



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

In the matter of

**PROFESSIONAL CAREER TRAINING
INSTITUTE (TX)**

Docket No. 19-55-ST

Federal Student Aid
Termination Proceeding

OPE-ID: 04082300

Respondent.

DECISION OF THE SECRETARY

The core issue in this case is whether the Administrative Law Judge (ALJ) properly upheld Federal Student Aid's (FSA) termination of the appealing institution's participation in Title IV of the Higher Education Act of 1965 (HEA), as amended, 20 U.S.C. § 1070 *et seq.* (Title IV). Based on the following analysis, I affirm the ALJ's decision.

Institutions of higher education may voluntarily participate in Title IV student financial aid programs. As part of commencing such participation, an institution signs a program participation agreement (PPA). By signing the PPA, the institution agrees to comply with all legal requirements of the Title IV program and enters into the role of a fiduciary for administering federal funds.¹ Among other things, the institution agrees to meet the administrative requirements at 34 C.F.R. § 668.16. The institution "is subject to the highest standard of care and diligence" in administering Title IV programs and accounting for funds it receives.² Part of an institution's duty as a fiduciary is to "ensure that Title IV funds are only disbursed to eligible students."³ Institutions are required to verify student information to establish eligibility for Title IV funds prior to making disbursements.⁴

A student must qualify for Title IV funds prior to disbursement by the school.⁵ To qualify for Title IV funds a student generally must, among other things, have "a high school

¹ 34 C.F.R. § 668.14; *see generally* 34 C.F.R. Part 668 Subpart B – Standards for Participation in Title IV, HEA Programs.

² 34 C.F.R. § 668.82(b) ("In the capacity of a fiduciary—
(1) A participating institution is subject to the highest standard of care and diligence in administering the programs and in accounting to the Secretary for the funds received under those programs.").

³ *In the Matter of Bellefonte Acad. of Beauty*, Dkt. No. 17-28-SP, U.S. Dep't of Educ. (Decision of the Secretary) (Nov. 2, 2020) at 3.

⁴ *Id.* at 4.

⁵ *In the Matter of Fortis Coll.*, Dkt. No. 12-55-SP, U.S. Dep't of Educ. (Mar. 17, 2015) (Decision of the Secretary) at 7 (citing *In re Hamilton Prof'l Sch.*, Dkt. No. 02-49-SP, U.S. Dep't of Educ. (June 11, 2003)).

diploma or its recognized equivalent.”⁶ A qualifying credential is more than a piece of paper,⁷ but rather demonstrates the holder of the credential “completed an actual curriculum” and received “minimally sufficient levels of instruction.”⁸ Holding a credential from a diploma mill⁹ – an entity that, for a fee and with little to no coursework, provides a credential that may be used to represent completion of an education program to the general public – does not render a student eligible for Title IV funds.¹⁰

Failure to comply with the Title IV requirements may result in, among other things, an action by FSA to terminate the institution’s participation in Title IV programs.¹¹ In a termination proceeding, FSA bears the burden of proving that termination is appropriate. FSA must show both that “the institution committed the statutory or regulatory violations alleged” and that the result of the violation should be termination.¹²

Professional Career Training Institute (PCTI) is a proprietary for-profit institution of higher education in Houston, Texas. PCTI participated in Title IV programs administered by the U.S. Department of Education. Pursuant to that participation, the Department’s office of Federal Student Aid (FSA) conducted a program review at PCTI during the week of March 4, 2019. During the review, FSA requested documentary records and interviewed PCTI staff. During the review, PCTI students approached FSA staff to express concerns about being lured into attending PCTI by being promised free housing and how they got surprise notifications for loans that they did not take out.¹³ Based on these assertions and the fact that student file documentation was changed for FSA’s review, FSA placed PCTI on the Heightened Cash Monitoring (HCM) 2 system of payment and intensified its investigation.

Ultimately, FSA determined that PCTI committed numerous acts of falsification and misconduct. The Office of Hearings & Appeals (OHA) described the misconduct as including omitting charges for living expenses from student ledgers; falsifying students’ marital status on Free Application for Federal Student Aid (FAFSA®) applications; falsifying the dependency status of a student; falsifying the high school graduation, GED, and home school status of students; backdating credentials to satisfy the requirement of having a diploma to qualify for

⁶ The regulation provides several alternative ways to qualify for Title IV without holding a high school diploma, but these alternatives are not at issue in the present appeal. 34 C.F.R. § 668.32(e) (alternatively allowing a student to become eligible by obtaining a passing score on a qualifying, independently administered test as allowed in the regulations, enrolling in an institution that participated in an approved State process, being home-schooled and meeting certain other criteria, or demonstrating an ability to benefit from the education offered by completing sufficient hours of instruction toward a degree).

⁷ 34 C.F.R. § 600.2 *Recognized equivalent of a high school diploma*.

⁸ *In the Matter of Fortis Coll. (FL)*, Dkt. No. 12-55-SP, U.S. Dep’t of Educ. (Decision of the Secretary) (Mar. 17, 2015) at 3–4.

⁹ 20 U.S.C. § 1003(5) *Diploma mill*.

¹⁰ Federal Student Aid Handbook, 2014–2015 at App’x A-15; *In the Matter of Fortis Coll. (FL)*, Dkt. No. 12-55-SP at 3–4.

¹¹ 34 C.F.R. § 688.11.

¹² *Prof’l Career Training Inst. (TX)*, Dkt. No. 19-55-ST, U.S. Dep’t of Educ. (Jul. 14, 2020) (Decision) at 16, quoting *In the Matter of N.C. Acad. of Cosmetic Art*, Dkt. No. 98-129-ST, U.S. Dep’t of Educ. (Nov. 24, 1998) at 2.

¹³ *See generally* Emergency Action.

Title IV funds; misrepresenting graduation status for students to qualify for Pell Grants; illegally certifying Direct Loans; and falsifying high school diplomas, among other things.¹⁴

FSA rejected PCTI's assertion that some of these apparent violations were justified by its Career Pathways program. The goal of a Career Pathways program

is to develop technology-based or technology-enabled career exploration systems that enable high school students to identify and explore career opportunities that align with their interests, ambitions, and aptitudes; learn from individuals who work in those fields about the nature of their work and opportunities available in their fields; and identify education and training options--including non-college programs such as work-based learning opportunities, military training, apprenticeships, and employer-sponsored training--that enable entry into or advancement in those careers. Career and education pathways exploration systems must include, for featured occupations, information about employment outlook and likely entry and mid-career earnings in featured fields, and they must enable students to use built-in financial analysis tools to explore the economic impact of their career, education, and training choices.¹⁵

Such a program allows students to become eligible for Title IV student aid despite not holding a high school diploma.¹⁶ However, FSA concluded that PCTI did not have such a program.

FSA took emergency action against PCTI. On July 2, 2019, FSA notified PCTI that it intended to terminate PCTI's Title IV eligibility.¹⁷ PCTI challenged the emergency action and the termination. OHA affirmed the emergency action on October 17, 2019. OHA subsequently considered PCTI's appeal of the termination action. In his decision, Judge Robert Layton concluded that FSA met its burden of proof showing PCTI committed violations of Title IV such that termination is appropriate.¹⁸ Accordingly, the ALJ upheld FSA's termination of PCTI's Title IV participation.

PCTI has since appealed the ALJ's decision to me.

PCTI's Appeal to the Secretary

In a hearing under 34 C.F.R. Part 668 Subpart G (Fine, Limitation, Suspension and Termination Proceedings), an institution may challenge termination of its Title IV participation.¹⁹ In a termination proceeding, FSA bears the burden of proving that termination is appropriate. FSA must show both that "the institution committed the statutory or regulatory

¹⁴ Decision at 3.

¹⁵ Career and Educational Pathways Exploration Program, <https://www2.ed.gov/programs/careerpathways/index.html>; 20 U.S.C. § 1091(d).

¹⁶ 20 U.S.C. § 1091(d).

¹⁷ See generally Emergency Action.

¹⁸ See generally Decision.

¹⁹ 34 C.F.R. § 668.86(b)(3).

violations alleged” and that the result of the violation should be termination.²⁰ During the hearing, the hearing official has the authority to set the procedures of the hearing, including the submission of arguments and evidence, although the formal rules of evidence used in a court of law do not apply.²¹ At the conclusion of the hearing, the hearing official issues an initial decision which states whether the sanction sought by the Department is warranted.²² Inherent in the hearing official’s issuance of an initial decision is the weighing of evidence submitted during the hearing.²³

In a subsequent appeal before the Secretary, the appealing party bears the burden of demonstrating, with a preponderance of the evidence, that the hearing official erred in his or her findings.²⁴ The parties may not submit new evidence on the appeal.²⁵

PCTI initially submitted the same brief on appeal that it submitted to the ALJ. As such, PCTI ignored the fact finding and legal analysis in the ALJ’s decision, including his weighing and rejecting of PCTI’s arguments. PCTI also submitted dozens of exhibits. Counsel for FSA argued that, because it failed to make new arguments on appeal, PCTI cannot meet its burden to show by a preponderance of the evidence that the ALJ erred in the initial decision.²⁶ Counsel for FSA also moved to strike the exhibits because submission of new evidence in this appeal is prohibited. PCTI subsequently filed a motion to submit a reply brief in which it sought to make new arguments on appeal and reply to FSA’s brief. Thereafter, I issued an order granting PCTI’s motion to file its reply brief and also granting FSA leave to file a sur-reply. With the benefits of those briefs, I turn to the merits of this case.

PCTI’s key argument before the ALJ was that FSA failed to meet its burden of proof because it used “extraordinarily unreliable”²⁷ evidence, “almost exclusively . . . the unsworn hearsay and sometimes double hearsay statements of FSA counsel, FSA reviewers, and students.”²⁸ PCTI repeats this argument on appeal, asserting that the ALJ failed to correctly weigh the evidence before him, because its sworn testimony is more reliable than the testimony

²⁰ Decision, quoting *In the Matter of N.C. Acad. of Cosmetic Art*, Dkt. No. 98-129-ST at 2; 34 C.F.R. § 668.89(b)(3)(iii).

²¹ 34 C.F.R. §§ 668.89(a), (b)(2)

²² *Id.* § 668.91(a)(2)(i).

²³ *Id.* § 668.91(a)(4).

²⁴ *Id.* § 668.91(c)(2)(iv) (requiring the appealing party to support proposed findings of fact or conclusions of law with evidence submitted at the hearing, matters stipulated to by the parties, or matters given judicial notice); see *Central State Univ.*, Dkt. No. 12-32-SA, U.S. Dep’t of Educ. (Sept. 2, 2014) (Decision of the Secretary) at 1 (holding that the appealing party to a 34 C.F.R. Part 668 Subpart H proceeding bears the burden of persuasion and must meet a preponderance of the evidence standard).

²⁵ 34 C.F.R. § 668.91(c)(2)(v).

²⁶ FSA Brief at 8 (citing *In the Matter of Visions in Hair Design Inst. of Cosmetology*, Dkt. No. 13-52-SP, U.S. Dep’t of Educ. (Decision of the Secretary) (Sept. 30, 2014) (“Respondent provides no new legal theories or additional analysis in this appeal. For this reason, I find no basis on which to modify the judge’s decision or his liability.”) and *In the Matter of Nightingale Med. Inst.*, Dkt. No. 11-09-SA, U.S. Dep’t of Educ. (Decision of the Secretary) (June 18, 2014) at 1 (“Respondent provides no new legal theories or additional analysis. Indeed, no facts or law are in dispute. I find that Judge O’Hair properly heard and reviewed Respondent’s arguments and evidence and articulated the rationale for rejecting them. Accordingly, I find no basis on which to set aside the judge’s decision or modify the liability determination.”)).

²⁷ PCTI Brief at 6–7.

²⁸ *Id.* at 5.

FSA, and therefore the ALJ, relied upon when making their decisions.²⁹ PCTI further asserts on appeal that the ALJ failed to make “an impartial and objective assessment of student credibility.”³⁰

Among the conclusions reached by FSA, which PCTI seeks to contest on appeal, are that: PCTI did not offer a Career Pathways program;³¹ PCTI fraudulently certified direct student loans and FAFSA documentation;³² and PCTI falsified pre-qualification applications and high school diplomas or equivalents.³³ PCTI further asserts that the ALJ failed to both consider material evidence that it did not obstruct the program review and misapplied the law in concluding that PCTI illegally retained student credit balances.³⁴ Finally, PCTI contests the conclusions that it misrepresented the quality of its education to its students and that it unethically induced students to enroll at PCTI.³⁵ In response to PCTI’s arguments, FSA broadly asserts that the ALJ properly considered all evidence, making justified decisions within his authority to weigh each item’s probative value.³⁶

I review the ALJ’s Decision on each of these findings for sufficient analysis of the evidence.

Whether the ALJ Appropriately Weighed the Evidence

PCTI’s core assertion is that its evidence, especially the statements made by PCTI staff, is inherently more reliable than “unsworn” and “hearsay” statements made by other PCTI staff, PCTI students, and Department staff.³⁷ PCTI argues that the ALJ “largely ignored” its arguments.³⁸

PCTI relies primarily on a decision of the Ohio Court of Appeals, *Gibraltar Mausoleum Corp. v. Toledo*, for the premise that “unsworn testimony cannot provide the preponderance of substantial, reliable and probative evidence necessary to support an administrative decision.”³⁹ First, this decision of an Ohio state court has no authority over a federal administrative hearing pertaining to an institution in Texas. Second, the case in question evaluated the probative value of oral witness testimony given at both a “plan commission hearing” and a “city council hearing.”⁴⁰ The circumstances of such proceedings are substantially different than the circumstances of an FSA program review.

²⁹ *Id.* at 7.

³⁰ *Id.* at 8.

³¹ *Id.* at 8–11.

³² *Id.* at 11–16.

³³ *Id.* at 16–20.

³⁴ *Id.* at 20–26.

³⁵ *Id.* at 26–27.

³⁶ *See generally* FSA Sur-Reply.

³⁷ *E.g.* PCTI Reply Brief at 12, 14 (alleging that PCTI students with criminal records collaborated to lie to the Department and referring to the Department’s findings on review as “FSA allegations”).

³⁸ *Id.* at 7.

³⁹ *Id.*

⁴⁰ *Gibraltar*, 665 N.E. 273, 276–277 (Ohio Ct. App. 1995).

PCTI's argument amounts to an assertion that all aspects of an FSA program review must be conducted as depositions under oath or else the accumulated data can never be used by FSA in its oversight role. I disagree. FSA is given broad authority to conduct program reviews. That authority includes the power to compel disclosure of institutional records and to conduct interviews of staff, faculty, and students to ensure compliance with Title IV requirements. Both FSA and a hearing official are entitled to consider the probative value of such evidence which, whether or not it is "sworn testimony," may be substantial.

I disagree with PCTI's argument that the ALJ, in general, failed to assess the credibility of witnesses and evidence throughout his review. The ALJ specifically held that "PCTI repeatedly interfered with and deceived FSA as it conducted the program review. PCTI staff changed student files to hide misconduct," including omitting certain charges from student ledgers.⁴¹ The omission and subsequent disclosure of these charges is a fact borne out by the administrative record and does not rely only on witness statements.⁴² It also reasonably impacts the credibility of statements by PCTI staff entered into evidence.

Weighing the probative value of evidence to make fact findings is within the purview of the hearing official in a Subpart G hearing. The hearing official appointed to hear this case is an administrative law judge, a position uniquely well-suited to conduct impartial fact-finding based on the evidence presented by the parties. Furthermore, official reports and records created by Department staff in the course of a program review are not mere unsworn allegations. Both government employees and official government records are afforded a presumption of regularity, that officers have discharged their duties and records are accurate, in the absence of clear evidence to the contrary.⁴³ PCTI fails to make a convincing argument as to how the ALJ erred in weighing the mountain of evidence compiled by the Department in making its termination decision.

Having concluded that the ALJ appropriately weighed the evidence generally, I now turn to each specific conclusion PCTI challenges on appeal.

Whether PCTI Had a Career Pathways Program

The ALJ held that PCTI "did not have a Career Pathways Program."⁴⁴ His conclusion primarily rested on the finding that "[w]hen a student is participating in a Career Pathways program, the institution they attend is required to enter a specific code to indicate this fact when reporting disbursement of Title IV money to FSA. PCTI's records indicate that they did not use the designated code for Career Pathways for any student receiving Title IV money from 2018 and 2019."⁴⁵ Although it subsequently claimed that many of its students qualify for Title IV

⁴¹ Decision at 21.

⁴² *E.g.* ED Ex. 161 (Declaration of Ronda Puffer) corroborated by ED Exs. 30 (record of interview with a PCTI student and accompanying records of that same student), 109 (record of interview with a PCTI student and accompanying records of that same student), 121 (record of interview with a PCTI student and accompanying records of that same student), and 166 (running balance reports for PCTI students).

⁴³ *Latif v. Obama*, 677 F.3d 1175, 1179 (D.C. Cir. 2011) (citing *Sussman v. U.S. Marshals Serv.*, 494 F.3d 1106, 1117 (D.C. Cir. 2007)).

⁴⁴ Decision at 26.

⁴⁵ *Id.* (citing ED Ex. 174).

funds through a Career Pathways program, PCTI did not mention the program to FSA reviewers during the program review, instead representing their students as high school graduates recruited from University Park Academy (UPA).⁴⁶ PCTI's misrepresentation about its students' claimed avenue to eligibility is corroborated by student FAFSA applications indicating high school graduation, which "show that PCTI falsified these student documents."⁴⁷ The ALJ also found that PCTI initially determined students to be Title IV eligible based on "sham diploma[s]" from UPA.⁴⁸ Among the evidence directly referenced by the ALJ are notes from a phone call between ED employees and the PCTI financial aid director describing the creation of falsified high school credentials for students.⁴⁹ The ALJ also cited to the Department's records showing that PCTI coded its students' eligibility for the 2017–18 and 2018–19 award years based on holding high school diplomas and GEDs, not based on participation in a Career Pathways program.⁵⁰

PCTI argues that "FSA was unaware of the existence of the program," but insists it has provided sufficient evidence to demonstrate its existence.⁵¹ First, PCTI describes its admissions director's failure to disclose the program's existence as "alleged" and based on the hearsay statement of an FSA reviewer.⁵² PCTI then indicates the admissions director "had no recollection of being asked about the existence of the program" and could not recall whether he ever mentioned it.⁵³

Next, PCTI seeks to rebut the print-out listing PCTI students receiving funds in the 2017–18 and 2018–19 award years, during which PCTI did not code any student's Title IV eligibility based on participation in a Career Pathways program.⁵⁴ PCTI asserts that "it did not request or disburse Title IV funds to [Career Pathways] students until they completed six credits at PCTI."⁵⁵ As such "some of these students had enrolled at high school or GED completers and many, if not all, of the rest of the students had already completed the UPA program and, thus, could accurately be identified as such with COD even if they started as CP students."⁵⁶ PCTI goes on to cite exhibits which it claims prove it had a Career Pathways program.⁵⁷

Taken at face value, PCTI's argument on appeal does not substantively refute the ALJ's ruling. Evidence submitted by PCTI indicates an intent to operate a Career Pathway program since 2016.⁵⁸ Nevertheless, PCTI admits that students were determined to be Title IV eligible based on receiving a credential from UPA and were coded as "high school or GED completers."⁵⁹ As discussed earlier, a Career Pathways program is an alternative route to eligibility for Title IV funds for students lacking a high school diploma or equivalent credential.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.* at 25.

⁵⁰ *Id.* at 26.

⁵¹ PCTI Reply Brief at 8.

⁵² *Id.* at 9.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.* at 10.

⁵⁶ *Id.*

⁵⁷ *Id.* at 10–11.

⁵⁸ *See, e.g.,* R-Ex. 55 at 1.

⁵⁹ PCTI Reply Brief at 10.

If PCTI did not make a Title IV eligibility determination based on any student’s participation in a Career Pathways program, but rather based on receiving a credential from UPA, it is unclear why PCTI even sought to operate a Career Pathways program.

Ultimately, the evidence submitted by PCTI does not refute the Department’s evidence that no students in the 2017–18 and 2018–19 award years were actually determined to be Title IV eligible based on participation in such a program. Rather, they were coded as eligible based on the UPA credentials. Even taken in the light most favorable to PCTI, the arguments on this matter result in upholding the ALJ’s decision. I find that PCTI has failed to make a persuasive argument that a preponderance of the evidence supports overturning the ALJ’s ruling. Accordingly, I uphold this finding.

Whether PCTI Falsified Documents and Engaged in Fraudulent Conduct

The ALJ found that PCTI falsified FAFSA documentation, such as the marital status of 20 students, the dependency status of a student, and the high school graduation, GED, and home school status of 59 students.⁶⁰ The ALJ also found that PCTI misrepresented the prior graduation status of 24 students on FAFSA applications. The ALJ further found that PCTI illegally certified Direct Loans on behalf of 11 students. In making these findings, the ALJ cited, among other things, to student interviews, student applications, institutional student information records, student enrollment agreements, records of the Texas Workforce Commission, and charts created by the Department to summarize its findings student-by-student.⁶¹

The ALJ concluded that statements provided by both students and former professors had “significantly more probative value than” sworn statements by PCTI administrators.⁶² Students and professors corroborated each other in statements about PCTI’s efforts to cover up its misrepresentations to FSA about class lengths and its effort to send a class home to avoid having its students interviewed.⁶³ “Numerous students” also corroborated each other in reporting to FSA that PCTI solicited students to avoid talking to FSA about their housing situations.⁶⁴

PCTI’s arguments on this issue rely on the same fundamental assertion inherent in its brief before the ALJ and repeated throughout this appeal. PCTI asserts that the ALJ erred by relying on “unsworn” evidence and FSA’s “allegations.”⁶⁵ PCTI also argues that the ALJ “had a duty to consider the credibility of witnesses” but he refused to do so.⁶⁶ On appeal, PCTI cites a series of exhibits largely aimed at impeaching the credibility of witness declarations.⁶⁷

Contrary to PCTI’s assertions, the ALJ expressly evaluated the credibility of witness statements and relied on those for which he found “significantly more probative value.”⁶⁸

⁶⁰ Decision at 12.

⁶¹ *Id.* at 12–13 (citing ED Exs. 30, 118, 132, 170, 171, and 172).

⁶² *Id.* at 22.

⁶³ *Id.* at 22–23.

⁶⁴ *Id.* at 23.

⁶⁵ PCTI Reply Brief at 11.

⁶⁶ *Id.* at 12.

⁶⁷ *Id.* at 14.

⁶⁸ Decision at 22.

Furthermore, even taken in the most favorable light, PCTI's submissions do not demonstrate how the exhibits it cites contradict all of the documentary evidence cited by FSA and the ALJ in concluding that PCTI engaged in falsifying dozens of student loan forms. Accordingly, I uphold the ALJ's finding that PCTI fraudulently certified FAFSA documents and direct loan certifications.

Whether PCTI Falsified Pre-Qualification Applications and High School Diplomas

The ALJ found that PCTI "falsified the high school graduation, GED, and home school status of 59 students on their FAFSA applications."⁶⁹ The ALJ also found that PCTI "falsified 55 high school diplomas which were used as the basis for Title IV eligibility."⁷⁰ To facilitate this falsification, the ALJ found that "PCTI collaborated with UPA to provide students with a sham diploma after completing a packet of work, or in some instances merely taking an online exam."⁷¹ In reaching these conclusions, the ALJ cited to extensive documentary and testimonial evidence submitted by FSA.

PCTI argues, as before, that the ALJ erroneously relied on "unsworn" evidence.⁷² In addition, PCTI asserts that evidence relied upon for this finding was "illegally obtained video, photos, and audio."⁷³ PCTI concurrently argues that the ALJ erred by not ruling on the admissibility of this evidence and also that the ALJ's "claim" that he did not rely on the evidence is false.⁷⁴

The ALJ correctly noted that he lacked jurisdiction to decide matters of criminal law.⁷⁵ To the extent PCTI seeks to report the commission of a crime, it should avail itself of the appropriate state and federal authorities. Relevant to this proceeding, the ALJ expressly stated that "[n]one of the purportedly feloniously-obtained evidence provided any support for this decision."⁷⁶ The ALJ effectively suppressed the evidence, which is the outcome PCTI purports to seek, by choosing not to consider it without going so far as to make a ruling based on a criminal statute outside his jurisdiction as a hearing official in a Title IV termination proceeding. PCTI's continued dissatisfaction with the ALJ's conclusions on this point is inexplicable.

PCTI also argues that the ALJ erred in ruling that FSA can consider the validity of UPA diplomas to satisfy the requirements of a student's Title IV eligibility.⁷⁷ PCTI's argument would effectively nullify the Title IV eligibility requirement of having a high school diploma or equivalent credential. It is well settled that FSA can enforce a legal requirement for students to possess a high school diploma to be eligible for Title IV funds.⁷⁸

⁶⁹ *Id.* at 12.

⁷⁰ *Id.* at 13.

⁷¹ *Id.* at 26–27.

⁷² PCTI Reply Brief at 17.

⁷³ *Id.* at 17.

⁷⁴ *Id.* at 17–18.

⁷⁵ Decision at 34.

⁷⁶ *Id.*

⁷⁷ PCTI Reply Brief at 19–20.

⁷⁸ *In the Matter of Fortis Coll. (FL)*, Dkt. No. 12-55-SP at 3–5.

I find that PCTI has failed to carry its burden to show, with a preponderance of the evidence, that the ALJ erred in making these findings. Accordingly, I uphold these findings.

Whether the Hearing Official Failed to Consider Material Evidence in Finding PCTI Obstructed the Program Review

The ALJ found that PCTI purposely omitted living expenses from its student ledgers.⁷⁹ The ALJ also found that PCTI truncated class schedules and sent students home, which “repeatedly interfered with and deceived FSA as it conducted the program review.”⁸⁰ The ALJ further found that PCTI “stopped students from talking with Department reviewers about their housing situations with threats to cut off funds for housing.”⁸¹ In reaching these conclusions, the ALJ cited to the documentary and testimonial evidence in the record, and in doing so, evaluated the credibility of corroborating witness testimony.⁸²

In broad terms, PCTI’s arguments regarding these findings amount to citing its brief and exhibits in the proceeding before the ALJ and asserting that its evidence is more persuasive than that submitted by FSA.⁸³ As previously held, I find the ALJ adequately discussed and cited to the evidence submitted in the case before him. The degree to which PCTI finds its arguments and evidence more persuasive than FSA’s does not establish a basis to find error in the ALJ’s decision. Accordingly, these findings are upheld.

Whether PCTI Illegally Retained Student Credit Balances

The ALJ found that PCTI “illegally retained student credit balances of Title IV funds in violation of 34 C.F.R. § 668.164(h).”⁸⁴ Under that regulation, when the amount of Title IV funds credited to a student’s ledger account exceeds the amount assessed the student for allowable charges, a credit balance occurs.⁸⁵ When a credit balance occurs, the balance must be paid to the student or parent as soon as possible and not more than 14 days after the balance occurred or 14 days after the first day of class, depending on which circumstances apply.⁸⁶ The ALJ determined that PCTI illegally retained Title IV funds to pay for student housing, without qualifying to make such disbursements because it lacked express student agreement to pay a third party for housing.⁸⁷ FSA determined that PCTI failed to pay credit balances to 31 students and paid balances late to 15 additional students.⁸⁸

PCTI advances two alternative arguments regarding the credit balances. First, PCTI claims there were no credit balances in the first place. PCTI cites the calculation of funds

⁷⁹ Decision at 22.

⁸⁰ *Id.* at 21.

⁸¹ *Id.* at 23.

⁸² *E.g. id.* (“Given the alignment between student and professor statements and the self-interest involved in the statements provided by PCTI administration, this tribunal concludes that PCTI did send students home to avoid Department reviewers.”).

⁸³ PCTI Reply Brief at 20–23.

⁸⁴ Decision at 31.

⁸⁵ 34 C.F.R. § 668.164(h)(1).

⁸⁶ *Id.* § 668.164(h)(2).

⁸⁷ Decision at 31–32.

⁸⁸ Emergency Action at 13.

disbursed to one student, Student 29, and claims that Workforce Innovation and Opportunity Act (WIOA) funds obtained through a Department of Labor program do not contribute to the calculation of how many funds remained that might constitute a credit balance.⁸⁹ Specifically, although Student 29 had already received \$6,000 of WIOA funds, PCTI claims it could also retain \$15,497 of Title IV funds to cover total allowable tuition charges of \$15,500.⁹⁰

PCTI fails to make any argument as to why it should be able to duplicate charges – essentially retaining \$21,497 of federal funds, combining WIOA and Title IV funds – to cover \$15,500 of tuition costs. PCTI does not raise arguments regarding the other 30 students FSA cited with credit balances or the 15 students who received late payments. However, assuming PCTI challenges the findings related to each of these students based on this same theory, I hereby reject PCTI’s reasoning.

PCTI’s alternative argument is that the ALJ erred in finding it could not retain credit balances. PCTI points to “valid student authorizations allowing PCTI to retain any such balances.”⁹¹ PCTI claims it had contracts with third parties to provide housing to students and, pursuant to these contracts, it could pay the third parties with retained Title IV funds.⁹²

I find that the ALJ already considered precisely this same argument, considered the evidence presented by PCTI, and applied the governing regulations and FSA Handbook provisions.⁹³ PCTI’s alternative interpretation does not satisfy its burden of persuasion. PCTI has failed to demonstrate an error with regard to this finding of the ALJ. Accordingly, I uphold this finding.

Whether PCTI Made Misrepresentations to its Students

The ALJ held that PCTI made misrepresentations to students “regarding its educational programs, financial charges made by PCTI, and employment prospect following graduation.”⁹⁴ PCTI cites its brief before the ALJ to assert it confronted FSA’s findings of misrepresentation “point-by-point, exhibit-by-exhibit,” but argues the ALJ did not review the “evidentiary flaws” or its assertions that its students with criminal record did not give credible testimony.⁹⁵

The ALJ cited extensively to the record in his finding that PCTI made misrepresentations.⁹⁶ In making this finding, the ALJ cited to student declarations, PCTI Title IV records, and records of fund disbursements, among other things. As discussed earlier in this decision, the ALJ appropriately weighed the documentary and testimonial evidence presented in this case, including the credibility of witnesses. PCTI’s disagreement with the ALJ’s assessment does not carry its burden of persuasion or constitute an error by the ALJ. Accordingly, I uphold this finding.

⁸⁹ PCTI Reply Brief at 23–24.

⁹⁰ *Id.* at 24.

⁹¹ *Id.*

⁹² *Id.* at 25.

⁹³ Decision at 9, 30–32.

⁹⁴ *Id.* at 13.

⁹⁵ PCTI Reply Brief at 26.

⁹⁶ Decision at 13.

Whether PCTI Engaged in Unethical Inducement

The ALJ held that PCTI unethically induced students to enroll based on a scheme promising free housing to students.⁹⁷ PCTI argues the ALJ erred by showing “no consideration” of its detailed explanation of its housing arrangement for students.⁹⁸

In ruling on this finding, the ALJ noted that PCTI argued before him that the “allegations are unsupported” and the student statements are “unreliable given the criminal histories of PCTI students.”⁹⁹ However, the ALJ was persuaded by “numerous statements by students” and “the consistency of those statements.”¹⁰⁰ The ALJ was unconvinced by PCTI’s evidence compared to “numerous student accounts.”¹⁰¹ The ALJ also specifically found no basis to discount student statements solely based on those students’ criminal records.¹⁰² I find that the ALJ cited to the documentary and testimonial evidence in the record while ruling on this finding, and specifically addressed the evidence and arguments PCTI made to the contrary. PCTI has not shown how the ALJ erred in performing his duty to weigh the evidence. Accordingly, I uphold this finding.

Whether PCTI’s Circumstances Warranted Termination

PCTI does not significantly renew its argument before the ALJ that FSA should have sought a lesser sanction than termination. However, the question of what sanction to impose is at the heart of this matter, so I briefly review this holding of the ALJ’s decision. Before the ALJ, PCTI argued that even if the ALJ found the evidence presented by both sides equally reliable, past Department precedent compels FSA to impose a less severe sanction than termination, which is “the worst sanction possible.”¹⁰³ For instance, in the case *North Carolina Academy of Cosmetic Art*, the Department found termination too severe a sanction for a school that admitted its director falsified attendance records for students receiving Title IV funds.¹⁰⁴

The Department previously concluded that PCTI engaged in fraud involving Title IV funds during the hearing on FSA’s emergency action.¹⁰⁵ As stated by the ALJ in the Decision, a finding of fraud is sufficient by itself to warrant termination of an institution’s Title IV participation.¹⁰⁶ Based on the extensive evidence in the administrative record, the severity of the behavior exhibited by PCTI, and the findings in the emergency action, I uphold the decision to impose termination.

⁹⁷ *Id.* at 32–33.

⁹⁸ PCTI Reply Brief at 27.

⁹⁹ Decision at 32–33.

¹⁰⁰ *Id.* at 33.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ PCTI Brief at 6–7.

¹⁰⁴ *Id.* at 6.

¹⁰⁵ *Prof'l Career Training Inst.*, Dkt. No. 19-54-EA, U.S. Dep’t of Educ. (Oct. 1, 2019).

¹⁰⁶ Decision at 24 (citing 34 C.F.R. § 600.7(a)(3)(i)).

ORDER

ACCORDINGLY, Judge Layton's decision in this case is AFFIRMED. PCTI's eligibility to participate in Title IV programs is terminated.

So ordered this 3rd day of December 2021.



Miguel A. Cardona
Secretary

Washington, D.C.

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