



**APR 29 2022**

Ms. Sandra Richardson  
President  
Suffolk Beauty Academy  
7525 Tidewater Drive, Suite 200  
Norfolk, VA 23505

Sent Overnight Via UPS  
#1Z37X7Y30100212022

OPE ID: 02538800

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

Dear Ms. Richardson:

The U.S. Department of Education (“Department”) has reviewed Suffolk Beauty Academy’s (“Suffolk’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, Suffolk’s Program Participation Agreement (“PPA”) would have expired on September 30, 2021. However, Suffolk timely submitted its recertification application prior to that date. As a result, the Department extended Suffolk’s PPA on a month-to-month basis while evaluating the application and related matters. *See* 34 C.F.R. § 668.13(b)(2). This notice is to inform you that the Department has denied Suffolk’s application for continued participation, and that Suffolk’s Title IV eligibility will therefore expire at the end of this month, on April 30, 2022.

In particular, as of April 30, 2022, Suffolk will no longer be eligible to participate in 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”). 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 Program. The FSEOG, FWS, and Perkins Loan programs are known as campus-based programs.

To continue to participate in any Title IV, HEA program, an institution must demonstrate to the Department that it meets the standards for participation set forth at 34 C.F.R. Part 668, Subpart B, the standards of financial responsibility set forth at 34 C.F.R. Part 668, Subpart L, and the fiduciary standard of conduct. 34 C.F.R. §§ 668.13(a), 668.82(a). As set forth below, the Department has determined that Suffolk has failed to exhibit the trustworthiness required of a fiduciary and has failed to meet the standards of financial responsibility and administrative capability. Suffolk’s failure to meet these

**Federal Student Aid**

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Administrative Actions and Appeals Service Group  
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critical requirements underscores the need for this denial. Consequently, the Department cannot continue Suffolk's Title IV, HEA program eligibility and after April 30, 2022, Suffolk may no longer continue to receive Title IV, HEA program funds.

## **SUFFOLK DOES NOT MEET THE FIDUCIARY STANDARD OF CONDUCT**

On January 20, 2011 and November 9, 2015, you signed PPAs with the Department stating that Suffolk would comply with all Title IV, HEA program requirements, as well as any conditions specified by the Department in the PPA. 20 U.S.C. § 1094(a)(1); *see generally* 34 C.F.R. § 668.14. By entering into a PPA with the Department, Suffolk, and its owners, accepted the responsibility to act as a fiduciary in the administration of the Title IV, HEA programs. 34 C.F.R. § 668.82(a). In the capacity of a fiduciary, an institution, and its owners, are subject to the highest standard of care and diligence in administering those programs and in accounting to the Department for the funds received under those programs. 34 C.F.R. § 668.82(b). If the Department determines that an institution or its owners have not exhibited the trustworthiness required of a fiduciary, either through failure to comply with Title IV, HEA program standards and requirements or through acts of affirmative misconduct, denial of the institution's application for recertification is warranted. *See* 34 C.F.R. § 668.82(c).

## **Suffolk Misrepresented the Title IV, HEA Participation History of its Owner in its Eligibility Applications**

The provisions of 20 U.S.C. § 1099c(b) require that the Department prepare and prescribe a single application form which requires, among other things, sufficient information and documentation for the Department to determine that the institution and its owners meet the requirements of eligibility, accreditation, financial responsibility, and administrative capability. Pursuant to this requirement, the Department has provided an "Application for Approval to Participate in the Federal Student Financial Aid Programs" ("e-App") which is available to institutions in electronic form on a website maintained by the Department.<sup>1</sup> An institution that wishes to continue to participate in the Title IV, HEA programs beyond the expiration of its current PPA must submit an e-App to the Department for that purpose, and include with its e-App all documentation indicated on the application to enable the Department to determine whether it satisfies all relevant certification requirements contained in 34 C.F.R. Part 668, Subparts B and L. 34 C.F.R. §§ 600.20(b)(2)(i)(A), 668.13(a)(1).

On June 19, 2021, Suffolk submitted an electronic application ("e-App") to continue its participation in the Title IV, HEA programs.<sup>2</sup> You signed the required certification set forth in Section L of the application. That certification, among other things, states that to the best of your knowledge and belief, all information in the e-App is true and correct, and acknowledges that if the institution provides false or misleading information, the Department may deny the institution's request for eligibility to participate in the federal student financial aid programs and/or revoke eligibility once it has been granted. The certification further requires the person signing the certification to acknowledge that he or she may be subject to a fine of not more than \$58,328 or imprisonment of not more than five years, or both, for misinformation that is material to receipt and stewardship of federal student aid funds.

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<sup>1</sup> The website is [Eligcert.ed.gov](http://Eligcert.ed.gov).

<sup>2</sup> A copy of the e-App is provided as Enclosure A.

In Section C of the e-App, Question 20 required Suffolk to indicate whether it had a board of directors and to list the directors. Suffolk listed you and Mr. Hengel M. Richardson.<sup>3</sup> In Section D of the e-App, Questions 23 and 24 required Suffolk, as a for-profit institution, to disclose information concerning each person or entity that directly or indirectly owns a 25% or greater interest in the institution. In answer to those questions, Suffolk disclosed that Shin Corporation (“Shin”) is the 100% owner of the institution, and that you and Mr. Richardson have each owned 50% of Shin since April 5, 2004. Question 25 of the e-App then states as follows:

Has a person or entity listed in Question 24 or a member of that person’s family or a director of your institution owned 25% or more or held a position listed below of another institution that is now participating in or ever participated in the federal student financial aid programs or of a third-party servicer listed in Question 58? The ownership could be: individual *or* held by or with one or more family members, *or* in combination with others, such as a voting trust. The position held at another institution could be any of the following: member of the board of directors, *or* chief executive officer, *or* other executive officer, general partner or director of the institution or servicer.

If the answer to Question 25 is yes, subsequent questions asked Suffolk to disclose the name of the owner or director; the name of the institution that is or was owned, or where the position was held; the current or former OPE ID of the institution; and whether there is any liability currently owed to the Department that was established during the period of ownership or position held. If there is a liability, Suffolk was to provide an explanation in Section K, Question 69 of the e-App.

Suffolk answered “Yes” to Question 25, disclosed that you and Mr. Richardson had owned Wards Corner Beauty Academy (“WCBA”) (OPE ID 02108800) and Metropolitan Beauty Academy (OPE ID 02605200), and indicated that neither of these institutions owed a liability to the Department. The Department has, however, determined that this answer is false and misleading, because it did not disclose that Mr. Richardson was also the owner and president of Durham Beauty Academy (“DBA”) (OPE ID 03748500), a now-closed Title IV institution that owes unpaid liabilities to the Department.

According to the Department’s records, Mr. Richardson became the sole owner of DBA on February 13, 2006; became the president of DBA on March 9, 2006; and operated DBA until May 13, 2019, the date that he precipitously closed the institution without providing notice to the Department. Furthermore, neither the Department nor DBA’s accreditor, the National Accrediting Commission of Career Arts and Sciences (“NACCAS”), has evidence that DBA provided an approved teach-out to DBA students enrolled at the institution at the time of closure. At the time DBA closed, the Department also had an open program review (Program Review Control Number (“PRCN”) 2018-2-04-29810) at DBA, and DBA’s compliance audit for the fiscal year ended (“FYE”) December 31, 2017 (Audit Control Number (“ACN”) 04-2017-83277) awaited resolution. The Department issued the final audit determination (“FAD”) for ACN 04-2017-83277 on May 28, 2019. This FAD established \$28,516.00 in liabilities owed to the Department based on Return to Title IV Calculation Errors. DBA did not appeal the FAD and the liabilities established therein are therefore final.<sup>4</sup> As detailed later in this notice, the liabilities

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<sup>3</sup> According to the Department’s records, Mr. Richardson became a member of Suffolk’s board of directors on February 11, 1999.

<sup>4</sup> A copy of the Department’s May 28, 2019 FAD is enclosed as Enclosure B.

associated with PRCN 2018-2-04-29810 are currently the subject of an appeal proceeding with the Department.

The provisions of 34 C.F.R. § 668.26(b) require a Title IV institution that closes to immediately notify the Department of that fact, and to submit to the Department within 45 days of its closure a letter of engagement for a close-out audit and the report must be submitted to the Department within 45 days after the date of the engagement letter. 34 C.F.R. §§ 668.26(b)(1), (b)(2)(ii). Despite these requirements, DBA did neither. Therefore, on January 30, 2020, the Department issued an FAD (ACN 04-2019-91682) establishing \$433,650.09 in liabilities owed to the Department for unaudited Title IV, HEA program funds. DBA also did not appeal this FAD and the liabilities established therein are also final.<sup>5</sup>

DBA never paid the liabilities established in the Department's May 28, 2019 and January 30, 2020 FADs, which total \$462,166.09. As set forth below, this, and DBA's precipitous closure without evidence the institution provided an approved teach-out, causes Suffolk to fail the past performance provisions at 34 C.F.R. §§ 668.171(b)(4) and 668.174(b)(1)(i)(A) and (B). Suffolk's failure to completely and truthfully answer question 25 by disclosing that Mr. Richardson had been the owner and president of DBA, and that DBA owed an unpaid liability to the Department, therefore constituted a material misrepresentation to the Department, and is a violation of the fiduciary standard of conduct. This misrepresentation is particularly material and egregious given the amount of the liability that DBA owes to the Department and its failure to provide teach-out opportunities for students enrolled at DBA at the time of its precipitous closure. The Department notes that this violation is alone sufficient to justify denial of Suffolk's application for recertification<sup>6</sup>.

### **Suffolk's Principals Have Failed to Comply with Important Title IV, HEA Requirements**

On November 7, 2012, Mr. Richardson signed DBA's last PPA with the Department, stating that DBA would comply with all Title IV, HEA program requirements. As noted above, one of these requirements is that a Title IV, HEA institution that closes must immediately notify the Department of that fact and timely submit a close-out audit. 34 C.F.R. §§ 668.26(b)(1),(b)(2)(ii). As owner and president of DBA, and as the Department's fiduciary, it was incumbent upon Mr. Richardson to ensure that the institution closed in an orderly manner, immediately notified the Department of that closure, and submitted the closeout audit as required. However, as also noted above, Mr. Richardson failed to do any of these things when DBA closed, precipitously, on May 13, 2019.

According to the Department's records, you and Mr. Richardson each became 50% owners of WCBA on April 20, 2001; Mr. Richardson became president of WCBA on September 28, 2012; and you became the Director of WCBA on May 10, 2005. Mr. Richardson signed WCBA's last PPA on September 18, 2015, in which he promised that WCBA would comply with all Title IV, HEA requirements. 34 C.F.R. § 668.14(b)(1). Those Title IV, HEA requirements include its accreditor's

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<sup>5</sup> A copy of the Department's January 30, 2020 FAD is enclosed as Enclosure C.

<sup>6</sup> The Department notes that Suffolk also did not disclose Mr. Richardson's ownership of DBA in the application for recertification that it submitted on September 25, 2015, a time during which the school was open and actively participating in the Title IV, HEA programs. The Department's failure at the time to identify this material omission does not excuse or mitigate the multiple failures by the parties to answer the Department application truthfully and completely.

standards. *See* 34 C.F.R. § 668.14(b)(23). As the owners and officers of WCBA, it was incumbent upon you and Mr. Richardson to ensure that WBCA complied with of these requirements, yet you and he failed to do so.

WCBA qualified as an eligible Title IV institution based in material part on its accreditation by NACCAS. NACCAS, however, withdrew WCBA's accreditation on October 13, 2016 due to the institution's failure to comply with applicable NACCAS standards. In particular, WCBA failed to show compliance with Standard I, Criterion 5, as the placement rate WCBA reported in its 2014 Annual Report to NACCAS proved to be unverifiable. WCBA challenged NACCAS's withdrawal of its accreditation in federal district court; however the case ended when the U.S. Court of Appeals for the Fourth Circuit upheld the District Court's dismissal of the lawsuit.<sup>7</sup>

Due to NACCAS's withdrawal of accreditation, the Department, on November 1, 2016, imposed an emergency action upon, and initiated a termination action against, WCBA. WCBA requested and received a show-cause hearing, after which, on January 26, 2017, Chief Judge Ernest Canellos of the Department's Office of Hearings and Appeals ("OHA") affirmed the emergency action.<sup>8</sup> WCBA also appealed the termination action, and on February 27, 2017, Judge Canellos affirmed the termination of WCBA's participation in the Title IV, HEA programs. WCBA then appealed Judge Canellos' decision to the Secretary of Education ("Secretary") and on February 19, 2020, Secretary Betsy DeVos affirmed Judge Canellos' decision terminating WCBA.<sup>9</sup>

About seven months later on August 19, 2020, Suffolk submitted an e-App notifying the Department of the change of its name to Allegiance Beauty School<sup>10</sup> and of its change of address from Suffolk, Virginia to the address of WCBA in Norfolk, Virginia. When the Department requested information concerning this circumstance, you disclosed at that time, in November 2020, that WCBA had closed on May 1, 2019. The closure occurred well before Secretary DeVos's February 19, 2020 final decision terminating WCBA's Title IV, HEA eligibility. Just as with DBA, you and Mr. Richardson failed to immediately inform the Department of the closure of WCBA, and further failed to timely submit the required close-out audit to the Department, in violation of the provisions of 34 C.F.R. §§ 668.26(b)(1) and (b)(2)(ii). WCBA did not submit its close-out audit to the Department until January 17, 2021.

Your and Mr. Richardson's repeated failures to comply with Title IV, HEA requirements for Suffolk's, DBA's, and WCBA's participation in the Title IV, HEA programs demonstrates that Suffolk, you, and Mr. Richardson cannot be trusted to act in the capacity of a fiduciary of federal funds. Suffolk's application for recertification must therefore be denied on this basis as well.

## **SUFFOLK DOES NOT MEET THE STANDARDS OF FINANCIAL RESPONSIBILITY**

As stated above, to continue to participate in the Title IV, HEA programs, an institution must demonstrate to the Department that it is financially responsible under the standards established in 34

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<sup>7</sup> A copy of the NACCAS' October 13, 2016 letter is enclosed as Enclosure D. The Decision of the U.S. Court of Appeals for the Fourth Circuit affirming the U.S. District Court for the Eastern District of Virginia's dismissal of the case is enclosed as Enclosure E.

<sup>8</sup> A copy of Judge Canellos' January 26, 2017 Decision is enclosed as Enclosure F.

<sup>9</sup> A copy of Secretary DeVos' February 19, 2020 Decision is enclosed as Enclosure G.

<sup>10</sup> For purposes of clarity, the Department is referring to the institution in this letter as Suffolk rather than Allegiance Beauty School.

C.F.R. Part 668, Subpart L. These standards include the general standards of financial responsibility set forth at 34 C.F.R. § 668.171(b). In order for an institution to meet the general standard of financial responsibility regarding the past performance of the institution and its affiliates set forth at 34 C.F.R. § 668.171(b)(4), no person affiliated with the institution may be subject to a condition of past performance under 34 C.F.R. § 668.174(b). Suffolk does not meet this requirement due to the unpaid liabilities from the closed institutions under common ownership.

An institution is not financially responsible if a person who exercises substantial ownership or control over the institution, as described under 34 C.F.R. § 600.31, exercised substantial ownership or control over another institution that owes a liability for a violation of a Title IV, HEA program requirement, and the liability is not being repaid in accordance with an agreement with the Department. 34 C.F.R. §§ 668.174(b)(1)(i)(A), (b)(1)(ii). Furthermore, an institution is not considered financially responsible if a person who exercises substantial ownership or control over the institution also exercised substantial ownership or control over another institution that closed without a viable teach-out plan or agreement approved by the institution's accrediting agency and faithfully executed by the institution. 34 C.F.R. § 668.174(b)(1)(i)(B). Control is defined to mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person. 34 C.F.R. § 600.31. Ownership or ownership interest is defined to include a legal interest in an institution. 34 C.F.R. §§ 600.31, 668.174(c)(1). The Department generally considers a person who directly holds at least a 25% ownership interest in the institution to exercise substantial control over the institution. 34 C.F.R. § 668.174(c)(3)(i).

The Department's records clearly establish that Suffolk is in violation of the past performance provisions of financial responsibility. Mr. Richardson, an owner who exercises substantial control over Suffolk, also exercised substantial control over DBA, an institution which owes an unpaid liability of \$462,166.09 to the Department based on Title IV violations (e.g, failure to submit a closeout audit accounting for its expenditure of Title IV, HEA program funds and the violation set forth in the May 28, 2019 FAD). And, as of the date of this letter, no payments, or attempts to make payment arrangements with the Department, have been made. Additionally, the Department has no evidence that DBA provided an approved teach-out to students enrolled at DBA at the time of its closure. Suffolk therefore does not satisfy the general and past performance standards of financial responsibility set forth at 34 C.F.R. §§ 668.171(b)(4) and 668.174(b) and cannot continue to participate in the Title IV, HEA programs.

### **SUFFOLK DOES NOT MEET THE STANDARDS OF ADMINISTRATIVE CAPABILITY**

To continue to participate in the Title IV, HEA programs, an institution must demonstrate that it is capable of adequately administering those programs. 34 C.F.R. § 668.13(a). The Secretary considers an institution to have the requisite administrative capability if the institution administers the Title IV, HEA programs in accordance with the statutory provisions of or applicable to Title IV of the HEA, the applicable regulatory provisions prescribed under that statutory authority, and the applicable special arrangements, agreements, and limitations. 34 C.F.R. § 668.16(a).

As set forth above, Suffolk submitted an E-app to the Department that omitted material information, and falsely certified to the Department that the information was true and correct. This conduct evidences a lack of administrative capability as well as Suffolk's failure to meet the fiduciary standard of conduct. Suffolk's application for recertification is also denied on this basis as well.

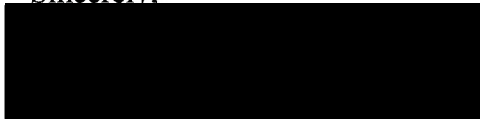
Please note that the Department sent the final program review determination (“FPRD”) letter for PRCN 2018-2-04-29810 to DBA on November 30, 2020. The FPRD established a liability of \$2,380,365.00 owed to the Department; however, DBA timely appealed the liability, and the appeal proceedings are currently pending at the Department’s OHA. Should the FPRD liabilities be sustained, DBA must pay them in addition to the \$462,166.09 in liabilities already established.

Should Suffolk have factual evidence to dispute the Department’s findings, and demonstrate their inaccuracy, Suffolk 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/Partner Enforcement and Consumer Protection  
830 First Street, NE (UCP-3, Room 84F2)  
Washington, DC 20002-8019

This denial of recertification is effective April 30, 2022. If Suffolk chooses to submit material 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 Suffolk 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 Philadelphia/DC School Participation Division will then contact you concerning the proper procedures for closing out Suffolk’s Title IV, HEA program accounts. If you have any questions about this letter, you may contact Tara Sikora at [tara.sikora@ed.gov](mailto:tara.sikora@ed.gov).

Sincerely,



Susan D. Crim  
Director  
Administrative Actions and Appeals Service Group

- cc: Mr. Darin Wallace, Esq., Executive Director, National Accrediting Commission of Career Arts and Sciences, via [dwallace@naccas.org](mailto:dwallace@naccas.org)  
Mr. Peter Blake, Director, State Council of Higher Education for Virginia, via [PeterBlake@schev.edu](mailto:PeterBlake@schev.edu)  
Mr. Demetrios Melis, Director, Virginia Department of Professional & Occupational Regulation, via [director@dpor.virginia.gov](mailto:director@dpor.virginia.gov)  
Department of Defense, via [osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil](mailto:osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil)  
Department of Veteran Affairs, via [INCOMING.VBAVACO@va.gov](mailto:INCOMING.VBAVACO@va.gov)  
Consumer Financial Protection Bureau, via [CFPB\\_ENF\\_Students@cfpb.gov](mailto:CFPB_ENF_Students@cfpb.gov)