



DEC 30 2022

Ms. Octavia McDougle
Owner
McDougle Technical Institute
1901 North Federal Highway #201
Pompano Beach, FL 33062

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OPE-ID: 04228900

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

Dear Ms. McDougle:

The U.S. Department of Education (Department) has reviewed McDougle Technical Institute's (McDougle's) application for recertification to continue to participate in the student financial assistance programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* (Title IV, HEA programs). In the normal course, McDougle's Program Participation Agreement (PPA) would have expired on December 31, 2021. McDougle, however, timely submitted its recertification application prior to that date. As a result, the Department extended McDougle's PPA on a month-to-month basis while evaluating the application and related matters. *See* 34 C.F.R. § 668.13(b)(2). The Department has determined that McDougle's administration of the Title IV programs falls severely short of the fiduciary standard required of Title IV participants. Consequently, McDougle's recertification application must be denied.

For purposes of evaluating a recertification application, the Department reviews the institution's performance during the operation of its previous PPA. The Department must ensure that McDougle meets all Title IV eligibility requirements, meets the Title IV standards of financial responsibility and administrative capability, has complied with Title IV program requirements, and has operated under the high standards required of a fiduciary. 34 C.F.R. § 668.82(a), (b). In reaching a decision on McDougle's recertification application, the Department has considered all of the documentation obtained during the program review of the institution, documentation submitted regarding 90/10 standards, and information obtained during student and employee interviews. As outlined below, the Department has concluded that McDougle has failed to adhere to a fiduciary standard of conduct, failed to comply with critical Title IV program and student eligibility requirements, failed to meet Title IV standards of administrative capability, and made numerous misrepresentations to students. McDougle's misconduct in its administration of the Title IV programs will not be tolerated, and therefore, its recertification application is denied.

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

As a result of this denial of McDougle's recertification application, the institution is no longer eligible to participate in the Title IV programs. See 34 C.F.R. § 668.13(b)(2). In particular, McDougle is no longer eligible to participate in the following Title IV, HEA programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), 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). The Direct Loan program includes the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan program, the Federal Direct PLUS Program, and the Federal Direct Consolidation Loan program. The FSEOG, FWS, and Perkins Loan programs are known as campus-based programs.

I. MCDUGLE'S EGREGIOUS MISCONDUCT CONSTITUTES A SEVERE BREACH OF ITS FIDUCIARY DUTY TO THE DEPARTMENT

Before McDougle began participation in the Title IV, HEA programs, you signed a program participation agreement (PPA) with the Department stating that McDougle would comply with all Title IV, HEA program requirements. These requirements mandate that McDougle use funds received under Title IV solely for the purposes specified in each individual student assistance program, since the funds received under those programs are held in trust for the intended student beneficiary and the Secretary. 20 U.S.C. § 1094(a)(1); see generally 34 C.F.R. § 668.14. By entering into a PPA with the Department, McDougle, and its officers, accepted the responsibility to act as fiduciaries in the administration of the Title IV, HEA programs. As fiduciaries, the institution and its officers are 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).

In order to meet its responsibilities to the Department, an institution must be capable of adequately administering the Title IV programs. In this regard, an institution must comply with all Title IV statutory and regulatory requirements. 34 C.F.R. § 668.16(a). Further, an institution must administer the Title IV programs in which it participates with adequate checks and balances in its system of internal controls. 34 C.F.R. § 668.16(c)(1). This includes maintaining accurate and complete records supporting its compliance with all Title IV requirements and supporting Title IV payments made to each student. See 34 C.F.R. §§ 668.16(d), 668.24. An institution's maintenance and submission of accurate records, including institutional and student eligibility, attendance, financial, and accounting records, is critical to the Department's oversight responsibilities. The Department relies on those records when determining an institution's compliance with Title IV requirements.

McDougle operates a proprietary institution in Pompano Beach, Florida that offers Title IV eligible programs in Cosmetology, Barbering, Restricted Barbering, Massage Therapy, Full Specialty, and Instructor Training. These programs range from 600 to 1200 clock hours of instruction. According to the school catalogue and other information provided to the Department, all programs except for the Barbering Program were offered in either a full on ground or a hybrid format. Under the hybrid format, students would take some of the hours on-line and some on ground. For the 2022 year, the tuition for the 1,200 hour Cosmetology

Program is \$15,000, the 900 hour Barbering Program is \$13,500, the 600 hour Restricted Barbering Program is \$9,000, the 600 hour Massage Program is \$9,000, the 600 hour Full Specialty Program is \$6,000, and the 600 hour Instructor Program is \$6,000. Students are also charged for books and supplies and a distance education fee for the Hybrid programs.

McDougle also operates a campus in Gainesville, Florida. You, as the owner of the institution, represented to the Department that the institution did not offer 50% or more of an educational program at this campus. In its recertification application filed on September 1, 2021, McDougle sought approval of the Gainesville campus as a Title IV eligible additional location.

In addition, the owners of McDougle operate a preparatory sports academy called MTI Prep that offers a post-high school football program. Students can continue to play football while pursuing educational opportunities which can include vocational programs at McDougle or taking high school credit recovery classes directly at MTI Prep. MTI Prep is not Title IV eligible. For the 2022 season, the cost of MTI Prep was \$5,525. This included a \$4,000 athletic fee and a \$1,500 football roster fee.

As discovered during the program review and subsequent investigation, McDougle repeatedly breached its fiduciary duty to the Department. McDougle's misconduct is exemplified by its illegal disbursement of Title IV funds to students attending an ineligible location, its falsification of student attendance, its disbursement of Title IV funds to students who don't meet the definition of a regular student, its illegal certification of Direct Loans, its failure to pay student credit balances and Higher Education Emergency Relief Fund (HEERF) funds, and its multiple misrepresentations and promises made to induce students to enroll at the institution.

A. McDougle Illegally Disbursed Title IV Funds To Students Enrolled At An Ineligible Location And Attempted To Conceal Its Misconduct

In order for students to be eligible to receive Title IV funds, they must be enrolled in an eligible program at a Title IV eligible institution. 34 C.F.R. § 668.32(a)(1). When an institution receives initial Title IV eligibility that certification extends to those locations identified and approved at the time the Department certifies the institution. 34 C.F.R. § 600.10(b). If an institution wishes to extend Title IV eligibility to locations that are added after the initial eligibility certification, it must notify the Department of those additional locations if the institution offers, or plans to offer, 50 percent or more of students' educational programs at that location. 34 C.F.R. § 600.21(a). An institution may not disburse Title IV funds to students at the additional location until it notifies the Department of that additional location. 34 C.F.R. § 600.21(d).

Additional requirements apply to institutions that are participating in the Title IV programs under a Provisional Program Participation Agreement (PPPA). Those institutions must apply to the Department for approval of an additional location if it offers, or plans to offer, 50 percent or more of students' educational programs at that location. 34 C.F.R. § 600.20(c)(1). The institution may not disburse Title IV funds to students attending these additional locations until it receives approval from the Department for the location. 34 C.F.R. § 600.20(f)(3).

McDougle is currently participating in the Title IV programs under a PPPA that was executed on February 4, 2019. The school's main location in Pompano Beach, Florida is the only location that has been approved by the Department as Title IV eligible. On July 15, 2020, McDougle purchased a campus in Gainesville, Florida, which is five hours away from Pompano Beach. McDougle immediately applied to its accreditor, the National Accrediting Commission of Career Arts and Sciences (NACCAS), for approval of the Gainesville campus as an additional location. McDougle received NACCAS' approval of the Gainesville location on August 17, 2021. In its recertification application submitted in September 2021, McDougle requested approval of the Gainesville campus as an additional Title IV location. Since McDougle is participating under a PPPA, it cannot disburse funds at a location where it offers 50 percent or more of an educational program until it receives approval from the Department. The Department has not approved McDougle's application for the Gainesville campus.

In correspondence with the Department after the recertification application was submitted, you were specifically asked if McDougle offered 50 percent or more of an educational program at the Gainesville location. You told the eligibility analyst no. The Department's review revealed that this was a blatant misrepresentation. The Department reviewed records of students enrolled in the Barber Styling Program, the Restricted Barber Program, and the Cosmetology Program who were attending at the Gainesville campus. Students confirmed to the Department that their entire programs were taken at that campus, and that they did not attend the Pompano Beach location. Students visited the Gainesville campus, applied and enrolled at the Gainesville campus, were given a set schedule for on-site classes at the Gainesville campus, and attended classes and did their clinical hours at the Gainesville campus. The Barber Styling Program was a fully on ground program. Although the Cosmetology and Restricted Barber Programs were labeled by the institution as hybrid programs, students informed the Department that virtually all of their work was actually done at the Gainesville campus.

The regulations are crystal clear that an institution participating under a PPPA, must wait for Department approval before disbursing funds to students attending a location where it offers 50 percent or more of an educational program. Despite this fact, McDougle illegally disbursed Title IV funds to Students 9, 10, 15, 17, 18, 24, 26, 29, 33, 35, 36, 47, 49, 54, 55, 62, 66, 73, 74, 78, 84, 85, 88, 93, 95, 96, 100, 101, 102, 109, 112, 114, 115, 120, 121, 122, 123, 126, 129, 131, 139, 141, 155, 156, 159, 161, 163, 165, 166, 167, 170, 172, 179, 180, 187, 188, 190, 192, 193, 202, 203, 206, 208, 209, 212, 213, 214, 216, 217, 220, 222, 227, 232, 233, 235, 237, 238, 239, 244, 245, 247, 249, 251 who attended the ineligible Gainesville location.¹ Since September 2020, these students received \$831,749 in Title IV, HEA program funds. Not only did McDougle improperly disburse Title IV funds to these students, you lied to Department officials in order to hide your improper actions. This misconduct will not be tolerated, and therefore, your recertification application must be denied.

¹ Students relevant to this action are listed in Attachment A.

B. Falsified and Invalid Attendance

An institution participating in the Title IV programs must establish and maintain on a current basis all records necessary to establish its proper administration of the Title IV, HEA programs and its application for any Title IV, HEA funds. 34 C.F.R. § 668.24(a). In addition, an institution must maintain all records needed to properly account for its receipt and expenditure of Title IV, HEA funds including all source documents used to support Title IV, HEA disbursements. See 34 C.F.R. §§ 668.24(b), (c). To satisfy this requirement, institutions are required to maintain source documentation to validate the entry of hours into computer systems or other summary formats. Attendance records are required to establish academic payment periods, to determine the timing of subsequent disbursements of Title IV funds for clock hour programs, and to establish the last date of attendance for a student who withdraws or stops attending, or to establish completion of a program of study.

To correctly award and disburse Title IV, HEA funds based on clock hour rules, an institution must have a mechanism for tracking the number of clock hours a student successfully completes. A student cannot progress to a subsequent payment period until the student successfully completes one-half of the clock hours and one-half of the weeks in an academic year. See 34 C.F.R. § 668.4. The regulations define a clock hour as 50 to 60 minutes of class, lecture, recitation, or supervised laboratory, shop training or internship in a 60-minute period. 34 C.F.R. § 600.2 (definition of clock hour). When an institution designates a student as a graduate, it is assumed that all clock hours in the program of study have been completed.

All of McDougle's educational programs are measured in clock hours of instruction. When asked how the institution documents the completion of these hours, you informed Department reviewers that the electronic attendance records contained in the software provided by the institution's third-party servicer, FAME, were the institution's official attendance records. You also informed the Department that McDougle uses the Populi system as its learning management system for the portions of the hybrid programs that are provided via distance education. The Populi system contains the official record of students' work on the distance education portion of their programs.

During the course of its investigation, the Department discovered that the attendance records contained in the FAME system are falsified. The attendance records for a large percentage of the students reviewed have a perfect six hours of attendance each day for much of the students' programs. These attendance records were falsified in a variety of ways. First, the students in Gainesville who were also football players informed the Department that due to overcrowding, the offense and defense attended classes on different days. On the days the players were not in class, they did not complete any coursework. Despite these facts, the attendance records for these students show six hours of attendance per day, every weekday.

In addition, the records for many students reflected completion of 10 and 12 hours in a day and/or had attendance marked on Saturdays and Sundays. For the most part, these hours were added during the latter part of the students' programs. In the case of the football players, many of the hours were added near the end of the football season and after the football season ended.

Students informed the Department that they did not attend that many hours during a day, nor did they attend on the weekends. It is clear that the hours were added so that McDougle could claim that the students completed their programs of study when they did not. In fact, students were told that they would be getting hours to "finish them out." In the most extreme case identified by the Department, Student 123 attended only a day or two, but the attendance records were doctored to show that the student graduated.

Another example of falsified attendance appeared for students who were attending in the Spring of 2020 when the Covid emergency first occurred. At some point after the emergency began students were told that the school would switch to remote learning.² Students informed the Department there was no actual instruction taking place during this time period. One student informed the Department that they were told to just go watch videos or take quizzes. Another student informed the Department she was told to go do something, "like curl your hair", take a video and send it in, and the institution would assign clock hours to it. Not only was the attendance falsified during this time period, but any work the students did on-line was not with an instructor, and therefore, did not meet the definition of a clock hour which requires supervised instruction.

Last, students attending in the Fall of 2022 informed the Department that they were recently provided jobs by a company called Handy. The students would get paid for doing work around the school, such as cleaning or moving things. Students completed these work tasks while they were supposed to be in classes. Despite this fact, students were given hours as if they had been attending class.

Additional information obtained by the Department establishes that the hours logged for students were not always valid. Students informed Department staff that there were many times when there was not an instructor for their class. Students would just sit and talk or sign in and leave. In other cases, students would be told to sit and listen to an instructor from another program, even though the material was not relevant to the work they needed to complete for their program of study. Students also informed the Department that they would just sit and watch the instructor work on his clients. These are not valid clock hours for purposes of the Title IV program.

The Department also found problems with the attendance for the portion of the hybrid programs that was supposed to be on-line. As noted above, McDougle used a learning management system called Populi. For the 2022 award year, the catalogue and Populi specifically list which hours of each hybrid program are supposed to be on-line. For example, the total on-line hours for the Restricted Barbering programs were 300. The Department's review of the Populi information establishes that not one student had work in the system totaling 300 hours.³ In fact,

² It should be noted that when asked by the lead reviewer when the school went fully on-line, you said that it never did. This is inconsistent with the information obtained from students and information found on the school's website that itself suggests the school facility was closed for at least some period of time. The Department was unable to determine exactly how long the remote learning occurred.

³ Although the catalogue did not specifically designate the amount of hours that were distance education for the 2020 and 2021 award years, it is likely that the on-line hours were the same as the 2022 award year.

the majority of the students who graduated had less than 100 hours of time in the system. Some students, such as Student 87 and Student 238 had 12 and 17 hours respectively. Since these programs are measured in clock hours, each clock hour of instruction must be documented. It clearly was not. In addition to the low amount of time spent in the system, the distance classes were mostly comprised of students watching a video and then answering questions. These activities would not be sufficient to meet the requirements of the definition of a clock hour which requires supervised instruction.

The Department's investigation established that McDougle routinely used falsified and invalid attendance to justify Title IV disbursements to students and to support students' graduation from their programs of study. Falsified hours were found for Students 2, 10, 15, 16, 17, 23, 24, 26, 29, 31, 39, 40, 41, 42, 43, 46, 48, 49, 50, 54, 55, 56, 57, 63, 65, 66, 71, 74, 86, 88, 90, 96, 100, 101, 105, 109, 115, 120, 123, 127, 129, 131, 136, 139, 141, 148, 149, 155, 161, 163, 166, 176, 179, 180, 189, 190, 192, 193, 203, 211, 217, 218, 219, 221, 227, 232, 233, 235, 237, 238, 240, 245, 247, and 249. Since the Department was not able to interview all of the students attending the institution, it is likely that the number of students with falsified attendance is much greater than identified here. In addition, the distance education hours for all students for the award years reviewed were invalid. McDougle's conduct is completely inconsistent with a fiduciary standard of conduct. Consequently, the institution's recertification application must be denied.

C. Disbursement of Title IV Funds to Students That Did Not Meet the Definition of a Regular Student

In order to be eligible to receive Title IV funds an individual must first be a regular student enrolled or accepted for enrollment in an eligible program at an eligible institution. 34 C.F.R. § 668.32(a). An institution is eligible for participation in the Title IV programs if, among other things, it offers an educational program that leads to a degree, certificate or other recognized credential. 34 C.F.R. § 600.4(a)(4). Similarly, an eligible educational program must lead to an academic, professional, or vocational degree, a certificate, or other recognized educational credential, and must be provided by a participating institution. 34 C.F.R. §§ 600.2 (definition of educational program), 668.8. A "regular student" is a person who is enrolled or accepted for enrollment at an institution "for the purpose of obtaining a degree, certificate, or other recognized credential offered by that institution." 34 C.F.R. § 600.2 (definition of regular student). If a person does not meet the initial eligibility criteria of being enrolled for the purpose of obtaining a degree or other credential, he/she is ineligible to receive Title IV funds.

As outlined above, the owners of McDougle also own a sports academy called MTI Prep. MTI Prep fields a football team that plays in a league with teams from other sports academies. The individuals attending the sports academy have a dream of ultimately playing for a Division I college football team. The majority of the students enrolled in the 600-hour Restricted Barbering and Massage Therapy programs played football for MTI Prep. In addition to the tuition for these programs that was \$3,000 dollars more than the other 600-hour programs offered by the institution, the students were charged athletic fees up to \$1,500. Students were pressured into taking out Direct Loans and parents were pressured into taking out PLUS Loans to cover the

costs of both the program and the sports academy. These loans were in addition to cash payments many students ultimately had to make.

Many of the students interviewed by the Department stated that they only enrolled in McDougle because they were told by coaches or other individuals from the institution that they had to sign up for either the Barbering or Massage Therapy in order to play football and/or to receive financial aid to cover costs. The students did not want to pursue careers in these fields and would not have enrolled in the institution if they were not playing football at the prep academy. Since Students 1, 7, 22, 31, 55, 64, 71, 88, 90, 100, 101, 115, 131, 136, 144, 146, 155, 227, 235, and 247 were not enrolled in McDougle for the purpose of obtaining a certificate, they do not meet the definition of a regular student, and therefore, were not eligible to receive Title IV funds.

Since the Department was only able to interview a limited number of students from the football programs, it is likely there are additional students who also only attended to play football at the prep academy. This is supported by the state licensing information obtained by the Department. Of the 61 football players who graduated from McDougle only 35 sat for the licensing exams. Of that total, only three actually passed the exam and received their license.

It is clear from the information obtained by the Department that McDougle designed a scheme to obtain Title IV funds for its ineligible prep sports academy. These actions are also inconsistent with a fiduciary standard of conduct.

D. Illegal Certification of Direct Loans

A student is eligible to receive Federal Direct Subsidized or Unsubsidized Loans (Direct Loans) if he/she meets relevant Title IV eligibility criteria. 34 C.F.R. § 685.200(a)(1)(ii). To obtain the loan, the student must fill out a Federal Application for Federal Student Aid (FAFSA) and a Master Promissory Note (MPN). 34 C.F.R. §§ 685.201(a)(1), (2)(ii). A student completes an MPN electronically in his/her federal financial aid account and the document is electronically signed. If a student is eligible for a Direct Loan, the institution he/she is attending must originate a loan record and submit the record in the Department's systems. 34 C.F.R. § 685.201(a)(2)(i). Prior to originating the loan, the institution must ensure that the student is eligible for the loan, and ensure that the student has an MPN and, if applicable, transmit the MPN to the Department. 34 C.F.R. §§ 685.201(a)(2)(ii), 685.301(a)(2). The institution is obligated to ensure that the information it submits to the Department regarding the loan is complete and accurate. 34 C.F.R. § 685.301(a)(1).

Students 6, 49, 55, 88, 149, 235 and 249 informed Department staff that they did not apply for student loans or request that McDougle apply for loans on their behalf. In some cases, students specifically told McDougle staff they did not want loans when they were pressured to obtain them. These students were all unaware that they had loans until Department staff informed them during interviews.

It should be noted that even where students did know that they had loans, they told Department staff that both they and their parents were pressured to take out loans when they didn't want to.

This was particularly prevalent with the football players where there were also costs to attend the prep sports academy and for housing.

McDougle's actions with respect to the Direct Loan program exhibit a complete disregard for the welfare of its students. Further, the institution's actions establish that it cannot be trusted as a participant in the Title IV programs, and its recertification application must be denied.

E. Failure to Pay Credit Balances and HEERF Funds Designated For Students

If an institution disburses Title IV, HEA program funds by crediting a student's account and the total amount of all Title IV program funds credited exceeds the amount of tuition and fees, room and board, and other authorized charges the student is required to pay, the institution must pay the resulting credit balance directly to the student or parent. These credit balances must be paid as soon as possible but no later than 14 days after the balance occurred or 14 days after the first day of classes in a payment period if the balance occurred before that time. 34 C.F.R. § 668.164(h). Institutions may hold credit balance funds to cover future payment period charges if they obtain a valid authorization from the student. 34 C.F.R. § 668.165(b).

To assist with issues caused by the coronavirus pandemic, Congress passed legislation to provide funding for both institutions and students. These funds were administered by the Department through the Higher Education Emergency Relief Fund (HEERF). As relevant here, the Department disbursed two separate allocations of funds known as HEERF1 and HEERF2. HEERF1 funding payments designated for students had to be paid directly to students. HEERF2 payments could be disbursed directly to students or applied to student accounts to pay for institutional charges.

In files reviewed, the Department found a number of cases where credit balances owed to students and/or HEERF funds designated for students were not actually paid. In many instances, the student account ledger shows that the payments were made by Automated Clearing House (ACH), check, or cash, but students informed the Department they never received the funds, the ACH payments were returned and never reissued, or the alleged check payments were not found on the bank statements. Unpaid credit balances and HEERF funds were found for Students 7, 10, 21, 49, 59, 61, 63, 98, 102, 103, 109, 110, 113, 114, 118, 119, 120, 122, 135, 141, 143, 147, 149, 164, 166, 178, 179, 182, 192, 193, 200, 210, 220, 228, 234, 243, 248, 252, and 253. The specific payments relevant to this finding are set forth in Attachment B. Since the Department was only able to interview a limited number of students, and the accounting records provided to the Department were incomplete, it is likely that the number of unmade payments is actually higher.

McDougle's failure to ensure students received Title IV credit balances and HEERF funds to which they were entitled underscores the institution's disregard for its fiduciary responsibilities to the Department and its students. McDougle's actions are compounded by the fact that the student ledgers falsely represent that the payments were made when they were not.

F. Misrepresentation and Improper Inducement

Inherent in a fiduciary standard of conduct is the requirement that an institution operate in a forthright and truthful manner when dealing with students. In this regard, institutions are prohibited from making misrepresentations to students, or prospective students, regarding their educational programs, the financial charges assessed by the institution, or the employability of its graduates. 34 C.F.R. §§ 668.71-668.74. Department reviewers discovered that McDougle misled students regarding key elements of their educational programs and financial charges. The Department also found that McDougle made multiple promises to students in order to induce the students to enroll at the institution and then did not fulfill those promises.

Students who played football for MTI Prep and attended McDougle informed reviewers that McDougle staff made numerous misrepresentations in order to get the students to attend. Students at both the Gainesville and Pompano Beach locations were promised they would get help to play at a Division I institution, that scouts and recruiters would be at their games, and that they would be provided video clips that they could send to recruiters. In addition, students were told they could take credit recovery classes at MTI Prep which are done to help them boost GPAs to get into universities to play football. These recovery classes were a main reason some of the students attended McDougle. Despite being used as an inducement to recruit the players, none of the promises were fulfilled. Students attending the Gainesville location who did not live in the area were promised that McDougle would provide housing, but when students got to campus, they were told that there would be no housing and students would have to put apartment leases in their own names. Many students were unable to pay these additional costs and had to scramble to find a place to live. Others were ultimately evicted from the apartments. McDougle preyed on these students' desire to play football at a higher level in order to induce them to enroll at the institution and obtain Title IV funds on their behalf.

In addition, the Department discovered that McDougle misrepresented the educational programs to prospective students. McDougle advertised high quality programs to prospective students. Once students enrolled, they discovered that the teachers were either not qualified, or there was such a high turnover of staff that students were many times left without a teacher when they went to class. Other students informed the Department that they simply sat and watched the instructor work on his personal clients. Students repeatedly told the Department that there was no set curriculum for them to follow and they did not receive critical hands-on training that is necessary to obtain jobs in the field. Many students told Department staff that they did not feel qualified to work in the field because of the lack of adequate training, and many did not even attempt to take the licensing exams.

Further, students at McDougle were not provided equipment and materials necessary to effectively complete their programs of study. Included in the charges assessed the students attending McDougle were significant costs for books and for Cosmetology, Barbering, Full Specialty and Massage Therapy kits. Students repeatedly informed Department staff that these kits were either missing essential items or the equipment included was of inferior quality, and they would have to replace it using their own money to pay the cost. In addition, some students did not receive the kits until their programs were almost completed. This lack of equipment

made it virtually impossible for the students to obtain any meaningful hands-on work. When a student enrolls, there is an inherent expectation that the institution will have the equipment and supplies necessary for the students to learn. It is virtually impossible for students to obtain adequate training without the necessary equipment and supplies.

The multiple misrepresentations made by McDougle and its improper inducement of students establish a callous disregard for the welfare of their students. These actions underscore the need for this recertification denial.

II. MCDOUGLE'S ACTIONS ESTABLISH THAT IT ALSO LACKS THE ABILITY TO PROPERLY ADMINISTER THE TITLE IV PROGRAMS

To continue to participate in the Title IV, HEA programs, an institution must demonstrate that it is capable of adequately administering those programs. The Secretary considers an institution to have the requisite administrative capability if the institution administers the Title IV, HEA programs in accordance with all statutory provisions of or applicable to Title IV of the HEA, all applicable regulatory provisions prescribed under that statutory authority, and all applicable special arrangements, agreements, and limitations. 34 C.F.R. § 668.16(a). McDougle's failure to properly administer the ability to benefit tests and its improper use Title IV funds to pay invalid charges underscore its inability to meet Title IV administrative capability standards.

A. Invalid Basis of Admission

Only eligible students may receive Title IV program funds. 20 U.S.C. § 1091; 34 C.F.R. § 668.32. To be eligible, students must be academically qualified to study at a postsecondary level. As relevant here, a student is required to have a high school diploma or its equivalent or be beyond the age of compulsory school attendance and have the ability to benefit from the program of instruction that is being provided. See 20 U.S.C. § 1091; 34 C.F.R. § 668.32(e). A student who does not have a high school diploma or its equivalent could meet this requirement by passing an independently administered ability to benefit (ATB) test prior to receiving Title IV funds. 34 C.F.R. § 668.32(e)(2).⁴ The Department considers the test to be independently administered if the test is given by an independent test administrator who maintains the tests at a secure location and submits the test for scoring by the test publisher or is given at an assessment center by a certified test administrator who is an employee of the center. 34 C.F.R. § 668.151(b).

McDougle uses the Wonderlic test for purposes of enrolling students who do not have a high school diploma or GED. During the course of the review, the Department discovered that the Wonderlic tests were not being independently administered as required by the regulations. Further, the tests were not administered with the proper controls to ensure the integrity of the testing results. Employees at both the Gainesville and Pompano Beach locations administered

⁴ Institutions are permitted to use the ATB basis of admission option if they operate a valid Career Pathways Program. The Department was informed that McDougle did have a Career Pathways Program, although the Department did not evaluate that information prior to the issuance of this action.

the tests. Wonderlic confirmed to the Department that McDougle did not have any independent testers administering the tests. Further, students at the Pompano Beach location informed Department staff that the tests were not monitored and students were able to take the tests home to complete. These actions all invalidate the tests for purposes of Title IV eligibility. At the Department's request, McDougle provided a list of ATB students for the 2020-2022 award year. Students 3, 23, 33, 35, 46, 50, 72, 73, 77, 80, 92, 93, 102, 132, 140, 148, 162, 165, 168, 186, 189, 207, 213, 237, and 241 were administered invalid ATB tests, and therefore were not eligible for the Title IV funds received. By failing to administer a valid ATB test, McDougle improperly disbursed thousands of dollars in Title IV funds.

B. Improper Use of Title IV Funds

Federal regulations require an institution receiving Title IV funds on behalf of a student to act as a trustee of such funds. Once the institution receives the Title IV funds, they are held in trust for the intended student. Institutions must not use or hold Title IV funds as collateral for any other purpose. See 34 C.F.R. § 668.161(b). When determining what tuition and fee charges identified in the cost of attendance (COA) can be covered by Title IV funds, an institution may only include charges normally assessed to a student. The statute makes clear that the tuition and fees "normally assessed" are those fees required of all students with the same workload in the same course of study. 20 U.S.C. § 10871l.

McDougle assessed a number of fees to students in addition to the tuition and book and equipment charges, including athletic fees, additional equipment and unreturned equipment fees, and licensing fees. The athletic fees were applied to students who were playing football for MTI Prep. Since McDougle itself does not have an athletic program, these fees cannot be covered by Title IV funds. In addition, the fees were not assessed to all students in a program. McDougle explained that the equipment fees were charged for students who requested additional equipment. The Department also noted that the fees were charged when equipment was not returned. Since these fees are not charged to all students in the program, Title IV cannot be used to cover the fees. Last, license fees are a pass through to the state licensing board and are not assessed to all students in a program. Consequently, they can also not be covered with Title IV funds. It should be noted that for a number of students, the licensing fees were charged to the accounts when students first began their programs of study. There is no way the institution could know when a student starts that they would complete the program and apply for their license. Consequently, these fees were being paid by students who may not complete their programs.

The Department determined that McDougle improperly used Title IV funds to cover invalid fees assessed to Students 1, 4, 5, 6, 8, 11, 12, 13, 14, 19, 20, 22, 27, 28, 30, 31, 32, 33, 34, 37, 38, 44, 45, 50, 51, 52, 53, 56, 58, 60, 63, 64, 67, 68, 69, 70, 71, 72, 75, 76, 79, 80, 81, 82, 83, 89, 90, 91, 94, 97, 99, 104, 105, 107, 108, 111, 116, 117, 120, 122, 124, 125, 128, 130, 132, 133, 134, 136, 137, 138, 140, 142, 143, 144, 145, 149, 150, 151, 152, 153, 154, 157, 158, 160, 162, 168, 169, 171, 173, 174, 175, 177, 179, 180, 181, 183, 184, 185, 187, 191, 194, 195, 196, 197, 198, 199, 201, 204, 205, 215, 218, 223, 224, 225, 226, 229, 230, 236, 240, 242, 246, and 250. The specific charges relevant to this finding are set forth at Attachment C. This improper use of Title IV

funds further exemplifies the institution's lack of concern for its students. McDougle's failure to comply with these critical Title IV requirements further establish the need for this action.

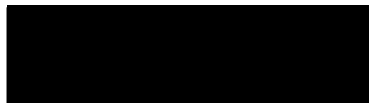
Should McDougle have factual evidence to dispute the Department's findings, and demonstrate their inaccuracy, McDougle may submit that evidence via overnight mail to me at the following address:

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

If McDougle chooses to submit materials for the Department's consideration, it must be received within two weeks of the date of this letter. Any such material will be reviewed by the Department, and McDougle will be notified whether the recertification denial will be modified, rescinded, or left in place. If the denial of recertification is left in place, the Atlanta School Participation Division and Financial Analysis Division will then contact you concerning the proper procedures for closing out McDougle's Title IV, HEA program accounts.

The Department will notify McDougle in a separate letter of any liabilities it owes for the Title IV funds the institution improperly received. That letter will provide McDougle with the opportunity to contest these liabilities under the procedures set forth at 34 C.F.R. Part 668, Subpart H. If you have any questions about this letter, you may contact Kathleen Hochhalter at 303-844-4520.

Sincerely,



fw, Susan D. Crim
Director

Administrative Actions and Appeals Service Group

Attachments

cc: Darin Wallace, Esq., Executive Director, National Accrediting Commission of Career Arts & Sciences (NACCAS), via dwallace@naccas.org
Meredith Pelton, Executive Director, FL Commission for Independent Education – Florida Department of Education, via Meredith.pelton@fldoe.org
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