



Dr. Gurpreet Singh
President
Advanced College
13180 Paramount Boulevard
South Gate, CA 90280

MAR 11 2022

Sent Overnight Via UPS
#1Z 37X 7Y3 01 9907 7940

OPE ID: 03786300

Re: Affirmation of Denial of Recertification Application to Participate in the Federal
Student Financial Assistance Programs

Dear Dr. Singh:

This is in response to Advanced College's ("Advanced's") January 21, 2022 request, which was received in hard copy by this office on January 25, 2022, that the U.S. Department of Education ("Department") reconsider its decision to deny recertification to Advanced ("Reconsideration Request"). The Reconsideration Request was supplemented by Advanced's February 18, 2022 submission ("February 18th Response"), which was received in hard copy by this office on February 22, 2022. The Department thoroughly and carefully reviewed the materials Advanced submitted and by this letter advises Advanced that the Department's decision to deny the institution's recertification application is hereby affirmed and is now final. Consequently, Advanced remains ineligible to participate in programs authorized by Title IV of the Higher Education Act of 1965, as amended ("Title IV, HEA programs"), as of December 31, 2021.

The Department's December 17, 2021 denial letter ("Denial")¹ set forth several grounds. The Department first cited Advanced's failure to meet the fiduciary standard of conduct. By entering into a PPA with the Department, Advanced accepted the responsibility to act as a fiduciary in the administration of the Title IV, HEA programs. As a fiduciary, Advanced was subject to the highest standard of care and diligence in administering the Title IV, HEA programs and in accounting to the Secretary for the funds received. 34 C.F.R. § 668.82(a),(b). The Department's review of Advanced's responses and submissions, and its participation history in the Title IV, HEA programs, confirmed that the institution was not, however, meeting its fiduciary responsibilities, as Advanced intentionally failed to return funds to the Department when due; intentionally failed to pay credit balances owed to students when due; failed to pay debts owed to other federal and state agencies when due; repeatedly issued checks, including payroll and credit balance checks, from accounts with insufficient funds to pay those obligations; and failed to completely respond to the Department's November 29, 2021 request for information ("November 29th Request").

¹ Enclosure AFF-A

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

In its Reconsideration Request, Advanced admitted to having made errors in its administration of the Title IV, HEA programs, but argued that these errors were an aberration, had been corrected, and did not constitute a breach of its fiduciary duties. However, the information that Advanced submitted pursuant to the Reconsideration Request only disclosed more instances wherein Advanced did not meet the fiduciary standard of conduct. Further, Advanced first blamed its former CEO (during the December 7, 2021 meeting with Department staff), then blamed its former financial aid director ("FAD") (in the Reconsideration Request), when the documentation establishes that these were not the individuals responsible for Advanced's intentional failures to pay refunds, credit balances, and debts to other agencies when due. No amount of training, repayments, corrective action plans, internal or external audits, or letters of credit can protect the Department, taxpayers, and students, when an institution has shown through its actions that it cannot be trusted to operate in compliance with applicable laws and regulatory requirements. The Department therefore affirms its determination that Advanced did not meet the fiduciary standard of conduct set forth at 34 C.F.R. § 668.82(a),(b). This determination is alone sufficient basis to affirm the Denial.

The Department also cited Advanced's intentional failure to return funds to the Department that it determined were due. The Department referenced internal emails that Advanced submitted in response to Item 5 of the Department's November 29th Request that evidenced Advanced's former FAD's efforts to convince Advanced's executive leadership to return Title IV funds within the regulatory timeframe, which Advanced failed to do. In its Reconsideration Request, Advanced nevertheless contends that the Department's conclusion that Advanced intentionally failed to pay refunds when due was unjustified. Advanced's arguments disregard all of the statements in the internal emails that Advanced submitted in response to Item 5 of the November 29th Request that clearly demonstrate that Advanced's executive staff knew that Title IV returns were due, but simply would not return the funds. As stated in the Denial:

...Email #12^[2] in particular shows that the former FAD sent emails to Advanced executive staff entitled "URGENT: R2T4 Required Notification" on April 5, 2021, April 13, 2021, April 19-20, 2021, and April 26, 2021 listing Title IV returns that were past due, as well as those that were coming due. Email #13 shows that on April 14, 2021, the former FAD reached an agreement with executive staff that \$46,148.79 of the \$47,065 in Title IV funds to be drawn down from the Department for new Title IV disbursements would be used to pay the outstanding overdue refunds, which would have left only \$4,701 unpaid, however that executive staff did not comply with this agreement, and instead paid only \$14,103 in returns. Advanced apparently returned the overdue funds to the Department on May 6, 2021 only because Advanced was required to provide a list of all unpaid refunds in response to the Department's April 30, 2021 Request.

Further, email string #13³ shows that Title IV returns were paid because the former FAD conditioned the draw-down of new Title IV funds upon Advanced's executive staff's agreement

² Enclosure AFF-B.

³ Enclosure AFF-C.

to use those funds to cover the outstanding unpaid returns. *See* April 14, 2021 4:39 pm email⁴ (“Hello [Vice President], Per our conversation today at 2:30 pm today you asked that I consider processing the aid in order to cover the outstanding R2T4 that are currently out of compliance. With the agreement of you completing the Plan of Action and the confirmation email received I have processed \$47,065.00 in Federal funding...”.) Yet, despite the executive staff’s agreement, only returns totaling \$14,103 for three students were processed. *See* Email String #10, April 21, 2021 3:42 pm email⁵ (“In order to document the plan of action I am required to follow up and confirm only \$14,103 was processed for R2T4 and did not cover the plan of action indicated.”) The \$14,103 in returns was apparently only processed due to follow-up by Advanced’s third-party servicer, RGM. *See* Email string #13, April 14, 2021 9:06 am email⁶ (from RGM to Advanced): “Hi any word on the return of the 14103. I didn’t adjust the students back, but I think I should now because its taking a while to return again.”) *See also* Email #8 (entire email string)⁷. Rather than keep the agreement, executive staff represented that no funds were available to pay the remaining returns. *See* Email string #12, emails sent April 23, 2021 2:30 pm⁸ (“Hello [Executive Staff], Per your text message received there is no funding available to resolve the R2T4 Requirements”) and April 26, 2021, 11:42 am⁹ (“Hello Ms. [FAD]...As for the remaining refunds we are working on allocating funds to process them as well”). On April 30, 2021, the Department contacted Advanced and requested a list of unpaid returns, and it was after this that Advanced paid the remaining outstanding returns. Advanced’s failure to pay returns when due is particularly egregious given that it has submitted bank statements to the Department that show that money was available in Advanced’s accounts to pay the returns¹⁰.

Further, although Advanced stated in the Reconsideration Request that all of the instances of late returns occurred in the first half of 2021, a review of the chart enclosed as Enclosure A-1 to the Denial letter¹¹ shows that this was not the case, rather the late and unpaid returns persisted after Advanced’s May 5, 2021 implementation of its “Action Plan.”

Advanced stated in its Reconsideration Request that its refund (and credit balance) issues were due to in part to its migration from Campus Vue to RGM’s customer relations management system, however this is not the reason why Advanced’s executive staff did not pay returns when due, as shown in the internal emails cited above. Rather, Advanced’s executive staff simply chose not to comply with applicable statutes and regulations. The Department therefore affirms its determination that Advanced intentionally failed to timely return funds to the Department that it determined were due.

The Department further cited Advanced’s intentional failure to pay credit balances owed to students when due. Among other things, Advanced’s May 6, 2021 Response (“May 6th

⁴ Enclosure AFF-C, page 6.

⁵ Enclosure AFF-D, page 1

⁶ Enclosure AFF-C, page 8

⁷ Enclosure AFF-F

⁸ Enclosure AFF-B, page 4

⁹ Enclosure AFF-B, page 1

¹⁰ Enclosure AFF-G

¹¹ Enclosure AFF-A, p. 24-26, “Paid Date” column

Response”) identified outstanding overdue credit balance refunds totaling \$64,538; Advanced’s May 21, 2021 Response (“May 21st Response”) disclosed that Advanced paid overdue credit balances to nine students only after the Department’s April 30th Request for a list of unpaid credit balances, and that credit balance checks issued to at least two of the students actually bounced; and Advanced’s May 21st response also did not demonstrate that credit balances due to an additional six students were paid, and indicated that an additional student’s credit balance check did not clear the bank. Further, the Department determined that Advanced created credit balance checks and then held the checks. It was apparent therefore that the entry of a credit balance check date and amount on a student’s account ledger was neither evidence that the check was given to the student, nor that there were sufficient funds in the school’s account to allow the student to actually cash the check.

With its Reconsideration Request, Advanced submitted two lists of credit balances¹². These lists were submitted in response to Item 3 the Department’s November 29th Request for “A list of any and all unpaid credit balance refunds owed to students, and an updated list of all credit balance refunds paid to students from July 1, 2020 to the present, including account ledgers ...” However, neither list includes 6 of the 7 students¹³ with credit balances that Advanced previously identified as unpaid in the first list it submitted with its May 6th Response¹⁴, who are summarized in Enclosure B-1 to the Denial¹⁵. Further, neither list includes any of the students listed with unpaid credit balances in the second list Advanced submitted with its May 6th Response¹⁶, who are summarized in Enclosure B-2 to the Denial¹⁷. Advanced also did not submit account ledgers for the students.

Yet further, in the Reconsideration Request, Advanced did not address its practice of preparing and then holding students’ credit balance checks. In particular, Advanced did not address the extensive discussion in the Denial of the plight of Student #2, whose situation was discussed at pages 8-9¹⁸. Upon Advanced’s discovery on December 1, 2020 that the student was owed a credit balance of \$3,621.50, rather than immediately provide the student with the long-overdue Title IV funds, Advanced waited until December 14, 2020 to create the credit balance check, and then executive staff did not authorize the check to be released until January 14, 2021. *See* email #5¹⁹ (entire email string). *See also* Email #1²⁰, January 20, 2021 12:38 pm email²¹: “[Student #2] – delivered to SG [Southgate campus] for disbursement; Approval rec’d Thursday from [Executive Staff] per email.” Student #2 picked up her credit balance check on January 29th, however was unable to access her funds because Advanced did not have sufficient funds in the

¹² Enclosure AFF-H

¹³ Students #6, 15, 19, 25, 28, and 33

¹⁴ Enclosure AFF-A, p. 28

¹⁵ Enclosure AFF-A, p. 32-34

¹⁶ Enclosure AFF-A, p. 29

¹⁷ Enclosure AFF-A, p. 35-39

¹⁸ Enclosure AFF-A, p. 8-9

¹⁹ Enclosure AFF-I

²⁰ Enclosure AFF-J

²¹ Enclosure AFF-J, p. 3-4

account. *See* email #5 February 16, 2021 2:15 email²²: “[Student #2] went to cash her check and she was denied due to insufficient funds. The student is currently at the South Gate Campus. Please advise what you would like for us to inform her?” The Department notes that Advanced submitted only a file copy of Student #2’s credit balance check with the Reconsideration Request, with no evidence that the check was cashed or that the credit balance was paid through other means.

Student #2 is not the only student whose credit balance check was denied for non-sufficient funds, as the Denial also identified Students #4 and 11, and Advanced’s Reconsideration Request identified Student #31. The Department notes that to date, Advanced has not submitted information regarding any of these students in response to Item 2 of the November 29th Request, in which the Department asked Advanced to provide a list of all non-sufficient funds checks, along with, for each such check, evidence of the subsequent payment made and copies of the applicable re-issued checks. As noted in the Denial, this list should have included all credit balance checks that Advanced knew that students presented to its bank, only to be denied for non-sufficient funds.

Further, a review of Email #2²³ shows that it was Advanced’s practice with regard to credit balance checks to wait some amount of time after creating the check to approve it for pick up by the student, and then, for campus or financial aid staff to advise the accounting staff of the day that the student was scheduled to come and pick up the check, so that they could put sufficient funds into the account for the check to clear on the pick-up day. *See* January 29, 2021, 12:52:34 pm email²⁴ regarding Student #2’s check: “Hello [FAD], Yes, the check was approved for pick up. However, I believe what [staff] is requesting is once the check is approved please make sure to let her know the schedule of when the student will come pick it up because she must ensure the funds are there on that day. The refund checks are issues from the company operations accounts which has a high volume of movement daily and running a tight ship it makes it tough to leave funds in there for 2 weeks. Being notified after the check is picked up makes it very difficult to ensure that funds are available, this time we were able to ensure it but moving forward please make sure to advise at least 2 days before. Thank you, [Executive Staff].” Enclosure B-2 to the Denial Letter²⁵ shows, based on the date of the checks, that the credit balance checks given to students #3, 4, 11, 18, 29, and 53 after the Department’s April 30, 2021 request for a list of unpaid credit balance checks were held for months prior to having been provided to the students. The Department therefore affirms its determination that Advanced failed to pay credit balances when due.

The Department further cited Advanced’s failure to meet its financial obligations by not paying debts owed to other federal and state agencies when due. The Department noted that Advanced’s May 6th Response confirmed that Advanced had not paid a debt of \$73,292 owed to the California Student Aid Commission (“CSAC”). Advanced represented that it had written a

²² Enclosure AFF-I, p. 1-2

²³ Enclosure AFF-K

²⁴ Enclosure AFF-K, p. 1-2

²⁵ Enclosure AFF-A, pages 35-39

check to CSAC in December of 2020; that it had mailed the check in March of 2021; that as of May 5, 2021, CSAC had not received the check; and that on May 5, 2021, Advanced told CSAC it would resolve the matter. Advanced's May 6th Response also confirmed that Advanced had not paid a debt of \$21,279.50 owed to the Veterans Administration ("VA"), as the check that Advanced sent had bounced. Advanced finally paid these debts after the Department, on May 12, 2021, requested that Advanced provide copies of the front and back of cashed checks to CSAC for \$73,292 and the VA for \$21,279.25, by May 21, 2021. The cashier's checks that Advanced submitted to the Department on May 21, 2021 were dated May 19, 2021, and the mailing receipts showed that Advanced did not mail the checks to the agencies until May 20, 2021.

With its Reconsideration Request, Advanced submitted bank statements for its Bank of the West ("BOW") account ***-**-4885, which is the account on which the checks to CSAC (#6640) and the VA (#6596) were drawn. The bank statements were in a format that grouped the transactions by type (credits, deposits, withdrawals, and checks paid), such that transactions were not presented in chronological order, and did not include a running balance of the amount of funds in the account. Therefore, in a letter dated February 11, 2022 ("February 11th Request"), the Department requested, at Item 2, that Advanced submit bank statements listing all transactions in chronological order, with a running balance, and provided a detailed example using the December 2020 statement for BOW ***-**-4885. In its February 18th Response, Advanced resubmitted, at Item 2, the same bank statements for BOW ***-**-4885 that it had submitted with the Reconsideration Request. The Department also requested in the February 11th Request, at Item 3, that Advanced submit a copy of each notification received for returned items (i.e., copy of the returned check), that was reconciled to the total bank fees reflected on the bank statement. Advanced did not provide any documentation regarding Item 3 with its February 18th Response.

Because Advanced did not submit bank statements in the format requested, the Department used the bank statements that Advanced did submit for BOW account ***-**-4885 to create monthly spreadsheets for January 2021 through May 5, 2021 that aggregated transactions on the account by date, with a running balance.²⁶

According to Email 4²⁷, January 29, 2021 8:47 am email²⁸ Advanced was to mail check #6596, dated 12/15/2020, drawn on BOW ***-**-4885, to the VA on that date. According to the document that Advanced submitted with its May 6th Response²⁹, the VA received the check as of February 5, 2021. Because Advanced did not provide the notification of returned items requested at Item 3 of the February 11th Request, the Department does not know the date on which check #6596 bounced. The Department's review of the monthly spreadsheet for BOW

²⁶ Enclosure AFF-L. The Department does not represent that the transactions would have been processed by BOW in the order used in the spreadsheet. The Department was only seeking to track the amount of the funds on a daily basis.

²⁷ Enclosure AFF-M

²⁸ Enclosure AFF-M, page 2

²⁹ Enclosure AFF-A, page 75

***-**4885 between 1/29/21 and 2/28/21, however, shows that Advanced did not maintain funds in the account after mailing the check, and after its receipt by the VA, to ensure that the check would clear when presented. Similarly, the review of the funds in account BOW ***-**4885 between 3/1/21 and 4/30/21, which covers the period during which Advanced represented to the Department that it had mailed the check to CSAC, shows that the account never had sufficient funds to pay a check in the amount of \$73,293. Although Advanced stated in its Reconsideration Request that “Advanced had appropriate funds in the accounts that were available,” the fact that funds may have been available in an account held at another bank does not change the fact that sufficient funds were not in the account upon which these sizeable checks were drawn to pay them. The Department therefore affirms its determination that Advanced failed to meet its financial and fiduciary obligations regarding the payment of debts owed to other federal and state agencies.

The Department further cited Advanced’s issuance of payroll checks from accounts with insufficient funds to pay those obligations. As stated in the Denial, the Department received information that Advanced repeatedly provided paychecks to employees that bounced or could not be cashed due to insufficient funds. In its May 6th and May 12, 2021 Responses, Advanced confirmed that this had occurred, but created the impression that the issue was confined to the school’s April 3, 2021 payroll checks. However, the information received by the Department asserted that employees’ paychecks had bounced or been denied on multiple occasions, and that the issue was not confined to April of 2021. Therefore, the Department requested, at Item 2 of the November 29th Request, a list of non-sufficient funds checks from July 1, 2020 to the present, including those to employees, with evidence of subsequent payment and copies of any re-issued checks. The Department also requested, at Item 4 of the November 29th Request, bank statements from July 1, 2020 to the present, for the bank account from which payroll checks were paid. The Department further requested, at Item 5 of the November 29th Request, internal email exchanges concerning payroll checks denied for non-sufficient funds.

In its Reconsideration Request, Advanced acknowledged that it had issued some payroll checks in “early 2021” from accounts that did not have sufficient funds to pay the obligations. Advanced stated that it had satisfied those obligations and that the problem had not recurred. Advanced did not, however, submit, either in its December 2021 response to the November 29th Request (“December 2021 Response”) or its Reconsideration Request, which included a resubmission of its December 2021 Response, the list of non-sufficient funds checks that the Department requested at Item 2 of the November 29th Request. Advanced also did not submit, in its December 2021 response or its Reconsideration Request, bank statements, from July 1, 2020 to the present, from BOW ***-**4893, a bank account from which payroll checks were paid. Advanced further did not submit, in its December 2021 Response or its Reconsideration Request, internal email exchanges concerning payroll checks denied for non-sufficient funds.

The Department, therefore, in its February 11th Request, pointed out to Advanced that it had not yet provided the list of non-sufficient checks that the Department had requested at Item 2 of the November 29th Request, and also had not provided the bank statements for BOW Account ***-**4893. The Department requested, at Item 1 of the February 11th Request, a complete list of all

bank accounts used by Advanced from July 2020 to the present. The Department requested, at Item 2, that Advanced submit the bank statements for all of the accounts listed in Item 1, from July 2020 to the present, in a format that listed all transactions in chronological order with a running balance. The Department further requested, at Item 3, a copy of each notification received for returned items with detail documenting the item returned (a copy of the bounced check), that was reconciled to the bank fees reflected on the bank statements. The Department requested, at Item 5, an electronic file for the general ledger printout of the detail of all the bank accounts, including any subsidiary ledger, and any bank reconciliations. The Department requested, at Item 6, the front and back of all cleared checks related to all the bank accounts.

In its February 18th Response, Advanced submitted bank statements for BOW Account ***-**-4893, however, as was the case with all the bank statements submitted, the transactions were not listed chronologically with a running balance as requested, and Advanced did not submit the April 2021 bank statement. Advanced also did not submit any documentation in response to Item 3 of the February 11th Request. Advanced further did not submit the requested general ledger printout with all transactions for BOW Account ***-**-4893 in response to Item 5. Yet further, Advanced did not submit the front and back of all cleared checks related to BOW Account ***-**-4893 in response to Item 6. The Department notes that bank statements for Advanced's payroll account, BOW ***-**-4893 show several instances of returned items. For example, the February 2021 statement lists charges of \$105 (3 items) on 2/4, \$70 (2 items) on 2/17, \$175 (5 items) on 2/18, and \$35 (1 item) on 2/23. Despite the Department's multiple requests, Advanced has not provided a list of, and copies of, Advanced's non-sufficient funds checks and the accompanying notices, that would disclose to whom these checks were made payable. As stated in the Denial, this list also would have identified any checks that Advanced knew that the employees presented to its bank, only to be denied for non-sufficient funds. Advanced's continued failure to provide the Department with the requested information leads to an inference that the information corroborates claims that, contrary to Advanced's statements in its May 6th Response, the issue of nonsufficient funds payroll checks was not limited to April 2021. The Department affirms its determination that Advanced repeatedly issued checks, including payroll checks, from accounts with insufficient funds to pay those obligations.

The Department notes that § 212 of the California Labor Code provides that no person shall issue in payment of wages due, any check unless at the time of its issuance and for a reasonable time thereafter, which must be at least 30 days, the drawer has sufficient funds in, or credit, arrangement, or understanding with the drawee for its payment. CA LABOR § 212(a)(1). When such a check is protested or dishonored, the notice or memorandum of protest or dishonor is admissible as proof of presentation, nonpayment and protest and is presumptive evidence of knowledge of insufficiency of funds or credit with the drawee. CA LABOR § 212(b).

The Department also cited Advanced's failure to completely respond to the Department's November 29th Request. In its Reconsideration Request, Advanced stated, among other things, that it thought it had submitted the information requested in its December 3 and 4, 2021 uploads, and that had the Department informed it about the missing information, it would have submitted it. Advanced stated that it was attaching all of the information not received by the Department to

the Reconsideration Request. At the Department's request, Advanced submitted a hard copy of its Reconsideration Request, with all accompanying documentation, to the Department, in addition to uploading it to the SharePoint site provided.

As previously noted in this letter, the Department's review of the copy of the December 2021 Response that Advanced provided with its Reconsideration Request disclosed that Advanced had not in fact provided all documentation that the Department requested in the November 29th Request, which resulted in the Department's February 11th Request.³⁰

In the February 11th Request, the Department informed Advanced that it had not provided the list of non-sufficient funds checks that the Department had requested at Item 2 of the November 29th Request. The Department noted in this regard that the bank statements for BOW ***-**4885 reflected many nonsufficient-funds checks for which copies should have been provided to the Department, and which should have been listed on the required list of non-sufficient checks. The Department further noted that although the Department had requested the bank statements for the bank account(s) from which payroll checks were drawn, Advanced had not provided any bank statements for payroll account BOW ***-**4893.

The Department therefore requested, at Item 2 of the February 11th Request, that Advanced submit bank statements for all of its accounts since July 1, 2020, and requested that they list all transactions (e.g., credits, deposits, withdrawals/fees, checks paid) in chronological order, and provided a specific example of the requested format. The Department also requested, at Item 3, that Advanced submit a copy of each notification received for returned items, with detail documenting the item returned (i.e., copy of the returned check), that was reconciled to the total bank fees reflected on the bank statements. Advanced was to include in its response to this item, the detailed general ledger that showed the total amount of returned item fees paid. The Department requested, at Item 5, that Advanced submit the electronic file for the general ledger printout of the detail of all its bank accounts, including any subsidiary ledger, so that the details of the banking transactions were clearly identified. The response to this item was to include copies of all reconciliations for the bank accounts. The Department also requested that Advanced submit a hard copy of its response to the Department, as well as upload it to the SharePoint site provided.

In the cover letter for its February 18th Response, Advanced stated that it had submitted bank statements that listed all transactions chronologically with a running balance, however the bank statements it submitted did not adhere to the format specifically requested in Item 2 of the Department's February 11th Request. Advanced also did not submit the April 2021 bank statement for BOW ***-**4893. Although Advanced also stated in its cover letter that it had submitted copies of notifications received for the returned items requested at Item 3, Advanced did not submit any documentation with respect to Item 3. Although Advanced submitted some electronic spreadsheets in response to Item 5, these spreadsheets do not appear to be the actual electronic file of the general ledger, as the printouts do not have opening and closing balances for the cash accounts nor did the data include any subsidiary ledgers if applicable for the timeframe,

³⁰ Enclosure AFF-N

rather the data appears to be data downloads of transactions. The data did not include any actual bank reconciliations that indicate outstanding checks or deposits in transit for each month and do not include any submission for BOW ***-**4893. Advanced further did not submit the front and back of all cleared checks related to BOW ***-**4893. In addition, Advanced to date has not submitted the list of non-sufficient funds checks, and accompanying documentation, that the Department requested in the November 29th Request. Advanced therefore not only still has not submitted all of the documentation requested in the November 29th Request, but also has not submitted all of the documentation requested in the Department's February 11th Request. The Department therefore affirms and expands its finding concerning Advanced's failure to completely respond to the Department's request for information.

The Department also cited Advanced's failure to submit its annual audit submission for its fiscal year ended ("FYE") December 31, 2020. In the Reconsideration Request, Advanced stated: "On January 5, 2022, Abselet completed the FY 2020 Audits, which are attached³⁶, they have been sent to Advanced College's accrediting agency..." Footnote 36 identifies the document referred to as "Financial Audit 2020", and the corresponding document that Advanced submitted was its audited financial statement only and did not include the compliance audit. The Department contacted Advanced's auditor, Abselet, and learned, among other things, that the December 15, 2021 engagement letter for FYE December 31, 2020 covered only the financial statements and not the compliance audit; that Advanced signed the engagement letter on January 3, 2022; that the compliance audit was signed by the auditor two days later, on January 5, 2022; and that despite all of the issues that Advanced cited in its Reconsideration Request as resulting in its compliance issues, including COVID-related challenges and problems related to the data management conversion that began in July of 2020, the compliance audit has no findings whatsoever. Further, to date, Advanced has not submitted the FYE December 31, 2020 annual audit submission to the Department's EZ audit system, despite the Department's direction to do so, and is therefore missing. The Department therefore affirms its determination that Advanced has not submitted its FYE December 31, 2020 annual submission. Advanced's failure to submit its annual audit submission alone warrants affirmation of the Denial, as the failure of an institution to submit its audits by the date permitted, and in the manner required, is grounds for the Department to end the school's participation in the Title IV, HEA programs. *See* 34 C.F.R. § 668.171(e).

In the Reconsideration Request, Advanced petitioned the Department for relief from the consequences of its "late" filing of the FYE December 31, 2020 annual audit submission, including relief from the use of this violation to support the Denial. However, as stated above, the FYE December 31, 2020 annual audit submission is not "late" because that term implies the audit was submitted untimely and accepted, and that description is wrong because the annual audited financial and compliance audit for 2020 has not been submitted to the Department. Further, as noted above, the engagement letter for FYE December 31, 2020 was not even prepared until December 15, 2021, almost six months after the annual audit submission was due, and was only for the preparation of audited financial statements. Advanced has provided no acceptable excuse for its failure to submit its FYE December 31, 2020 annual audit submission when due, and the requested relief is not warranted.

The Department also cited Advanced's failure to meet the standards of financial responsibility through its intentional failures to return funds to the Department when due, failure to pay student credit balances when due, repeated issuance of bad checks to students and others, its September 10, 2021 citation for violation of the past performance standard of financial responsibility, and failure to submit its FYE December 31, 2020 annual audit submission to the Department, among other things.

In its Reconsideration Request, Advanced argued that it had not failed to meet the standards of financial responsibility; that the Department was seeking to punish it for its past mistakes; that all of the factors cited by the Department occurred during a limited period; that the FYE December 31, 2020 audits had been completed, and that Advanced had a passing composite score; that Advanced's ownership had deposited additional funds into the school's operations; and that Advanced was performing a service to its students and the community. Advanced's arguments are unavailing, and present no basis to approve its continued participation in the Title IV, HEA programs. Advanced has not submitted its annual audit submission for FYE December 31, 2020, and clearly operated in a financially irresponsible manner when it wrote bad checks and did not pay refunds and credit balances when due. Department therefore affirms its determination that Advanced has failed to demonstrate financial responsibility.

The Department further cited Advanced's failure to meet the standards of administrative capability based on its failures to pay refunds and credit balances when due, incomplete responses to the Department, issuance of bad checks to its students and others, and failure to submit its FYE December 31, 2020 annual audit submission, among other things. The Department noted that Advanced admitted during the December 7, 2021 meeting with Department staff that the institution had failed to administer the Title IV, HEA programs in accordance with the Title IV statute and its implementing regulations, however it blamed the problems on mismanagement by the past president, who was no longer with the school. Although Advanced stated that new staff would ensure compliance in the future, the Department determined from the information presented that Advanced's actions constituted institution-wide, rather than individual, failure.

In the Reconsideration Request, Advanced argued that it had not failed to demonstrate administrative capability. Advanced again stated, erroneously, that all of the deficiencies cited by the Department related to the first half of 2021, when they had not. Advanced represented, this time, that the past mismanagement was attributable to a former FAD, whom it stated had prepared the January 22, 2021 "Audit Report Summary" document referred to in the Denial without the knowledge of anyone in leadership. The facts do not support this characterization of the FAD's role, nor that the problems were limited to earlier in 2021. The existence of the January 22, 2021 Audit Report Summary demonstrates that the former FAD developed an action plan as a result of an internal review that disclosed that refunds had not been made timely. Email string #12³¹, already cited in this letter, documents the former FAD's attempts to bring Advanced into compliance and was impeded by other management actions. It is clear that Advanced has

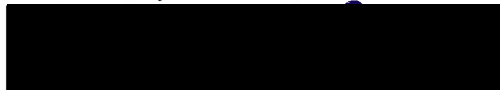
³¹ Enclosures AFF-B

failed to administer the Title IV, HEA programs in accordance with applicable statutes and regulations, and the Department therefore affirms its finding that Advanced failed to meet the standards of administrative capability.

Advanced concluded by offering to submit quarterly compliance audits, offering to consider increasing its letter of credit, stating the school was open to other administrative requirements, and arguing that reinstating Advanced's participation in the Title IV programs was in the best interest of all stakeholders. Advanced asked the Department to consider the school's efforts, commitments, and investments in continuing to operate the school, as well as the number of persons employed by Advanced. However, as previously stated, the measures proposed will not protect the Department, taxpayers, and students, given that Advanced has shown through its actions that it cannot be trusted to operate in compliance with applicable laws and regulatory requirements. Further, the Department's Denial ends only the institution's participation in the Title IV, HEA programs, not its operation or ability to continue to offer its educational programs.

As set forth above, the Department has affirmed its findings that Advanced failed to meet the fiduciary standard of conduct, failed to meet the standards of financial responsibility and administrative capability, and failed to comply with other important statutory and regulatory requirements. Therefore, the information in your Reconsideration Request does not support rescinding the decision to deny recertification to Advanced. Consequently, the Denial is affirmed and now constitutes a final agency decision. Advanced's participation in the Title IV, HEA programs ended December 31, 2021. The San Francisco School Participation Division will contact you regarding the proper procedures for closing out Advanced's Title IV, HEA participation.

Sincerely,



Susan D. Crim
Director
Administrative Actions and Appeals Service Group

Enclosures

cc: Gary Puckett, President/Executive Director, Council on Occupational Education, via
gary.puckett@council.org
Deborah Cochrane, Chief, California Bureau of Proprietary School Supervision, via
Deborah.Cochrane@dca.ca.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.