

United States Senate

WASHINGTON, DC 20510

November 6, 2020

The Honorable Betsy DeVos
Secretary
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary DeVos:

We write to ask the U.S. Department of Education (ED) to protect students and taxpayers in the wake of a recent court decision finding that the Center for Excellence in Higher Education (CEHE)—which owns for-profit CollegeAmerica—made misrepresentations to students and engaged in deceptive trade practices.

On August 21, a Colorado state court found that CEHE defrauded students and violated Colorado’s consumer protection law. CEHE’s Chairman Emeritus Carl Barney and CEO Eric Juhlin were found individually liable.¹ The court identified that institutions run by CEHE used deceptive trade practices to make “false and misleading representations about the potential wages and types of employment” a student could expect after completing a program at these institutions.² Further, the court identified that between 71 percent and 81 percent of students attending CollegeAmerica in Colorado were receiving financial aid through Title IV.³ Examples of the kinds of fraud identified by the court included: advertising potential wages twice that of CEHE graduates,⁴ intentionally withholding data showing CEHE graduates earnings were lower than national averages,⁵ and advertised programs such as training for X-Ray Technicians, which would not be acceptable for a state licensing exam, or a sonography program that never existed.⁶

Under 20 U.S. Code § 1002(a)(4)(B) an institution becomes statutorily ineligible to participate in Title IV programs if the institution itself, the institution’s owners, or the institution’s CEO “has been judicially determined to have committed fraud.”⁷ In this case, both CEHE, itself, and the CEO have been judicially determined to have committed consumer fraud. Further, the Accrediting Commission of Career Schools and Colleges has requested documentation from CEHE to determine future eligibility for accreditation.⁸

¹ *Colorado v Center for Excellence in Higher Education*, 14cv34530, Finding of Fact, Conclusions of Law, and Judgement (hereinafter, “Order”), filed Aug, 21, 20120, available at <https://www.republicreport.org/wp-content/uploads/2020/08/FINDINGS-OF-FACT-CONCLUSIONS-OF-LAW-AND-JUDGMENT.pdf>.

² ¶ 585.

³ ¶ 409.

⁴ ¶ 585.

⁵ ¶¶ 641-648.

⁶ ¶ 607.

⁷ 20 U.S. Code § 1002(a)(4)(B).

⁸ Letter from Accrediting Commission of Career Schools and Colleges to Sec. DeVos at 2 (Oct 26, 2020), available at <https://www.republicreport.org/wp-content/uploads/2020/10/ACCSC-CEHE-10-26-20.pdf>.

Previously, the Department has denied Title IV participation to organizations judicially determined to have committed fraud. In 2016, ED halted Title IV eligibility for both Globe University (Globe) and Minnesota School of Business (MSB) after a Minnesota state court found both committed consumer fraud in marketing and recruiting for their criminal justice program.⁹ Just as ED prevented both Globe and MSB from participating in Title IV programs as a result of a lower state court ruling, so too should it hold CEHE accountable in light of the current Colorado court ruling.

CEHE has argued publicly that it should not lose Title IV funds because it intends to appeal the court's decision. At the same time, ED has a responsibility to protect students and taxpayers from further harm and waiting to take action places more students and taxpayer dollars at risk. In the case of both Globe and MSB, the lawsuit was first decided on September 8, 2016. ED revoked Title IV participation on December 31, 2016. It was not until November 2019 that the appeals process was completed with the original ruling being upheld by the Minnesota Supreme Court. If the Department had not withdrawn Globe and MSB's access to Title IV funds in 2016, fraudulent use of taxpayer dollars could have continued for another three years during the appeals process. You would be failing in your responsibility to allow CEHE to continue to defraud students and Mr. Barney and Mr. Juhlin to continue to line their pockets with taxpayer money during a lengthy appeal process.

In addition, CEHE's unfair, deceptive, and abusive practices are the types of fraud that Congress envisioned making students eligible for relief when it wrote the borrower defense provision of the Higher Education Act.¹⁰ I urge you to use the Colorado court's findings as the basis for automatic borrower defense relief for students harmed by CEHE's misrepresentations and fraud.

We ask for a response no later than November 20, 2020. Thank you for your attention to this very serious matter.

Sincerely,



Richard J. Durbin
United States Senator



Sherrod Brown
United States Senator



Michael F. Bennet
United States Senator

⁹ US Department of Education (2016, December 6). *Globe University, Minnesota School of Business Denied Access to Federal Student Aid Dollars*. Web. <https://www.ed.gov/news/press-releases/globe-university-minnesota-school-business-denied-access-federal-student-aid-dollars>.

¹⁰ 20 U.S. Code §1087e(h).