

March 26, 2021

Ms. Robin Minor
Acting Chief Operating Officer, Federal Student Aid
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Via e-mail: Robin.Minor@ed.gov

Dear Ms. Minor:

As advocates for students and veterans, we write regarding the Center for Excellence in Higher Education (CEHE). We write because the schools operated by CEHE, Stevens Henager and Independence University, continue to be authorized by the Department and to receive Title IV funds, although the company and its executives were held liable for deceiving consumers and misusing Title IV funds in Colorado state court in August 2020.

As three U.S. Senators wrote¹ to the Department in November 2020 and as numerous organizations wrote² to the Department in October 2020, the Colorado state court's order³ found that the Center for Excellence in Higher Education (CEHE) knowingly perpetrated years of consumer fraud to obtain and misuse millions in Title IV funds. The court concluded that CEHE engaged in "unconscionable" conduct; its order details substantial misrepresentations that CEHE deployed about its schools' programmatic offerings, students' employment prospects, and graduates' future wages. In addition to corporate liability, the court found CEHE executives Carl Barney and Eric Juhlin personally liable on all counts of consumer deception. Moreover, the court found that certain predatory tactics continued to occur and there was a "strong possibility" that others would return.⁴ While the decision has been appealed, the findings of fact have not been challenged. They include testimony from employees and quotations from the schools' advertising materials.

The Higher Education Act categorically disqualifies an institution from Title IV programs whenever "the institution, the institution's owner, or the institution's chief executive officer ... has been judicially determined to have committed fraud."⁵ When presented with similar state court findings, the Department has rescinded schools' ability to participate in Title IV even while an appeal was pending. In December 2016, the Department denied recertification to the Minnesota School of Business (OPE ID: 00464600) based on a state court determination that the school committed consumer protection violations involving Title IV program funds and made substantial misrepresentations.⁶

Currently, Stevens Henager and Independence University are operating on a Provisional Program Participation Agreement (PPPA).⁷ We respectfully request that FSA immediately act to review the court's findings of fact, and the evidentiary record developed by the Colorado State Attorney General. We believe that such a review will support immediate action, in accordance with past precedent, to halt additional Title IV funds to CEHE-owned Stevens-Henager College (00367400) and its online branch, Independence University.

In addition, several members of our coalition are in contact with several current or recent CEHE employees who allege that substantial misrepresentations and other predatory practices have persisted at CEHE past the date of the Colorado court verdict. While we believe the Department can and should act now on its legal authority to terminate Title IV funding to the CEHE schools, with no further investigation required, we certainly think that, if the Department has any doubt, or is considering renewing the schools' PPPA, it should first consider the evidence presented by these individuals. We would be happy to arrange for interviews with these individuals at your convenience and believe that you will share our concerns after having the opportunity to hear from them.

Thank you for your attention to this matter, and please let us know if we can provide additional information.

Sincerely,

Center for American Progress
Center for Responsible Lending
Yan Cao, Fellow, The Century Foundation
David Halperin, Attorney
National Consumer Law Center, on behalf of its low-income clients
Project on Predatory Student Lending, Legal Services Center of Harvard Law School
The Institute for College Access and Success
Veterans Education Success

¹ Office of U.S. Senator Dick Durbin, *Durbin, Senators Call for Borrower Defense Relief for Student Borrowers Harmed by CEHE* (Nov. 6, 2020), available at: <https://www.durbin.senate.gov/newsroom/press-releases/durbin-senators-call-for-borrower-defense-relief-for-student-borrowers-harmed-by-cehe>.

² National Consumer Law Center, The Education Trust, The Institute for College Access and Success, Veterans Education Success, et al., *Letter to Secretary Betsy DeVos Regarding Pervasive Fraudulent Abuse of Federal Financial Aid Programs by Institutions Affiliated with the Center for Excellence in Higher Education (CEHE)* (Oct. 14, 2020), available at: https://production-tcf.imgix.net/app/uploads/2020/10/14122607/10.14.20_Coalition-CEHE-Ltr-to-DeVos.pdf.

³ *State of Colorado v. Ctr. for Excellence in Higher Educ., Inc.*, Case No. 14CV34530 (Colo. Dist. Ct. Aug. 21, 2020) available at: <https://www.republicreport.org/wp-content/uploads/2020/08/FINDINGS-OF-FACT-CONCLUSIONS-OF-LAW-AND-JUDGMENT.pdf>

⁴ Trial order at ¶ 99 (“Closing techniques’ continue to be part of the Admissions Manual and training”),

¶ 105 (“CollegeAmerica continues to attempt collection” from defrauded students); 118 (finding “a strong possibility that Defendants’ may resume” misleading conduct).

⁵ HEA § 102(a)(4)(B), 20 U.S.C. § 1002(a)(4)(B); 34 C.F.R. § 600.7(a)(3)(ii). “The phrase ‘judicially determined to have committed fraud’ means that a court of competent jurisdiction has made such a finding.” Institutional Eligibility Under the Higher Education Act of 1965, as Amended, 59 Fed. Reg. 22324-01, 22,329 (Feb. 10, 1994).

⁶ United States Department of Education, *Letter to Mr. Jeffrey Myhre, President of the Minnesota School of Business, Re: Denial of Recertification Application to Participate in the Federal Student Financial Assistance Programs* (Dec. 6, 2016), available at: https://drive.google.com/file/d/18-aVm37yAv_Iu_qYBaOSGChX3LW6c0qs/view.

⁷ Yan Cao, The Century Foundation, “The Education Department Should Review these Risky Schools” (March 15, 2021) available at: <https://tcf.org/content/commentary/the-education-department-should-review-these-risky-schools/>