



Accrediting Commission of Career Schools and Colleges

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October 26, 2020<sup>1</sup>

**ELECTRONIC DELIVERY**

[Redacted]

Center for Excellence in Higher Education  
4021 South 700 East, Suite 400  
Salt Lake City, Utah 84107

- Center for Excellence in Higher Education
- CollegeAmerica (“CA-Denver”) – Denver, Colorado (#M001507)
- CollegeAmerica (“CA-Fort Collins”) – Fort Collins, Colorado (#B070544)
- CollegeAmerica (“CA-Colorado Springs”) – Colorado Springs, Colorado (#B070623)
- All Other CEHE affiliated ACCSC-Accredited Institutions

Dear [Redacted]

In August 2017, the Accrediting Commission of Career Schools and Colleges (“ACCSC” or “the Commission”) informed the Center for Excellence in Higher Education and the specific campuses listed above (“CEHE,” “CollegeAmerica,” or “the Defendants”) that the Commission would monitor a complaint filed by the Colorado Attorney General’s Office against CEHE. On or about August 22, 2020, ACCSC became aware of a ruling by the District Court, City and County of Denver, State of Colorado (“District Court”), in favor of the state of Colorado and against the Defendants, jointly and severally, to include \$3,000,000.00 for civil penalties under the Colorado Consumer Protection Act (“CCPA”), and injunctive relief under the CCPA and Uniform Consumer Credit Code (“UCCC”). As explained more fully below, the District Court’s findings raise very serious questions about CEHE’s compliance with the Commission’s accreditation standards and policies in concert with the concerns set forth in the Probation Order currently in effect for the system of schools owned and operated by CEHE.

ACCSC understands, as stated in the *Findings of Fact, Conclusions of Law, and Judgment*, that the Colorado Attorney General’s Office case was not brought pursuant to any federal law or regulation or any accrediting standard, but rather under two of the state of Colorado’s consumer protection statutes, the CCPA and the UCCC. There are several issues raised by the District Court’s decision that warrant examination by ACCSC as CEHE’s designated institutional accrediting body given that a) the District Court found the Defendants to have violated Colorado state law; b) several of the District Court’s findings fall directly under accreditation requirements to which CEHE is required to show compliance as ACCSC-accredited institutions; and c) CEHE’s schools are currently on Probation with ACCSC.

The following are other areas of concern raised by the District Court’s decision that call into question CEHE’s compliance with ACCSC’s accrediting standards.

**Management**

ACCSC-accredited institutions must demonstrate that all owners, members of school management, and administrative employees have past records that demonstrate a commitment to ethical, fair, and honest practice as well as compliance with accrediting standards and applicable federal, state, and local

<sup>1</sup> Corrected copy to reflect CEHE’s August 31, 2020 notice to ACCSC regarding the District Court’s decision.

requirements (*Section I (A)(2)(b & c), Substantive Standards, Standards of Accreditation*). In this regard, the following conclusions by the District Court are of particular note:

- “Defendants (Carl) Barney and (Eric) Juhlin are personally liable, jointly and severally, with CEHE for the school’s violations of the CCPA and UCCC because they directed and participated in the conduct of CEHE that gave rise to CEHE’s violations of the CCPA and UCCC” (#707, pg. 147).
- “Defendant Barney was essentially the architect of CollegeAmerica’s advertising and admissions processes and the school’s institutional loan – the very core of the state’s claims” (#708, pg. 147).
- “Defendant Barney provided specific direction concerning advertisements and sometimes drafted headlines and content of ads that represented wage and employment outcomes” [and b]y reviewing and approving all advertisements, Barney sanctioned the illegal conduct” (#709, pg. 148).
- “At all times, Defendant Barney was aware that graduates of CollegeAmerica were not making the salaries advertised” (#710, pg. 148).
- “After being hired as the CEO in 2010, Defendant Juhlin also reviewed and approved all CollegeAmerica advertisements. At the same time, Juhlin was aware that graduates of CollegeAmerica were not making the salaries advertised. Juhlin also was aware of the admissions process, as he attended and participated in the training of admissions staff. There is no evidence that Juhlin substantially changed any of the advertising or admissions policies established by Barney even though he could have done so as the CEO” (#712, pg. 148).

These specific conclusions by the District Court (as well as others), indicate that CEHE may be out of compliance with *Section I (A)(2)(b & c), Substantive Standards, Standards of Accreditation* as long as [REDACTED] are employed in a management capacity or in a position where they would participate in or oversee submissions of information to ACCSC.

### **Recruitment/Admissions**

According to *Section IV (A)(1), Substantive Standards, Standards of Accreditation*, a school’s recruitment efforts must focus on attracting students who are qualified and likely to complete and benefit from the education and training provided by the school and not simply obtaining enrollments. *Section IV (A)(2), Substantive Standards, Standards of Accreditation* states that a school’s recruitment efforts are required to describe the school to prospective students fully and accurately and follow practices that permit prospective students to make informed and considered enrollment decisions without undue pressure. ACCSC noted that the state of Colorado contended that CollegeAmerica conducted its “16 Steps” admissions process in a rushed manner, with the objective of enrolling and “packaging” a prospective student with a financial package in a single day. With regard to this allegation, ACCSC noted that the District Court found that a preponderance of the evidence, in both CollegeAmerica’s documents and the testimony of its admissions counselors and financial planners, supports this contention. ACCSC also noted that in an example cited by the District Court, the schools’ Admissions Manual’s section on “closing techniques” urges a closing even over objection by the prospective student:

*Close even after resistance. When a prospective student says ‘no’ his or her mind is temporarily closed and off balance, but a close is still possible. By resolving the problem or answering the question, you can close after resistance. Ask: “What’s preventing you from enrolling today?” Overcome objections and close again.*

In regard to recruitment, of importance to ACCSC are the following conclusions, *inter alia*, reached by the District Court that:

- “CollegeAmerica has knowingly taken advantage of the inability of at least some consumers reasonably to protect their interests by reason of physical or mental infirmities, ignorance, illiteracy, or inability to understand the language of the agreement, or similar factors” (#690, pg. 143).
- “The admissions process did not appear to be focused on guiding prospective students, at least not in an attempt to protect their best interests, but rather with simply enrolling them, and ‘packaging’ them with a financial aid package, all within a single day.” Admissions consultants were trained extensively on how to deal with a prospective student’s ‘objections,’ and achieving a ‘close,’ even after a student had expressed doubt about the wisdom of going forward” (#692, pg. 144).

These findings by the District Court are of particular concern given that ACCSC notified CEHE in a September 6, 2018 Probation Order, that:

*...the record shows that the inputs, resources, and processes of CEHE schools are designed and implemented in a manner that is not designed for student success. CEHE’s advertising and recruitment tactics coupled with a poorly documented admissions process has fostered the creation of a student population that the schools are ill-prepared to educate.*

The Commission’s standards for student recruitment have long purported that a “school’s recruitment efforts must attract students who are qualified and likely to complete and benefit from the education and training provided by the school and not simply to obtain enrollments”<sup>2</sup> and most recently stated as “[t]he recruitment practices of accredited schools should focus not on simply obtaining student enrollment numbers, but on creating a student body of individuals who are qualified and likely to benefit from the education and training objectives and to achieve success.”<sup>3</sup> The District Court’s findings with respect to CEHE’s recruitment practices directly raise questions about CEHE’s compliance with ACCSC’s student recruitment standards found under *Section IV, Substantive Standards, Standards of Accreditation*.

### **Accuracy of Information Provided to ACCSC**

ACCSC-accredited institutions must supply the Commission with complete, truthful, and accurate information and documentation showing the school’s compliance with all accrediting standards. The Commission places a high level of reliance upon information, data, and statements provided by a school and the integrity and honesty of a school are fundamental and critical to the accreditation process. A compromise of integrity is considered to be an extreme offense (*Introduction to the Standards of Accreditation*). *Section I (G)(1), Rules of Process and Procedure, Standards of Accreditation* lists the obligations of the school to maintain eligibility for accreditation. Specifically, by applying for and/or receiving accreditation, a school accepts the obligation to demonstrate continuous compliance with the *Standards of Accreditation*. While the Commission employs its own fact-finding methods to determine a school’s compliance with accrediting standards, the burden rests with the school to establish that it is meeting the standards. Moreover, the Commission’s deliberations and decisions are made on the basis of the written record of an accreditation review. Accordingly, a school must supply the Commission with complete, truthful, and accurate information and documentation showing the school’s compliance with all accrediting standards if the school is to maintain accreditation. Based upon a reading of the District Court’s decision, it appears that CEHE may have failed to meet these requirements.

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<sup>2</sup> *Section IV, Statement of Purpose, Substantive Standards, Standards of Accreditation* – language in effect from College America’s date of initial application for accreditation through June 30, 2020.

<sup>3</sup> *Section IV, Statement of Purpose, Substantive Standards, Standards of Accreditation* – language in effect as of July 1, 2020.

As explained in the District Court’s decision, the state of Colorado retained an expert to audit the schools’ backup documentation that ostensibly supported the employment rates reported to ACCSC in the years 2009 to 2012 and 2015 to determine whether the schools reported employment rates in accordance with ACCSC’s standards. The District Court found the state’s expert analysis “credible and helpful to an understanding of the accuracy of CollegeAmerica’s reporting of its graduation and employment rates, especially the charts on which his results were depicted relative to CollegeAmerica’s calculations and the ACCSC’s benchmarks” (#224, pgs. 45-46).

While CEHE disagreed with the state’s expert witness’ methodology, the witness concluded that CollegeAmerica’s applied methodology to report employment rates was “inconsistent with ACCSC’s standards and the guidelines set forth in the January 5, 2011 *Accreditation Alert* and that as a result, the Defendants actual employment rates were lower than those reported to ACCSC and ultimately disclosed to consumers” (#226, pg. 46). Moreover, the District Court found it implausible that “CollegeAmerica actually misunderstood its obligation to properly document its employment placement decisions for over five years between January, 2011 and mid-2016” (#229, pg. 47).

In addition, the District Court found that [REDACTED] admitted that while CollegeAmerica was required to follow ACCSC’s *Guidelines for Employment Classification*, “[REDACTED] would count self-employed students as employed in the field even when Defendants did not meet the documentation requirements of ACCSC’s guidelines for employment classification” (#259, pg. 51). This is contrary to the expectation set forth in the ACCSC’s *Guidelines* that “[o]f crucial importance is that the school is responsible for justifying, with documentation, every graduate classified as employed.” In this regard, the District Court found that, “Defendants’ knowingly violated ACCSC’s Standards when they reported these graduates as employed in field” (#278, pg. 54).

Of importance to ACCSC are the following conclusions, *inter alia*, reached by the District Court:

- “Defendants engaged in a series of deceptive trade practice by knowingly inflating employment rates of their degree programs and reporting and disclosing those inflated rates to ACCSC and prospective students in an effort to maintain CollegeAmerica’s accreditation and induce students to enroll” (#607, pg.123).
- “Defendants also falsely represented that their employment rates were calculated in accordance with ACCSC Standards” (#609, pg. 124).
- “Defendants knowing failure to follow ACCSC Standards had the effect of substantially increasing their degree programs’ employment rates, which were then disclosed to consumers. Defendants then used the inflated employment rates to induce consumers to enroll” (#612, pg. 124).
- “Defendants failed to follow ACCSC’s Standards, including the Guidelines for Employment Classification, in numerous ways including failing to obtain proper documentation before reporting graduates as employed in field, reporting graduates as employed in field when they were actually employed in an unrelated occupation, and improperly classifying graduates as exempt/unavailable for employment” (#610, pg. 124).
- “Defendants withheld the material facts that their graduates were not obtaining jobs in their fields of study and that Defendants did not follow ACCSC guidelines in calculating their employment rates” (#614, pgs. 124-125).

The decision of the District Court and the specific findings of the District Court as recited above coupled with the potential impact this decision on CEHE's ability to maintain accreditation is of great concern to ACCSC. In order to provide CEHE with an opportunity to respond to ACCSC's concerns arising from the District Court's decision, ACCSC directs CEHE to provide the information set forth below. The submission will be reviewed by the Commission in conjunction with the Probation Order currently in force.

Based on the foregoing, the Commission directs CEHE to submit the following:

- a. An explanation as to how, in light of the District Court's decision, CEHE and specifically the Board of Directors has determined that [REDACTED] have past records that demonstrate a commitment to ethical, fair, and honest practice as well as compliance with accrediting standards and applicable federal, state, and local requirements (*Section I (A)(2)(b & c), Substantive Standards, Standards of Accreditation*);
- b. With regard to the CEHE Board of Directors:
  - i. A list of the current Board of Directors with a description as to how each member is qualified to fulfill his/her role on the Board;
  - ii. A description of the scope of authority that the Board of Directors has with regard to the operations of CEHE and the individual schools; and
  - iii. A copy of CEHE's Bylaws and Articles of Incorporation;
- c. Copies of Board of Directors meeting minutes that have discussed the schools' compliance with accrediting standards as well as the District Court's findings, conclusions, and actions;
- d. A description of any independent investigation undertaken by CEHE or the Board of Directors with regard to ACCSC's Probation Orders or the District Court's findings as well as the results of such investigation(s) as may be available;
- e. A description of any changes directed by the Board of Directors with regard to leadership, management, and administrative oversight in light of the District Court's findings, conclusions, and actions in keeping with the Duty of Care, Duty of Loyalty, and Duty of Obedience that each Trustee has to CEHE;
- f. An attestation from each member of the Board of Directors indicating that s/he has read and understands the series of Probation letters issued by ACCSC, the District Court's decision, and this letter;
- g. An explanation as to how CEHE has determined that each school reports its employment rates in accordance with ACCSC's *Standards of Accreditation* and *Guidelines for Employment Classification*, addressing the District Court's determinations in the following areas:
  - i. The "implausibility" that CEHE actually misunderstood its obligation to properly document its employment placement decisions for over five years between January, 2011 and mid-2016;
  - ii. CEHE's knowing failure to follow ACCSC *Standards*; and
  - iii. The District Court's determination that CEHE's [REDACTED] admitted that while CEHE was required to follow ACCSC's *Guidelines for Employment Classification* that [REDACTED] would count self-employed students as employed in field even when CEHE did not meet the documentation requirements in the ACCSC's guidelines for employment classification;
- h. An explanation as to how each ACSC-accredited school's admissions process permit prospective students to make informed and considered enrollment decisions without undue pressure given the District Court's finding that CEHE's admissions process did not appear to be focused on guiding

prospective students, at least not in an attempt to protect their best interests, but rather with simply enrolling them, and “packaging” them with a financial aid package, all within a single day;

- i. An explanation of the schools’ practice of counting self-employed students as employed in field even when CEHE does not possess the documentation requirements in the ACCSC’s Guidelines for Employment Classification; and
- j. A summary of any changes to personnel or operating policies made as a result of the District Court’s decision against CEHE.

### **RESPONSE REQUIREMENTS:**

By applying for accreditation, a school accepts the obligation to demonstrate continuous compliance with the *Standards of Accreditation*. While the Commission employs its own methods to determine a school’s compliance with accrediting standards, the burden rests with the school to establish that it is meeting the standards. The Commission’s deliberations and decisions are made on the basis of the written record and thus CEHE must supply the Commission with complete documentation of the school’s compliance with accrediting standards.

CEHE must provide a response to the items expressed above that provides the information requested along with any additional information that the school believes supports a demonstration of compliance with accrediting standards. If the school’s response contains documentation that includes personal or confidential student or staff information that is not required for the Commission’s review (e.g., social security numbers, dates of birth, etc.), please remove or redact that information.

CEHE must upload the school’s electronic response directly to ACCSC’s College 360 Database. The ACCSC College 360 database can be accessed by clicking [here](#). Please note that the password utilized by the institution to access the Annual Report Portal is the same to access the School Submission section of the College 360 database. The Instructions for Electronic Submission can be found [here](#). A detailed overview on how to upload a school submission can be found [here](#).

Keep in mind, the school’s response must be prepared in accordance with ACCSC’s Instructions for Electronic Submission (e.g., prepared as one Portable Document Format (“PDF”) file that has been prepared using Adobe Acrobat software (version 8.0 or higher) and which has a .pdf extension as part of the file name). The school will receive an e-mail confirmation that the file has been received within 24 hours of the submission.

The response must also include a certification attesting to the accuracy of the information signed by the CEHE CEO, Chair of the Board of Directors, and each member of the CEHE Board of Directors. The response must be received in the Commission’s office **on or before December 30, 2020**. If a response is not received in the Commission’s office **on or before December 30, 2020**, the Commission will consider further appropriate action.

For assistance with the password or for any other questions regarding the electronic submission requirements, please contact [REDACTED]. Please note that any password requests to access College 360 must be made by the school director, or designated member of the school’s management team, via e-mail.

For further assistance or additional information, please contact me directly at [REDACTED]

Sincerely,

[REDACTED]

Executive Director