



FEB 11 2022

Ms. Marie Butler
President
Magnolia College of Cosmetology
4725 I-55 North Frontage Road
Jackson, MS 39206-0458

Sent via UPS
Tracking # 1Z37X7Y30117034872
OPE-ID: 02320800

Dear Ms. Butler:

This is to notify you that the U.S. Department of Education (“Department”) is hereby imposing an emergency action against Magnolia College of Cosmetology (“MCC”). The Department is taking this action under the authority of § 487(c)(1)(G) of the Higher Education Act of 1965, as amended (“HEA”), 20 U.S.C. § 1094(c)(1)(G), and the Department’s regulations at 34 C.F.R. § 600.41(a)(3) and § 668.83.

This emergency action is based on a February 4, 2022 notice from the National Accrediting Commission of Career Arts & Sciences (“NACCAS”) reporting the final withdrawal of MCC’s accredited status, effective February 4, 2022. (Enclosure 1). Accreditation by a nationally recognized accrediting agency, such as NACCAS, is one of the statutory requirements that an institution must meet to be eligible to participate in the programs authorized under Title IV of the HEA. See 20 U.S.C. §§ 1001, 1002, and 1094. When MCC lost its accreditation on February 4, 2022, it became ineligible to participate in the Title IV programs since it no longer met the definition of an institution of higher education. Any further participation in the Title IV, HEA programs by MCC would constitute a violation of statutory requirements and a misuse of federal funds. Consequently, the likelihood of loss to the Department and the Title IV, HEA programs outweighs the importance of awaiting completion of the procedures for termination of eligibility in 34 C.F.R. Part 668, Subpart G.

By this emergency action, the Department withholds funds from MCC and its students and withdraws the authority of MCC to obligate and disburse funds under any of the following Title IV, HEA programs: Federal Pell Grant (“Pell Grant”), Federal Supplemental Educational Opportunity Grant (“FSEOG”), Iraq and Afghanistan Service Grants, Teacher Education Assistance for College and Higher Education (“TEACH”) Grant, Federal Work-Study (“FWS”), Federal Perkins Loan (“Perkins Loan”), and William D. Ford Federal Direct Loan (“Direct Loan”) programs. The Direct Loan Program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan Program, and the Federal Direct PLUS. The FSEOG, FWS, and Perkins Loan programs are known as the campus-based programs.

While the emergency action is in effect, MCC is barred from initiating commitments of Title IV, HEA program funds to students by accepting Student Aid Reports under the Pell Grant Program

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION

Administrative Actions and Appeals Service Group
830 First St., N.E. Washington, D.C. 20002-8019
StudentAid.gov

or the TEACH Grant Program, by certifying applications for loans under the Direct Loan Program, or by issuing a commitment for aid under the campus-based programs. MCC is also barred from using its own funds or federal funds on hand to make Title IV, HEA program grants, loans, or work assistance payments to students, and from crediting student accounts with respect to such assistance. Further, MCC may not release to students Direct Loan program proceeds and must return any loan proceeds to the lender. Finally, unless other arrangements are agreed to between MCC and the Department, the school may not disburse or obligate any additional Title IV, HEA program funds to satisfy commitments in accordance with 34 C.F.R. § 668.26 for as long as the emergency action is in effect.

This emergency action is effective on the date of this letter, which is the date of mailing, and it will remain in effect until either a decision to remove the emergency action is issued in response to a request from MCC to show cause why the emergency action is unwarranted or until the completion of the termination action that is initiated in Part II of this notice. The terms of the termination action may supersede the provisions of this emergency action regarding the obligation and disbursement of Title IV, HEA funds.

You may request an opportunity to show cause why this emergency action is unwarranted. To request an opportunity to show cause, please write and submit your request to me, via overnight mail, at the following address:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Partner Enforcement and Consumer Protection
830 First Street, NE - UCP-3, Room 84F2
Washington, DC 20002-8019

Your request should state the dates on which you are available for the show-cause meeting or teleconference. If you request a show-cause hearing, my office will refer the case to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of the case to an official, who will conduct the hearing. MCC is entitled to be represented by counsel at the hearing and otherwise during the show-cause hearing.

II.

This is also to inform you that the Department intends to terminate the eligibility of MCC to participate in programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* The Department is taking this action under the authority of 20 U.S.C. § 1094(c)(1)(F), and the Department's regulations at 34 C.F.R. § 600.41(a)(1) and Part 668, Subpart G. Those regulations set forth the procedures and guidelines that the Department has established for terminating the eligibility of an institution to participate in any Title IV, HEA programs.

This termination action is based on the same grounds that are stated in Part I of this notice. MCC lost its NACCAS accreditation on February 4, 2022. As of that date, MCC no longer met the

definition of an institution of higher education, and, therefore, it no longer qualified to participate in the Title IV, HEA programs. 20 U.S.C. §§ 1001, 1002, and 1094.

Termination of MCC's eligibility to participate in the Title IV, HEA programs will become final on March 3, 2022, unless we receive by that date a request for a hearing or written material indicating why the termination should not take place. MCC may submit both a written request for a hearing and written material indicating why the termination should not take place. If MCC chooses to request a hearing or to submit written materials, you must write to me, via overnight mail, at the address in Part I of this notice.

If MCC requests a hearing, my office will refer the case to the Office of Hearings and Appeals. That office will arrange for assignment of the case to an official, who will conduct an independent hearing. MCC is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If MCC does not request a hearing, but submits written material instead, I shall consider that material and notify you whether the termination will become effective, will be dismissed, or limitations will be imposed. The consequences of termination are set forth in 34 C.F.R. § 600.41(d) and § 668.94.

If you neither request a hearing nor submit written material by March 3, 2022, this proposed termination will become the final decision of the Department and will be effective with respect to Title IV, HEA program transactions on or after February 4, 2022. See 34 C.F.R. § 600.41(c)(2)(ii). The Atlanta School Participation and Financial Analysis Division will then contact you concerning the proper procedures for closing out MCC's Title IV, HEA program accounts.

If you have any questions or desire any additional explanation of MCC's rights with respect to the emergency action or the termination action, please contact Lauren Pope via email at Lauren.Pope@ed.gov.

Sincerely,

(b)(6)

Susan D. Crim
Director
Administrative Actions and Appeals Service Group

Enclosure

cc: Darin Wallace, Executive Director, NACCAS via dwallace@naccas.org
Mississippi Board of Cosmetology, via cosmo@msbc.ms.gov
Department of Defense, via osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil
Department of Veteran Affairs, via INCOMING.VBAVACO@va.gov
Consumer Financial Protection Bureau, via CFPB_ENF_Students@cfpb.gov

ENCLOSURE 1



NATIONAL ACCREDITING COMMISSION OF CAREER ARTS & SCIENCES

3015 Colvin Street, Alexandria, VA 22314

PHONE (703) 600-7600 • www.naccas.org

February 4, 2022

VIA UPS

Ms. Marie W. Butler
Magnolia College of Cosmetology, Inc.
4725 Interstate 55 North
Jackson, MS 39206

CONFIDENTIAL
APPEAL DENIED
WITHDRAW- FINAL

Re.: Magnolia College of Cosmetology
4725 Interstate 55 North
Jackson, MS 39206

Ref. #034013-00

Process: Withdrawal of Accreditation with Right to Appeal

Dear Ms. Butler:

On November 8, 2021, an Appeal Review Panel of the National Accrediting Commission of Career Arts & Sciences, Inc. (NACCAS), duly constituted in accordance with Part 9 of NACCAS' *Rules of Practice and Procedure*, considered the referenced institution's appeal of the adverse action of the NACCAS Board of Commissioners, which is noted above. You received notice of this adverse decision by letter dated April 13, 2021. Pursuant to Section 9.8(b)(1) of the *Rules*, the Panel voted to **DENY** the institution's appeal and affirm the adverse decision of the Commission. The reasons for the Panel's decision are set forth on Attachment A hereto. Therefore, as of **February 4, 2022**, the adverse action became final, all appeal rights exhausted, and the institution shall be removed from the list of institutions accredited by NACCAS.

In accordance with Section 8.14 of NACCAS' *Rules*, you must take the following steps immediately upon receipt of this notice:

1. Inform all students enrolled in the institution and those seeking admission that accreditation by NACCAS has been withdrawn. However, you may inform current students that if they complete the program in which they are enrolled according to the usual schedule, they shall be considered graduates of an accredited institution.
2. Cease advertising accredited status in any way. You must remove from public view all certificates, decals, signs, emblems, and other evidence of accreditation. You must cease using printed materials or advertising indicating in any way that the institution is, or has been, accredited by NACCAS.

The institution may re-apply for candidate status at any time it meets the general eligibility requirements listed in Section 1.2 of the *Rules* and has paid any outstanding fees that were due NACCAS at the time of final withdrawal. However, the institution must wait one year before seeking initial accreditation.

If any comments on this final adverse decision are submitted to NACCAS by the official representative of the institution within sixty (60) days, they shall be made available to the public. Comments should be submitted in writing to the attention of Eddie Broomfield at NACCAS headquarters and must be accompanied by an executed copy of NACCAS' Comment Disclosure Acknowledgement, which is attached to with this letter.

If there are any questions regarding the appeals process, Eddie Broomfield may be contacted at (703) 600-7600, extension 101. Please use the NACCAS reference number of the institution in all communications with NACCAS.

Sincerely, _____

(b)(6)

Eddie Broomfield, J.D.
Associate Executive Director

cc: D. Wallace; S.Goldstein

ATTACHMENT A

Reasons for Denial of Appeal

The Commission's Decision

At its March 2021 meeting, NACCAS' Board of Commissioners (the "*Commission*") acted to withdraw the school's accreditation of Magnolia College of Cosmetology ("*MCC*") for failure to comply with NACCAS' Standard I, Criterion 5 (Placement). The Commission had previously found that the school's placement rates for its 2017 (data) and 2018 (data) Annual Reports were unverifiable. At its March 2021 meeting, the Commission found that the school self-reported a non-Compliant placement rate for its Preliminary 2019 (data) Annual Report (the "*2019 PAR*"), and documentation problems rendered even that noncompliant rate unverifiable.

The School's Burden of Proof on Appeal

On appeal, MCC's burden is to demonstrate that the Commission's decision was "clearly erroneous, not supported by the evidence on the record at the time the Commission took action, or was otherwise arbitrary and capricious." (*Rules*, Section 9.1(a)). The Panel's determination that the Commission acted in error "must be based on the conclusion that no reasonable decision-making body would have reached the decision on appeal, taking into account the evidence in the record at the time the Commission took action, and the requirements of the Commission's *Standards, Criteria, Rules* and other accreditation requirements." (*Rules*, Section 9.2(c)).

In this case, the Commission withdrew the school's accreditation because it determined that the school failed to demonstrate compliance with NACCAS' Standard I, Criterion 5 (Placement). It is this determination that the school must demonstrate was "clearly erroneous, not supported by the evidence on the record at the time the Commission took action, or was otherwise arbitrary and capricious."

The School's Arguments on Appeal

In its appeal documentation, MCC makes reference to a number of factors – including changing state licensing procedures, the impact of COVID-19, and various complications in the life of Ms. Michelle Green (who, we infer from context, appears to be the person hired by the school to verify placements for its 2019 PAR) that may have impacted MCC's ability to demonstrate compliance with Standard I, Criterion 5 for that PAR. (MCC1-A at pp.1-2) To the extent that the school is asking the Panel to waive its noncompliance with the Standard, or grant it additional time to demonstrate such compliance, the Panel can do neither. ("The Appeal Review Panel has no authority to waive or otherwise modify the NACCAS eligibility criteria, Standards and Criteria, *Rules of Practice and Procedures*, Policies, or other accreditation requirements." (*Rules* Section 9.8(a)). And while MCC had the right to petition the Commission (under *Rules* Section 10.5) for more time, there is no indication in the record that it did so, and MCC does not claim that it did.

MCC, however, does not appear to be asking for more time or pleading extenuating circumstances. Rather, MCC states that it "[v]erified where these students were working" (MCC1-A at p.1), that "what Michele [Steel] sent [NACCAS] was correct and why [NACCAS] state[s] on some students there was no documentation I don't understand" and that it is "sending [NACCAS] the same thing again" with its Appeal Document. (MCC1-A at p.2) There follows, as attachments, 131 pages of documentation grouped, in tabs, as relating to 25 named students, together with another 8 pages of what appear to be state licensing exam scores.

An appeal before the NACCAS Appeal Review Panel is "not an opportunity to introduce evidence not in the record at the time the Commission took the action being appealed (including, but not limited to, evidence of remediation)" and, with the exception of New Financial Information (as defined in *Rules* Section 9.5), "[an] Appeal Document may not include or refer to information or documentation not in the record at the time the Commission took the Appealable Action." (*Rules* Section 9.4(c)) By the same token, "the Appeal Review Panel shall only consider evidence in the record at the time the Commission took action ... [and] shall not consider evidence of compliance or remediation after the date the Commission took the Appealable Action." (*Rules* Section 9.2(b)) For that reason, an appellant must "support its argument on appeal by specific reference to information and documentation in the record at the time the Commission took the Appealable Action, identifying where in the record that information or documentation may be found." (*Rules* Section 9.4(b))¹

¹ "The institution may include copies of relevant documents [with its Appeal Document], but each such document

In addition, an appellant school's Appeal Document must "set out in detail all of the facts and arguments which the institution believes support its claim that the Commission's decision was clearly erroneous, not supported by the evidence on the record at the time the Commission took action, or was otherwise arbitrary and capricious... [and] must address each of the bases for the Appealable Action stated by the Commission in the Commission's official notification letter to the institution." (*Rules* Section 9.4(a))

Accordingly, if MCC wishes the Panel to consider the "backup documentation" included with its Appeal Document, it must both demonstrate (not just assert) that this documentation was previously provided to the Commission² and present an argument as to why that documentation demonstrates that the Commission erred in its decision. MCC does neither. A few examples suffice to show the problems with MCC's submission to the Panel.

- **Student 1³:** In its Withdrawal Letter, NACCAS noted that MCC failed (after it was requested to do so) to provide any placement documentation for Student 1. (MCC1-B at p.2) In its Appeal Document MCC provides what purports to be a business card for Student 1, but fails to demonstrate where that document appears in a submission to NACCAS. The school's original 9/28/20 submission to NACCAS (MCC1-C) includes supporting placement documentation for 16 students, none of them Student 1. Student 1 does not appear in the school's 12/17/20 (MCC1-D) or 1/22/21 (MCC1-E) submissions of additional documentation.⁴
- **Student 2:** In its Withdrawal Letter, NACCAS noted that MCC failed (after it was requested to do so (MCC1-G)) to provide compliant placement documentation for Student 2. Specifically, the institution had provided a phone log for Student 2, which is not acceptable documentation for a self-employed student. (MCC1-B at p.2) In its Appeal Document MCC provides (in addition to another copy of the phone log provided in its 12/17/20 submission) what purports to be a screenshot relating to Student 2's employment, but fails to demonstrate where (if anywhere) that document appears in a submission to the Commission. (No such document appears in the school's final – i.e., 1/22/21 – submission).
- **Student 3:** In its Withdrawal Letter, NACCAS noted that MCC failed (after it was requested to do so) to provide any placement documentation for Student 3. (MCC1-B at p.2) In its Appeal Document MCC provides (in addition to an unreadable photograph and completion documentation for Student 3 that was provided in the school's original 9/28/20 submission) a printout from the Mississippi Secretary of State's office indicating the existence of a Mississippi limited liability company called Ambitions Boutique LLC whose Registered Agent and President have the same first name as Student 3. Leaving aside the question of whether this document actual evidences employment by Student 3⁵, MCC fails to demonstrate where (if anywhere) it appears in a submission to NACCAS. The school's original 9/28/20 submission to NACCAS includes supporting placement documentation for 16 students, none of them Student 3. Student 3 does not appear in the school's final 1/22/21 submission of additional documentation.
- **Student 12:** In its Withdrawal Letter, NACCAS noted that MCC (in response to NACCAS' 11/24/20 letter) added Student 12 to its revised placement cohort, but failed to provide any placement documentation for Student 12. (MCC1-B at p.2-3) In its Appeal Document MCC provides documentation relating to Student 12's licensure status and an unreadable additional page. (MCC1-A at pp. 68-70). Leaving aside the question of whether this unreadable page actually evidences employment by Student 12, MCC fails to

must be identified by the location of such document in the record." (*Rules* Section 9.4(b))

² In this regard, we note that the school (in its initial submission and two subsequent submissions) provided the Commission in excess of 750 pages of documentation in support of its 2019 PAR.

³ Throughout this analysis, students are identified with the designation given them in NACCAS' Withdrawal Letter (MCC1-B at pp.8-9).

⁴ In any event, we note that a business card is not acceptable placement documentation. (MCC1-F at p.2)

⁵ Neither the last name nor the address of the Registered Agent match the information for Student 3 in the completion documentation submitted, and no other documentation was provided in support of the assertion that they are the same person.

demonstrate where (if anywhere) it appears in a submission to NACCAS. Student 12 does not appear in the school's 12/17/20 or 1/22/21 submissions of additional documentation.

Of the 22 additional Students for which MCC provided information in its Appeal Document – i.e., the 23 Students identified in NACCAS' Withdrawal Letter (MCC1-B) and two others, but disregarding Students 1, 2, 3 and 12 (who have already been addressed above – MCC submitted some form of placement documentation to NACCAS (in its 9/28/20, 12/17/20 and/or 1/22/21 submissions) for only seven: Students 5, 8, and 13 through 17.⁶

- NACCAS accepted the placement documentation for Students 5, 8 and 17. (MCC1-B at pp.2-3) Those Students are therefore irrelevant to MCC's Appeal.
- MCC provided placement documentation for Student 13 only in its 1/22/21 submission. That documentation, which was identical to the documentation for this Student by MCC on appeal, was rejected by the Commission as noncompliant. MCC has not offered any rationale for concluding that this determination was improper or unreasonable.
- MCC provided placement documentation for Students 14 and 15 only in its 1/2/21 submission. That documentation, was rejected by the Commission as noncompliant. MCC has not offered any rationale for concluding that these determinations were improper or unreasonable. The documentation submitted on appeal (which does not appear related to placement) was not part of the school's 1/22/21 submission.
- MCC provided placement documentation for Student 16 only in 9/28/20 submission. That documentation, was rejected by the Commission as noncompliant. MCC has not offered any rationale for concluding that these determinations were improper or unreasonable. The additional documentation submitted by MCC on appeal – a Facebook printout that includes an email address for someone with the same last (but not first) name as Student 16 – was not part of its 9/28/21 submission.

In light of the foregoing, the Panel sees no basis for concluding that the Commission erred in concluding that the school's 2019 placement rate, as evidenced by 2019 (data) Preliminary Annual Report, was unverifiable.

Moreover, MCC nowhere addresses the Commission's conclusion that, based on its own submissions and assuming that the data reported by the school was supported by appropriate documentation (i.e. "verifiable"), the school self-reported a non-Compliant placement rate of 47% (MCC1-B at p.2 and MCC1-G at p.5.) Although the school was afforded an opportunity to revise its submission by documenting additional placements, it provided compliant and verifiable placement documentation for only one additional placement (Student 12), and further adjustments (as detailed in MCC1-B at pp.3-4) resulted in a placement rate 40% (again, assuming that out-of-sample students' data were verifiable).

Accordingly, the Panel, acting pursuant to Section 9.8(b)(1) of the NACCAS *Rules of Practice and Procedure*, hereby **DENIES** the school's appeal.

⁶ MCC claims Student 18 as "placed" but provided no placement documentation. (MCC1-A at p.3) The documentation for Student 18 submitted on appeal relates to licensure.

COMMENT DISCLOSURE ACKNOWLEDGEMENT

This Comment Disclosure Acknowledgement is submitted this ____ day of _____, 2022, by an authorized signatory of the institution named below (the "School").

The undersigned person ("I") hereby certifies to the National Accrediting Commission of Career Arts & Sciences, Inc. ("NACCAS") that s/he is authorized by the School to execute this Comment Disclosure Acknowledgement, and make the acknowledgements and agreements herein, on behalf of the School.

By letter dated April 13, 2021, NACCAS notified the School that NACCAS' Board of Commissioners had withdrawn the School's accreditation, with the right to appeal (the "Commission Action"). The School exercised its right to appeal in accordance with Part 9 of NACCAS' *Rules of Practice and Procedure* (the "Rules"). By letter dated February 4, 2022, NACCAS notified the School that its appeal had been denied by NACCAS' Appeal Review Panel and that, in accordance with NACCAS' *Rules*, the Commission Action described above had become final and no longer subject to appeal.

I understand and agree that, pursuant to Section 11.6 of NACCAS' *Rules*, NACCAS will make available to the public a summary of the reasons for the Commission Action described above, together with any comments submitted by the School. I understand and agree that the attached comments constitute the School's public comments on the Commission Action. I understand and agree that the School is not obligated to submit public comments and acknowledge that the attached comments are provided voluntarily.

I understand and agree that the public comments must be in summary format, professional in tone, and free of profanity and of slanderous or defamatory comments. I acknowledge that any comments which do not meet these requirements will not be made available to the public.

I understand and agree that, pursuant to Section 11.6 of NACCAS's *Rules*, the School's written comments will not be added to NACCAS' summary disclosure of the Commission Action if this Comment Disclosure Acknowledgement and the School's comments are not submitted in the required format **on or before April 5, 2022**.

I understand and agree that NACCAS has no responsibility for how the School's comments may be used or interpreted by others when made publicly available.

MAGNOLIA COLLEGE OF COSMETOLOGY
NACCAS REF. #034013-00

By: _____
School's Owner or Authorized Signatory

Date

Print Name (Clearly)

Title

SCHEDULE I
Student Personally Identifiable Information (PII),
Information Identifying Non-Student Individuals
and/or
School Financial Information

Notice to U.S. Department of Education:

Schedule I (other than this Notice page) contains Student Personally Identifiable Information (PII), information identifying non-Student individuals and/or Confidential School Financial Information and, accordingly, has been redacted from the copy of this letter provided to the Department pursuant to 34 CFR 602.26 (and/or other applicable provisions of the Code of Federal Regulations), in accordance with the Department's November 17, 2016 guidance to accreditors entitled "Clarification of Terminology and Requirements for Accrediting Agency Reporting to the U.S. Department of Education" (the "Guidance Letter"). Pursuant to the Guidance Letter, NACCAS shall make an unredacted version of this letter available to the Department upon request.