



April 26, 2021

Acting President or Chief Executive Officer
Center for Excellence in Higher Education, Inc.
4021 South 700 East, Suite 400
Salt Lake City, UT 84107

via UPS tracking #
1Z A87 964 02 9676 9831

Re: California College San Diego, OPEID: 02110800
Stevens Henager College/Independence University, OPEID: 00367400

To Whom It May Concern:

On April 23, 2021, the U.S. Department of Education ("Department") suspended Eric S. Juhlin, Chief Executive Officer, President, and Chairman of the Board of the Center for Excellence in Higher Education ("CEHE"), from participating in any covered transactions under procurement and non-procurement programs and activities of any federal agency, pursuant to 2 C.F.R. Part 180, effective that date. The Department based the suspension on the Findings of Fact, Conclusions of Law, and Judgment entered against Mr. Juhlin on August 21, 2020, by the District Court for the City and County of Denver, Colorado, in case number 2014-CV-34530 ("Decision"). The Department determined that based on the Decision and the findings of fact and law detailed therein, adequate evidence existed of an offense listed under 2 C.F.R. § 180.800(a). A copy of the Notice of Suspension is enclosed.

In order to continue to participate in the programs authorized by Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 *et seq* ("Title IV, HEA Programs"), California College San Diego ("CCSD") and Stevens Henager College/Independence University ("SHC") (CCSD and SHC are sometimes referred to together herein as the "Institutions") must demonstrate that they possess the requisite administrative capability necessary for Title IV participation. 34 C.F.R. § 668.16. As prescribed by 34 C.F.R. § 668.16(k)(1), an institution's administrative capability is impaired if a principal of the institution is suspended. A principal includes an officer or director or other person within a participant with management or supervisory responsibilities related to a covered transaction as defined by the debarment and suspension regulations. *See* 2 C.F.R. § 180.995(a); 2 C.F.R. § 180.200. The Department has determined that Mr. Juhlin is in a management or supervisory capacity with respect to CCSD and SHC, because CCSD and SHC each listed him as the Chief Executive Officer and member of the Board of Directors of the Institutions in their eligibility applications filed with the Department.

Institutions participating in the Title IV, HEA programs also have a fiduciary responsibility to safeguard Title IV funds and ensure that those funds are used for the benefit of the students for whom they are intended. An institution violates its fiduciary duty if cause exists under 2 C.F.R.

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§ 180.800 for suspending any principal of the institution, and, upon learning of the cause for suspension, the institution does not promptly remove the principal from responsibility for any aspect of the administration of the institution's participation in the Title IV, HEA programs. 34 C.F.R. § 668.82(e)(1). An institution's violation of 34 C.F.R. § 668.82(e)(1) is grounds for ending the institution's participation in the Title IV, HEA programs. 34 C.F.R. § 668.82(e)(2).

As a result, within 10 days of the date of this letter, SHC and CCSD must advise the Department how they have complied with the above-referenced regulatory proscriptions regarding Mr. Juhlin. Please also include in your written response the name of the acting president for each institution, as well as any other staffing changes related to the suspension of Mr. Juhlin.

As you are aware, Carl Barney was also a defendant in the Colorado case, and the court made the same findings against Mr. Barney as it did against Mr. Juhlin. As stated above, those findings are the basis of the suspension against Mr. Juhlin. However, CEHE reported to the Department through eligibility updates that Carl Barney's position on CCSD's and SHC's Board of Directors ended January 22, 2021. Please confirm that Mr. Barney no longer holds any positions or has any contractual relationships with CEHE, CCSD, or SHC, other than the remaining debt for the institutional sale. Also, please describe Mr. Barney's position as Chairman Emeritus and indicate whether the role allows Mr. Barney to vote on any matters related to CEHE or the Institutions, or if the position holds any other management powers. If the position is an honorary or figurehead position only, please confirm. Given the findings in the Decision, even if Mr. Barney's affiliation with CEHE is now solely honorific, we are requiring CEHE to agree to confirm that it will give the Department 30 days written notice before Mr. Barney assumes any management or board positions with CEHE or the Institutions or enters into any contractual relationships, directly or indirectly, with CEHE or the Institutions.

Further, the Department notes that at the time CEHE acquired the Institutions, it was established as an Indiana public benefit corporation. However, according to the records of the Secretary of State/Corporations Division of the State of Indiana, CEHE surrendered its charter to the State of Indiana on September 10, 2019, and the Indiana corporation is now inactive. CEHE is now described as a Delaware nonprofit corporation in the catalog for SHC, and the Department has confirmed that an entity with that name was organized in Delaware on September 30, 2019. Please provide all documents related to this change and all state filings that effectuated this change, including bylaws, articles of organization, and any restatements or amendments thereto to the present. If CEHE contends the Delaware entity is the same entity that was organized as an Indiana public benefit corporation, please also provide any prior analysis that was prepared for CEHE under Delaware law and Indiana law that supports that contention. Please state whether the Delaware entity has any corporate members, and if so, identify the members. In addition, please provide the Department copies of all communications with the Institutions' accrediting agency and state authorizing agencies regarding this change. It does not appear that any notice about this change was provided to the Department when the change occurred. If that is not correct, please provide a copy of any notification that was provided to the Department of Education at that time.

Please respond in writing to michael.frola@ed.gov within 10 days of the date of this letter to provide the above-requested answers and information, or if you have any questions on this matter.

In addition, we have learned that, on April 22, 2021, the Accrediting Commission of Career Schools and Colleges (ACCSC) withdrew Independence University's (SHC's) accreditation, subject to appeal. The Department will address this development and required actions by CEHE in a separate letter within the next few days.

Sincerely,

Michael Frola
Division Chief
Multi-Regional and Foreign Schools Participation Division

cc: Paul Gardner, Chief Financial Officer, CEHE, via paul.garner@collegeamerica.edu
Scott Schuler, VP of Financial Aid, CEHE, via scott.schuler@independence.edu
Alan Hansen, VP Campus Director SHC/Independence, via alan.hansen@independence.edu
Rachel Quinlan, Campus Director, CCSD, via rachel.quinlan@cc-sd.edu
Steven Gombos, Gombos Leyton, P.C., via SGombos@glpclaw.com
Dr. Michale McComis, Director, ACCSC, via mccomis@accsc.org
Mr. Kevin LaMountain, Executive Director, AZ State Board for Private Postsecondary Education, via kevin.lamountain@az.ppse.gov
Leeza Rifredi, Deputy Bureau Chief, CA Bureau for Private Postsecondary Education, via Leeza.Rifredi@dca.ca.gov
Daniel O'Bannon, Director, Division of Consumer Protection, State of Utah, via dobannon@utah.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