. Dep't of Educ. (Feb. 27, 2017) (Decision) at 1.

² *Id.*

³ NACCAS upheld its withdrawal decision on Oct. 13, 2016, at which time it informed the U.S. Department of Education (Department).

⁴ *Wards Corner Beauty Acad.*, Dkt. No. 16-50-EA, U.S. Dep't of Educ. (Jan. 26, 2017) at 2.

⁵ *Id.*

action of an accrediting agency.”⁶ The Emergency Action could continue in force and effect during the pendency of the Termination Action.⁷

Thereafter, the CAJ considered the appeal of the termination action under docket number 16-51-ST. Wards requested that the CAJ either dismiss the appeal or stay the case pending a decision by the U.S. District Court for the Eastern District of Virginia where Wards had filed suit against NACCAS.⁸ However, the CAJ found “the law and previous decisions . . . abundantly clear” in holding that FSA properly terminated Wards’ Title IV eligibility when it lost its accreditation.⁹ Wards subsequently filed the appeal now before me.

Analysis

To be eligible to participate in Title IV programs, an institution must qualify as either an institution of higher education, proprietary institution of higher education, or a postsecondary vocational institution.¹⁰ All three types of institutions must be accredited or preaccredited.¹¹ When an institution loses its accreditation or preaccreditation, the Secretary may terminate the institution’s eligibility through a show cause hearing.¹² Where an institution was previously eligible to participate in Title IV programs, but no longer satisfies the requirements for eligibility, the Department may terminate the institution’s eligibility designation.¹³ The Department may also initiate an emergency action, under which the Department may withhold Title IV funds from the institution or withdraw the institution’s authority to act under Title IV, including its authority to “disburse, deliver, or cause the commitment, disbursement, or delivery of Title IV, HEA program funds”¹⁴ If the Department undertakes to terminate the eligibility of an institution because the institution lost its accreditation, “the sole issue is whether the institution, location, or program has the requisite accreditation The presiding official has no authority to consider challenges to the action of the accrediting agency.”¹⁵

Wards does not dispute the application of the above-described rules to its situation. Wards’ primary argument is that NACCAS’ withdrawal of its accreditation is not final because Wards filed suit in federal court to enjoin that action.¹⁶ Inherent in that suit was Wards’ argument that NACCAS erred in withdrawing its accreditation.¹⁷ Since filing this appeal, Wards’ case in federal court has been resolved. The District Court found in favor of NACCAS,

⁶ *Id.* (citing 34 C.F.R. § 600.41(e)(1)).

⁷ *Id.*

⁸ Decision at 2; *Wards Corner Beauty Acad. v. Nat’l Accrediting Comm’n of Career Arts & Sci.*, No. 2:16-cv-00639 (E.D. Va. Feb. 12, 2018).

⁹ Decision at 2.

¹⁰ 34 C.F.R. § 600.2.

¹¹ *Id.* §§ 600.4–600.6.

¹² *Id.* § 600.41(a)(1)(ii)(C).

¹³ *Id.* §§ 600.41(a)(1), 668.83(a).

¹⁴ *Id.* § 600.41(a)(3).

¹⁵ *Id.* § 600.41(e)(1).

¹⁶ Appellant’s Brief (Wards’ Brief) at 2. After losing its suit in a bench trial, Wards appealed to the United States Court of Appeals for the Fourth Circuit. *Wards Corner Beauty Acad. v. Nat’l Accrediting Comm’n of Career Arts & Sci.*, 922 F.3d 568 (4th Cir. Apr. 30, 2019).

¹⁷ Wards’ Brief at 2.

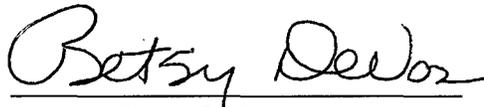
and the Court of Appeals affirmed that decision.¹⁸ Both courts rejected Wards' assertion that it was denied due process allegedly because the chairman of the NACCAS commission had a conflict of interest during the decision-making process.¹⁹

The issue before me is whether FSA made any error in withdrawing Wards' eligibility to participate in Title IV programs. Under the applicable regulation, FSA's decision to withdraw eligibility was predicated solely on whether or not Wards lost its accreditation. In this case, NACCAS withdrew Wards' accreditation, and its decision to do so was upheld after Wards' suit in federal court.²⁰ Because Wards lost its accreditation, it also lost its Title IV eligibility. Therefore, FSA correctly terminated Wards' participation in Title IV, as held by the CAJ in his decision.

ORDER

ACCORDINGLY, the Decision of Chief Administrative Judge Canellos is hereby AFFIRMED.

So ordered this 19th day of February 2020.


Betsy DeVos

Washington, D.C.

¹⁸ *Wards*, 922 F.3d at 579.

¹⁹ *Id.* at 576–579.

²⁰ There is no evidence that Wards filed any further appeal after the decision by the Court of Appeals.

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