



Accrediting Commission of Career Schools and Colleges

2101 Wilson Boulevard, Suite 302
Arlington, Virginia 22201
703.247.4212
703.247.4533 fax
www.accsc.org

October 5, 2017

ELECTRONIC DELIVERY & FEDERAL EXPRESS

Owner

Hollywood Cosmetology Center
1708 W. Lindsey Street
Norman, Oklahoma 73069

School #M057753
Appeals Panel Decision

On July 28, 2017, the Appeals Panel of the Accrediting Commission of Career Schools and Colleges (“ACCSC” or “the Commission”) heard the appeal of Hollywood Cosmetology Center (“HCC” or “the school”), which brought this appeal from the May 22, 2017 decision of ACCSC to withdraw the accreditation of HCC and to remove the school from the list of ACCSC-accredited institutions. The school submitted a Letter of Intent to Appeal a Commission Decision dated May 31, 2017 and timely filed its Grounds for Appeal on June 19, 2017. Pursuant to ACCSC’s *Rules of Process and Procedure*, a hearing was held by teleconference before an independent Appeals Panel. For the reasons articulated below, the Appeals Panel unanimously affirmed the decision of the Commission to withdraw HCC’s accreditation and remove the school from the list of accredited institutions.

The Commission’s May 22, 2017 Decision

The Commission’s review of HCC was occasioned by the requirement that the school seek renewal of its accreditation by filing an Application for Renewal of Accreditation. Because a representative of HCC had attended the October 12, 2016 workshop (a requirement for schools seeking reaccreditation), the school’s application had to be filed with the Commission on or before December 5, 2016. On November 28, 2016, HCC requested ACCSC to extend the time for filing the Application. The Commission granted the request on December 20, 2016 and mandated that the school submit its Application for Renewal of Accreditation no later than January 20, 2017. HCC did not tender the Application nor the applicable fees (\$2,600) by the extended due date. On February 9, 2017, ACCSC notified the school that the school’s failure to submit the Application and fees would be forwarded to the full Commission for consideration at its next meeting scheduled for March 2017.

Upon receipt of the Commission’s February 9, 2017 letter, the school’s owner contacted ACCSC and asserted that the Commission’s December 20, 2016 letter had never been received and that the failure to timely file the Application was due to the owner’s health issues. At that time, HCC’s owner was instructed to complete and submit the Application and related fees prior to the March 2017 Commission meeting or to request another extension of time.

At the time the Commission met in March, the school had not submitted the Application for Renewal of Accreditation nor the associated fees. The failure to file the Application coupled with the school’s “extensive history of delinquency in submitting required reports and fees” (the history was set out in a footnote to the May 22, 2017 letter), led the Commission to place HCC on Warning and in a letter dated March 24, 2017, directed the school to submit the following by May 1, 2017: (a) “a detailed explanation as the school’s history of delinquent reports and fees for this renewal of accreditation cycle”, (b) the Application for Renewal of Accreditation, and (c) a check or money order for the Application and extension fees. The Commission also informed HCC that if the Application and fees were not received by May 1, 2017 that “the Commission **will** act to withdraw the school’s accreditation in accordance with *Section VII(P), Rules of Process and Procedure, Standards of Accreditation*” (emphasis in original).

When the Commission met at its regularly-scheduled meeting in May 2017, it reviewed HCC's response to the March 24, 2017 Warning Letter and found that the school had submitted the application fee but not the application itself. Instead, the school requested another extension of time to submit the application and tendered the fee for the extension request. HCC asserted a number of reasons why it needed another extension but the Commission found that those reasons did not constitute a sufficient justification for the school to disregard the Commission's explicit directive to file the application by May 1, 2017 or face withdrawal of accreditation. As a result, the Commission voted to deny the request for an extension. Also, in accordance with *Section I(E)(2)(c and e)*, *Section I(E)(3)*, *Section I(H)(4)*, and *Section VII(P)(I)(c) and (h)* of the Commission's *Rules of Practice and Procedure*, the Commission voted to withdraw HCC's accreditation.

Grounds for Appeal

HCC's Grounds for Appeal contend that the Commission's decision to withdraw HCC's accreditation was arbitrary and capricious because it was predicated on "three incidents of late renewal filings occurring more than five years prior to the current renewal cycle for HCC. This was with no notice to HCC, either personally or as set out in the accreditation standards. To take this action, on these facts, deprived HCC of due process and was arbitrary and capricious." In support of this contention, HCC advanced several arguments as outlined below.

First, ACCSC's *Standards of Accreditation* do not contain "any reference or any clause to the effect that a request for an extension of a filing deadline is a violation of the standards. Or, that such a request—even when granted—can later be used as a reason to withdraw accreditation by ACCSC." To do so, the school argued, would be a violation of its right to due process.

Second, there is no provision in the *Standards of Accreditation* that "indicates that a ten, eight and five year old request for extension will be used against a school in consideration of a subsequent renewal application." A "basic sense of fairness" says HCC, makes such an action capricious and unjust. HCC makes much of the facts that ACCSC granted each of HCC's extension requests and that ACCSC never advised HCC that the requests could be used against it at a later time (see also Appeal Hearing Transcript at 8-9).

Third, basing the decision to withdraw accreditation on prior delinquencies violates HCC's "right to be told what the rules are before its accreditation was revoked." At the Appeal Hearing, the school also pointed out that the withdrawal of accreditation was "based not on deficiencies with the school as instructor issues or graduation rates, or bad employment rates or evaluations, instead its accreditation has been withdrawn because of a missed deadline on the renewal application" (Appeal Hearing Transcript, pgs., 8, 17).

Fourth, there were various reasons why the school missed the Commission's deadlines including computer problems, health issues, heavy rains, negotiations with a potential purchaser which ultimately fell through, and a FedEx delivery allegedly left at a neighboring business. (Appeal Hearing Transcript pgs., 12-14, 19).

Fifth, ACCSC should have taken into account the facts that HCC has been in business for 37 years and has never had any financial issues, has not been the subject of any complaints, has never been sued by a student or customer, had no adverse audit findings, has never lost its license, and until the most recent renewal cycle, had never been on probation. (Appeal Hearing Transcript, pgs., 24-25).

HCC's Grounds for Appeal request that ACCSC accept the Application for Renewal of Accreditation as submitted and restore the school's accreditation.

Appeals Panel Decision

Section VIII (B) of the Commission’s *Rules of Process and Procedure, Standards of Accreditation*, provides that on appeal, the school has the burden of proving that the Commission’s decision to withdraw HCC’s accreditation “was arbitrary, capricious, or otherwise in substantial disregard of the criteria or procedures of the Commission, or not supported by substantial evidence in the record on which the Commission took action.” *Section VIII (B)(4), Rules of Process and Procedure, Standard of Accreditation* also stipulates that with the exception of certain financial information, “[t]he Appeals Panel will only consider that information that was before the Commission at the time that the adverse action was taken....” ACCSC’s *Rules of Process and Procedure* provide that the Appeals Panel has the authority to affirm, reverse, remand, or amend the Commission’s decision to withdraw HCC’s accreditation.

For the reasons delineated below, the Appeal Panel found that HCC failed to carry its evidentiary burden of demonstrating that the Commission’s decision to withdraw the school’s accreditation was not supported by the evidence in the record, was arbitrary and capricious, or was otherwise not in accord with ACCSC’s accreditation standards, policies, or rules of process and procedure.

First, the Appeals Panel found that the record is uncontroverted in showing that HCC was habitually late over an extended period of time in submitting required accreditation documents to ACCSC and that the school was consistently and clearly warned of the potential consequences of the delinquencies.

- In October 2007, HCC was advised by letter dated October 10, 2007 that, despite an earlier grant of an extension to file its Application for Renewal of Accreditation by September 21, 2007, the school had failed to do so. At that time, the Commission advised that “[y]our continued delinquency in this regard may result in the Commission taking further action, to include revocation of the institution’s accreditation.” It is also important to note that the Application for Renewal of Accreditation is a critical document in the accreditation process and that ACCSC cannot undertake the renewal process without it.
- On November 8, 2007, the Commission wrote to HCC to advise the school that as of the date of the letter, the Commission had not received the Self-Evaluation Report and Occupation Specialist Information Package which were due (after extensions of time) on October 22, 2007. ACCSC gave HCC yet more time—until November 26, 2007—to provide these documents and informed HCC that failure to do so “may result in the Commission taking further action, to include revocation of the institution’s accreditation.” It is noteworthy that the Application for Renewal of Accreditation, Self-Evaluation Report, and Occupation Specialist Information Package were originally due many months earlier and as of November 2007, two of the key documents still had not been provided to the Commission.
- In February 2009, the Commission (by letter dated February 2, 2009) informed HCC that the school’s response to a stipulation which was due on January 23, 2009 had not been received. Noting that HCC was again delinquent, ACCSC warned that “If the school’s response is not received in the Commission office on or before the established deadline [February 27, 2009], this matter will be forwarded to the Commission for review at its earliest convenience.”
- By letter of March 6, 2012, ACCSC informed HCC that it had not received the school’s Application for Renewal of Accreditation by its due date of February 27, 2012. As pointed out above, the Renewal Application is critical to the Commission’s ability to determine the school’s compliance with accreditation standards. Again, the Commission admonished HCC that its “continued delinquency in

this regard may result in the Commission taking further action in accordance with *Section I(G)(4), Rules of Process and Procedure, Standards of Accreditation.*”

- On April 10, 2012, ACCSC wrote to HCC stating that the school “was directed to submit its Application for Renewal of Accreditation by February 27, 2012. As of March 6, 2012, the application had not been received; therefore, the school was assessed a \$500 late fee and directed to submit the application and applicable fees on or before March 20, 2012. To date, the school has not submitted any information as it pertains to the renewal of accreditation.” Once again, ACCSC reminded HCC of the potential consequences of its delinquencies: “In accordance with *Section I (G)(4), Rules of Process and Procedure, Standards of Accreditation*, failure to provide reports and fees may result in an action taken by the Commission consistent with *Section VII, Rules of Process and Procedure, Standards of Accreditation* including denial or withdrawal of accreditation.”
- In August 2012, the Commission denied HCC’s request for yet more time to provide materials essential to the accreditation renew process based on the “school’s history of untimely submissions of reports and fees associated with the school’s most recent renewal of accreditation.” The school was told that it must provide all necessary documents on or before August 27, 2012. Once again HCC was advised that in accordance with the Commission’s *Rules of Process and Procedure* “failure to provide reports and fees may result in an action taken by the Commission consistent with *Section VII, Rules of Process and Procedure, Standards of Accreditation* including denial or withdrawal of accreditation.”
- The Commission put HCC on Probation (by letter dated September 21, 2012) because of the school’s persistent failure to provide required accreditation documents in a timely manner. Among other things, the Probation Order directed HCC to provide “an explanation as to the school’s history of delinquent reports and fees for this renewal of accreditation cycle.” The school’s response to the Probation Order, including specified documents, was due on October 16, 2012. ACCSC advised that the Commission “will take adverse action prior to the expiration of the maximum timeframe [to achieve compliance with accreditation standards] if the school does not submit the required materials by the due date....”
- Upon receipt of the school’s response to the Probation Order, the Commission vacated the Probation Order and permitted HCC to proceed with the renewal of accreditation process. This was done by letter dated October 24, 2012. In taking this action, ACCSC specifically advised the school that it “remains concerned with the school’s history of submitting late applications, reports, and fees.” The letter specified time frames for certain materials which HCC was to furnish and stated: “To be clear, if the school submits any of the required materials...beyond the required due date, the Commission will revoke the school’s accreditation. Consider this notice of the Commission’s serious stance on this matter, again necessitated by the school’s chronic history of late submissions” (emphasis supplied).
- Turning to the accreditation cycle at issue here, HCC, by dint of an extension request granted by ACCSC, was required to submit its Application for Renewal of Accreditation and all applicable fees by January 20, 2017. This did not happen. By letter dated February 9, 2017, the Commission advised HCC of that fact and stated that “this delinquency will be forwarded to the Commission for consideration at its **March 2017** meeting and may result in the Commission taking further action in accordance with *Section I (H)(4), Rules of Process and Procedure, Standards of Accreditation*” (emphasis in original).
- At its meeting in March 2017, the Commission placed HCC on Warning because even by the date of the Commission meeting, HCC had not submitted either the Application for Renewal of Accreditation or another request for extension. As part of the Warning, HCC was directed to provide, *inter alia*, a “detailed explanation as to the school’s history of delinquent reports and fees for this renewal of accreditation cycle.” This explanation and other materials were required to be submitted to the Commission on or before May 1, 2017. The Warning also included the following statement: “[t]he

Commission also determined that due to the school's extensive history of delinquency, if the required materials and fees are not received by the due date set forth in this letter [May 1, 2017], the Commission **will** act to withdraw the school's accreditation in accordance with *Section VII (P), Rules of Process and Procedure, Standards of Accreditation*" (emphasis in original).

- When the Commission met in early May of 2017, it had received the application fee, an extension request, and an extension fee but not the most critical document-- HCC's Application for Renewal of Accreditation which, by previous order, was due on May 1, 2017. Faced with yet another delinquency, the Commission voted to deny HCC's request for extension and to withdraw the school's accreditation.

The foregoing detailed procedural history makes several facts abundantly clear:

1. HCC has an extensive record of failing to file critical documents within the time frames specified by the Commission in its rules and policies as well as in specific correspondence with the school. The record stretches over three accreditation cycles.
2. HCC was consistently and unequivocally warned that the failure to comply with the submission deadlines set by ACCSC could lead to the withdrawal of the school's accreditation.
3. HCC was certainly on notice that the Commission was deeply concerned about its history of non-compliance with filing deadlines and that its accreditation could be in jeopardy if timelines were not complied with.
4. Compliance with Commission rules and policies—including the times for filing necessary materials—is a critical element of being an accredited school and the Commission rules cited above make it absolutely clear that failure to adhere to them could result in the loss of accreditation.

For these reasons, the Appeal Panel saw no basis for the claim that the school lacked notice or was deprived of any element of due process.

Second, the Appeals Panel found that HCC's appeal arguments appear to misapprehend the purpose and scope of extension requests and Commission decisions with respect to them. Implicit in the school's argumentation is the suggestion that the grant of an extension request somehow wipes the slate clean and that previous conduct by the school is no longer relevant and cannot be taken into account by the Commission in its decision-making. Similarly, HCC argued that delinquencies which occurred in 2007, 2009, and 2012 are somehow too old to be taken into account by the Commission. These views have no validity. The decision whether to grant or deny a request for an extension of time resides exclusively in the discretion of the Commission taking into account any and all facts and circumstances deemed relevant by the Commission. The Appeals Panel found that the fact that the Commission may have approved a request for an extension does not forgive or expunge the past delinquent conduct by the school and it certainly does not mean that the Commission is barred from taking HCC's historical conduct into consideration in deciding whether the school should be reaccredited. The Appeal Panel found nothing arbitrary or capricious about the Commission taking the entirety of HCC's conduct over the years into consideration in deciding whether to withdraw the school's accreditation. At each step of the way, HCC was unequivocally warned about the potential consequences of delinquency. The fact that with its decision to finally withdraw HCC's accreditation, the Commission appears to have decided that it would not allow for a reprisal of the multiple delinquencies which plagued the last two accreditation cycles. In the view of the Appeals Panels, reaching the decision as the Commission did does not make the Commission's action arbitrary, capricious, or unfair.

Third, the Appeal Panel was also not persuaded by HCC's contention that the school's history of obtaining extensions has now been used against it without notice. For example, at the appeal hearing, HCC's counsel argued that "[w]e believe that this decision is arbitrary and unfair[, n]ot only because the so-called delinquencies were almost always requests for extensions that ACCSC granted, but also because at no time

did ACCSC ever tell the Hollywood School that if it requested extensions, those requests would be used against it years later if it missed a deadline” (Appeal Hearing Transcript pgs., 8-9). In the Appeals Panel view, this argument misses the mark insofar as the Commission’s concern was with the persistent failure of the school to meet specific and critical timelines, not the request for or grant of extensions. In some of the events described above, HCC made no request for an extension but the Commission exercised its discretion to grant the school some additional time to provide the needed documentation. In other cases, the request for extension came after (or nearly incident to) the delinquency. Again, the Appeals Panel found that the grant of an extension or additional time does not render the school’s history moot or irrelevant nor does it indicate to the school that all is right because an extension has been granted. The record proves that time and time again HCC was warned in writing that the school’s delinquent conduct – both past and present – put its accreditation in jeopardy.

Fourth, the Appeals Panel found that the good attributes of the school do not indicate that the Commission’s decision to withdraw accreditation was arbitrary or capricious. On appeal, HCC asserted that the school has been in business for 37 years, has never had any financial issues, has not been the subject of any complaints, has never been sued by a student or customer, has had no adverse audit findings, has never lost its license, and until the most recent renewal cycle, had never been on probation. While laudable, these facts do not make the case that ACCSC had acted arbitrarily in revoking the school’s accreditation. The Commission’s *Standards of Accreditation* specifically provide that an institution has the burden of demonstrating that it is in compliance with all accreditation requirements and policies. Failure to adhere to the timelines laid out in ACCSC’s rules, policies, and letters to schools is certainly probative of the question whether the school complies with such requirements.

Conclusion

For the foregoing reasons, it is the unanimous opinion of the Appeals Panel that the record clearly supports the Commission’s decision to withdraw the accreditation of HCC and to remove the school from the list of ACCSC-accredited schools. The Commission’s May 22, 2017 decision is, therefore, affirmed and effective as of the date of this letter.

In accordance with the provisions set forth in *Section X, Rules of Process and Procedure of Process and Procedure, Standards of Accreditation*, the Commission will make public the reasons for the withdrawal of accreditation and notify the appropriate state and federal agencies. The school may submit comments on or before October 15, 2017 in accordance with the enclosed Public Comment Disclosure Form. Comments submitted by the school will accompany any public disclosure of a final Commission action pursuant to *Section X (C)(4) & (D)(4), Rules of Process and Procedure, Standards of Accreditation*.

For additional information regarding this matter, please contact me directly at [REDACTED] or [REDACTED]

Sincerely,



Michale S. McComis, Ed.D.
Executive Director



Accrediting Commission of Career Schools and Colleges

2101 Wilson Boulevard, Suite 302
Arlington, Virginia 22201
703.247.4212
703.247.4533 fax
www.accsc.org

PUBLIC COMMENT DISCLOSURE FORM

To Be Submitted No Later Than October 15, 2017

Michale S. McComis, Ed.D.
Executive Director
ACCSC
2101 Wilson Boulevard, Suite #302
Arlington, Virginia 22201

RE: Hollywood Cosmetology Center (School #M057753)
1708 W. Lindsey Street
Norman, Oklahoma 73069

Dear Dr. McComis:

I understand and agree that the Commission, pursuant to *Section X (C)(4)&(D)(4), Rules of Process and Procedure, Standards of Accreditation*, will make public a summary of the reasons for the final adverse accrediting decision effective October 5, 2017 together with any comments submitted by the school. I further understand that the summary will be accompanied by the attached comments.

I understand and agree that the attached comments constitute Hollywood Cosmetology Center’s public comments on the adverse accreditation action that are to be disseminated with the public notice of the Commission’s **May 2017** decision including, but not limited to, dissemination to appropriate federal, state and other accrediting agencies and posting to the ACCSC website (*Section X (C)(4)&(D)(4), Rules of Process and Procedure, Standards of Accreditation*).

I understand and agree that the school is not obligated to submit public comments and acknowledge that the attached comments are provided voluntarily.

I understand and agree that the public comments must be in summary format, professional in tone, and free of profanity and calumnious statements. I acknowledge that any comments which do not meet these requirements will not be disseminated or posted along with the summary of the reasons for the adverse accreditation decision.

I understand and agree that the Commission will release its summary of the adverse accreditation decision to the public pursuant to the Commission’s *Rules of Process and Procedure, Standards of Accreditation* and that the school’s written comments will not be added to this disclosure if this form and comments are not submitted in the required format **on or before October 15, 2017.**

I understand and agree that the Commission has no responsibility for how the school’s comments may be used once they are put in the public domain.

Signature

Date

Name/Title