

# STATE OF COLORADO

**Department of Higher Education  
DIVISION OF PRIVATE OCCUPATIONAL SCHOOLS**

**Lorna A. Candler  
Director**

**Colorado Board of Private Occupational Schools**

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**John Hickenlooper  
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**Lt. Gov. Joseph A. Garcia  
Executive Director**

June 19, 2013

**Re: Clarification on options currently available to BCMT students**

The Colorado Division of Private Occupational Schools (the Division) has received several inquiries as to why the Boulder College of Massage Therapy (BCMT) closed. This correspondence is in response to the BCMT student petition, correspondence supporting and opposing the closure of BCMT, and other communications. Please consider the following information regarding the current status of BCMT and options available to currently enrolled students.

Since the beginning of the year, the Division attempted to support BCMT in its efforts to regain financial stability and to resolve other important issues. Several factors contributed to the closure of BCMT. First, on January 4, 2013 The United States Department of Education (USDOE) notified BCMT that because it failed to meet financial responsibility standards applicable to institutions accessing Title IV funds for student loans, it was required to submit an irrevocable letter of credit in the amount of \$653,525.00. On February 15, 2013, the Accrediting Commission of Career Schools and Colleges (ACCSC) placed BCMT on probation for the following reasons:

1. Financial instability;
2. Insufficient number of managers and administrative employees necessary to support the school's operation;
3. Failure to comply with ACCSC *Rules of Process and Procedure, Standards of Accreditation*;
4. Deficiencies with externship coordinator;
5. False, misleading, and/or inaccurate advertising; (See Attachment A).

While the Division continued to both mentor and monitor BCMT in the hope that it would be able to serve its students, recent events required the Division of Private Occupational Schools Board to act in the best interest of students. BCMT was unable to post the letter of credit required by the USDOE. On April 26, 2013, the USDOE notified BCMT that it had moved from Heightened Cash Monitoring 1 (HCM1) to an even more restrictive Heightened Cash Monitoring 2 (HCM2) status. The USDOE took this action because

it was notified that BCMT drew down an excessive amount of Title IV, HEA funds despite knowing that there were no corresponding disbursement records. (*See Attachment B*)

In early June of 2013, the USDOE notified the President of BCMT of its emergency action barring the school from accessing Title IV HEA program funds whereby BCMT students' loans were no longer accessible. (*See Attachment C*)

The DPOS Board considered the foregoing information from USDOE and ACCSC. The termination of federal funds further compounded the financial stability of BCMT. Additionally, it learned that BCMT was not in compliance with its real estate bond financial obligations, which risked the security of the school's building and school premises. The probable & imminent loss of accreditation further compromised the program BCMT students entered. The grounds for ACCSC probation directly violate the minimum standards under the state's law and rules governing the duties and authority of the Board and Division. (See the Private Occupational Schools Act, C.R.S. sections 12-59-101 et. seq. (2012)). Therefore, in its interim meeting on June 5, 2013, the Board deemed it necessary to act to protect the best interests of the students. Because the Board was notified that BCMT was unwilling to close and relinquish train out for its students in a financially secure, accredited school, the Division notified BCMT that it would issue a Notice of Non-Compliance containing all violations cited by USDOE, ACCSC and each violation of the Private Occupational School Act, C.R.S. sections 12-59-119 et seq. and accompanying evidence. BCMT agreed to cease operations (closure) in lieu of having this public Notice issued. Therefore, BCMT ceased operation as an authorized private occupational school effective June 16, 2013.

Although DPOS has no jurisdiction over the USDOE Title IV federal funds, it has been further notified that federal funds are no longer available to BCMT. Please contact the USDOE for further information regarding federal funds.

#### TRAIN OUT OR REFUND OF PREPAID UNEARNED TUITION, C.R.S. 12-59-115 (2012):

In the event of a school closure, the DPOS Board must provide students with an opportunity to "train-out" (complete their course of study) at a Board-approved school, if possible. To ensure the students' continued training and education, the Board approved the Colorado School of Healing Arts (CSHA) as a financially stable and accredited school able to accommodate via transfer or train out most or all BCMT students with a program substantially similar to the BCMT curriculum. The CSHA train out agreement will replace the original enrollment agreement from BCMT: all credits will be honored by CSHA as the train out school and any tuition due by the student must be in accord with the original BCMT enrollment agreement.

While DPOS is not authorized to mandate use of federal funds by CSHA (or any other school who may be approved in a train out), it is authorized to make demand on the "surety" of the school ceasing operation. The "surety" is a fund payable to the Division in order to finance a train out or refund of prepaid unearned tuition. To the extent practicable, the train out will be funded by the "surety" and students who elect to receive a refund may only receive a pro-rata share of their unearned pre-paid tuition.

#### TRANSFER:

Each student has the option of transferring to another school of his or her choice to continue training and education. DPOS does not have the authority to require schools to honor transferring students' credits. Rather, the school has the authority to determine what credits it will transfer. In working with ACCSC,

DPOS has been ensured that BCMT students who wish to transfer to CSHA will be permitted to use any remaining Title IV funds that they are eligible for to finance their education at CSHA.

CLOSED SCHOOL LOAN DISCHARGES:

For general information about loan discharges, visit [www.studentaid.ed.gov](http://www.studentaid.ed.gov). Select the “repaying” tab, then select the “Loan Discharge (Cancellation)” link. (*See Attachment D*)

The Division has *not* received an application from BCMT, Healing Spirits or any other entity to operate another school at BCMT’s current location. Given BCMT’s financial situation and the other circumstances explained above, the Board would likely require additional information and assurances to protect students before it would approve such an application. At this time, it does not appear that there is a viable option to continue to serve currently enrolled students at BCMT’s location, whether through BCMT or any other entity.

Sincerely,  
FOR THE PRIVATE OCCUPATIONAL SCHOOL BOARD



Lorna A. Candler  
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](http://www.accsc.org)

## Public Notice of Probation as of May 16, 2013

The following institutions are currently on Probation as directed by the Accrediting Commission of Career Schools and Colleges (ACCSC). Institutions that appear on a previous list but not here have had the Probation Order vacated. A summary of the reasons for Probation for each institution follows this list. The specific accreditation standards cited in this document are available for review by downloading the *Standards of Accreditation* from ACCSC's website.<sup>1</sup>

PROBATION ORDER ISSUED				
School	School #	City	Origination Date	Next Review
Arizona Automotive Institute	MS 000334	Glendale, AZ	June 6, 2012	May 2013
Boulder College of Massage Therapy	MS 058548	Boulder Colorado	February 15, 2013	June 2013
Pelican Flight Training	MS 070278	Pembroke Pines, Florida	May 10, 2013	June 2013
Prism Career Institute	MS 009027	Upper Darby, PA	September 7, 2012	August 2013
Professional Massage Training Center	MS 070395	Springfield, MO	December 7, 2011	Subject to Court Action
Westech College	BR 072283	Moreno Valley, CA	June 6, 2012	May 2013
UEI College	BR 072368	Bakersfield, CA	June 7, 2012	Aug 2013
UEI College	MS 066364	Fresno, CA	June 7, 2012	Aug 2013
UEI College	BR 070735	Gardena, CA	June 7, 2012	Aug 2013
UEI College	BR 072331	Riverside, CA	June 7, 2012	Aug 2013

### What Does Probation Mean?

In cases where the Commission has reason to believe that a school is not in compliance with accreditation standards and other requirements, the Commission may, at its discretion, place a school on Probation. A school subject to a Probation Order will be required to demonstrate corrective action and compliance with accrediting standards.

The Commission may require a school to submit Commission-directed reports and receive on-site evaluation teams in conjunction with a Probation Order. Failure to demonstrate compliance with accrediting standards or other accrediting requirements by the end of the probationary period may result in the school being removed from the accredited list.

When a Probation Order is directed, a written notice is sent promptly to the school. The notice:

- States fully the reasons why the Probation Order was issued;

<sup>1</sup> <http://www.accsc.org/Accreditation/Standards-of-Accreditation.aspx>

- Identifies the standard and other accreditation requirements with which the school may not be in compliance;
- Explains the reasons and cite the evidence indicating that the school may not be in compliance with accreditation requirements; and
- Advises the school of its obligations under the Probation Order and the deadline for response.

ACCSC's *Rules of Process and Procedure* require a school subject to a Probation Order to inform current and prospective students that the school has been placed on Probation and that additional information regarding that action can be obtained from the Commission's website<sup>2</sup>. A summary of the Probation Order is made public via the Commission's website in accordance with *Section VII (L)(7), Rules of Process and Procedure, Standards of Accreditation*.

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<sup>2</sup> <http://accsc.org/Content/CommissionActions/SchoolsonProbation.asp>

**ACCSC DISCLOSURE OF COMMISSION ACTION**  
**SUMMARY OF GROUNDS FOR PROBATION ACTIONS**  
**ORIGINATION DATE: FEBRUARY 15, 2013**  
**CONTINUED PROBATION DATE: MAY 16, 2013**

**BOULDER COLLEGE OF MASSAGE THERAPY**  
**6255 LONGBOW DRIVE**  
**BOULDER COLORADO**  
**SCHOOL #M058548**

Boulder College of Massage Therapy located in Boulder, Colorado has been continued on Probation by the Accrediting Commission of Career Schools and Colleges for the reasons summarized below.

**Summary of Grounds for Probation:**

1. BCMT must demonstrate that the financial structure of the school is sound, with resources sufficient for the proper operation of the school and the discharge of obligations to its students (*Section I (C)(1), Substantive Standards, Standards of Accreditation*).
2. BCMT must demonstrate that the school has a sufficient number of managers and administrative employees necessary to support the school's operations, student services, and educational programs and that the school ensures the continuity of administrative capacity through the reasonable retention of administrative staff (*Section I (A)(1)(c)&(4), Substantive Standards, Standards of Accreditation*).
3. BCMT must demonstrate the school notified the Commission of non-substantive and substantive changes in advance of such changes taking effect or being implemented in accordance with the provisions set forth in Section IV of the *Rules*. (*Section IV(A)(4), Rules of Process and Procedure, Standards of Accreditation*).
4. BCMT must demonstrate that the externship coordinator has at least three years of related practical work experience in the occupational field associated with the training provided (*Section II (A) (7)(c)(i), Substantive Standards, Standards of Accreditation*).
5. BCMT must demonstrate that the school's advertising and promotional materials are truthful and accurate and avoid leaving any false, misleading, or exaggerated impressions with respect to the school and its training and that the school does not describe in its catalog, advertise, or promote new programs and substantive changes prior to receiving written Commission approval (*Section IV (B)(1)&(9), Substantive Standards, Standards of Accreditation*).

Attachment D

Colorado Div. of  
Private & C.  
Schools



COPY FOR YOUR  
INFORMATION

RECEIVED

APR 29 2013

DPOS

April 26, 2013

Mr. Dirk S. McCuiston  
Boulder College of Massage Therapy  
6255 Longbow Drive  
Boulder, CO 80301-3295

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
# 7012 1640 0000 0567 6685

Re: HCM2 Method of Payment  
OPE ID: 03013100  
DUNS: 052109642

Dear Mr. McCuiston:

The Chicago/Denver School Participation Division has transferred Boulder College of Massage Therapy (BCMT) from the Heightened Cash Monitoring 1 (HCM1) method of payment to the Heightened Cash Monitoring 2 (HCM2) method of payment effective April 24, 2013. BCMT must immediately discontinue submission requirements for HCM1 and follow the submission requirements for HCM2 described below.

Under the HCM2 method of payment, BCMT may continue to obligate funds under the federal student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended. BCMT may disburse institutional funds to eligible students. If BCMT disburses institutional funds, the U.S. Department of Education (Department) will reimburse it for properly documented expenditures. The Department reserves the right to offset any federal claims against funds due to BCMT.

This action is authorized by Section 415 of the General Education Provisions Act, 20 USC 1216a-1, and by the following program regulations: 34 C.F.R. § 668.162, Student Assistance General Provisions.

The Department has taken this action because it was notified that BCMT drew down an excessive amount of Title IV, HEA funds despite knowing that there were no corresponding disbursement records.

Enclosed are the detailed instructions for all HCM2 requests. Please address all submitted requests and inquiries to:

**Federal Student**

An OFFICE of the U.S. DEPARTMENT of EDUCATION

Chicago/Denver School Participation Division  
1244 Speer Blvd., Suite 201, Denver, CO 80204-3518

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Joseph Massman, Payment Analyst  
U.S. Department of Education  
Chicago/Denver School Participation Division  
Federal Student Aid  
1244 Speer Blvd., Suite 201  
Denver, CO 80204-3518

Phone: 303-844-0432  
E-mail: Joseph.Massman@ed.gov

Please note that the foregoing action does not preclude the Department from taking administrative action(s) against BCMT.

Sincerely,



Douglas A. Parrott  
Director  
Chicago/Denver School Participation Division

Enclosures: Instructions for Obtaining Funds under HCM2 Method of Payment  
Form 270 (Request for Title IV Reimbursement or Heightened  
Cash Monitoring)  
Student Data Spreadsheet

cc: Debbie Clark, Financial Aid Director  
National Accrediting Commission of Career Arts and Sciences  
Colorado Division of Private Occupational Schools, Department of Higher ✓  
Education

## **INSTRUCTIONS FOR OBTAINING FUNDS UNDER HEIGHTENED CASH MONITORING (HCM2) METHOD OF PAYMENT**

The U.S. Department of Education (the Department) has developed these instructions to minimize the documentation the institution must submit, as well as to facilitate the School Participation Division's review of that documentation. The School Participation Division reviews this documentation to determine the accuracy and reliability of the information submitted. If necessary, the School Participation Division (SPD) may require the institution to submit additional documentation of proper expenditures before the Payment Analyst disburses funds to the institution and/or before approving program authorization requests.

For the Federal Pell (Pell) Grant and Federal William D. Ford Direct Loan (Direct Loan) programs, the institution must demonstrate that it properly determined, awarded, and used its own funds to make disbursements under these programs to eligible students who are enrolled in and are attending eligible programs. When the institution has demonstrated that it has expended these funds in accordance with Title IV requirements, the Department will reimburse the institution (or credit the institution's account from its latest existing cash on hand balance), subject to any right of offset available.

The institution is required under 34 C.F.R. § 668.162(e) to credit students' accounts, or otherwise use its own funds to pay students, for the amount and type of Federal aid they are eligible to receive prior to requesting reimbursement of those funds from the Department. Pell and Direct Loan, disbursement rosters must be in "review status" in the Common Origination and Disbursement (COD) system prior to submission of the request to the Department. All student names, social security numbers and amounts listed in the payment submission must match those in the COD system. All student records must be verified in COD. When verifying records in COD; do not select the warning (W) verification code.

Please note: Complying with HCM2 requirements does not relieve an institution of its obligation to continue reporting payment data to the Department.

### **I. TECHNICAL ASSISTANCE**

Please read these instructions carefully. These instructions have been written in a general manner in order to be used by all the various types of institutions that participate in the Title IV HEA student financial assistance programs. Since different institutions use different methods for recording, processing or storing information, or use different terminology for certain items, it is important to understand that it may be necessary to contact your Payment Analyst for clarification. If there are any doubts about the

requested information, please clarify these issues with your Payment Analyst before submitting a request in order to avoid discrepancies and delays.

## **II. HCM2 SUBMISSIONS**

**Our office will accept and process only one HCM2 request during any 30-day time period.** The institution may submit funding requests for multiple award years together – this will be considered one submission. However, a separate spreadsheet must be included for each award year

After a minimum of six (6) consecutive accurate and complete submission requests and demonstration that the institution's overall administrative/financial controls are in place, the Payment Analyst may allow the institution to submit its HCM2 requests without all of the hard copy documentation identified in Section D. However, the institution must include, at a minimum, the Form 270 with original signatures (see Section B), and the spreadsheet portion of the report (see Section C).

Documentation in the submission will not be returned. Therefore, the Department strongly recommends that the institution maintain a copy of the HCM2 submission.

### **A. Protection of Personally Identifiable Information**

Personally Identifiable Information (PII) being submitted to the Department must be protected. PII is any information about an individual which can be used to distinguish or trace an individual's identity (some examples are name, social security number, date and place of birth).

PII being submitted electronically or on media (examples are CD-rom, flash drive, DVD) must be encrypted. The data must be submitted in a .zip file encrypted with Advanced Encryption Standard (AES) encryption (256-bit is preferred). The Department uses WinZip, however, files created with other encryption software are also acceptable, provided that they are compatible with WinZip (Version 9.0) and are encrypted with AES encryption. Zipped files using Win Zip must be saved as Legacy compression (Zip 2.0 compatible).

The Department must receive an access password to view the encrypted information. The password must be e-mailed separately from the encrypted data. The password must be 12 characters in length and use three of the following: upper case letter, lower case letter, number, special character. A manifest must be included with the e-mail that lists the types of files being sent (a copy of the manifest must be retained by the sender).

Hard copy files and media containing PII must be:

- sent via a shipping method that can be tracked with signature required upon delivery
- double packaged in packaging that is approved by the shipping agent (FedEx, DHL, UPS, USPS)
- labeled with both the "To" and "From" addresses on both the inner and outer packages
- identified by a manifest included in the inner package that lists the types of files in the shipment (a copy of the manifest must be retained by the sender).

PII data cannot be sent via fax.

### **B. REQUIRED FORM/CERTIFICATIONS (blank forms enclosed)**

The institution is required to submit a completed Form 270 (Request for Title IV Reimbursement or Heightened Cash Monitoring 2) with each HCM2 submission. This form is used to request Title IV funds under HCM2.

The President, Owner or CEO and the comptroller and/or third-party servicer is required to certify that the information submitted to receive funds while under the HCM2 payment method is accurate. **A false certification may result in civil or criminal action by the Department against the institution.**

**With each HCM2 request submitted, the institution must include one Form 270 per award year for which funds are requested. All Title IV program funds requested must be indicated on the Form 270 and it must be completed according to the instructions provided with the form.**

When completing the Form 270, if Title IV adjustments are due when a student ceases attending and your institution has previously claimed more than the "earned" amount, the institution must net out these amounts when the next request for funds is made. Any adjustments of Pell Grant, TEACH Grant, and Direct Loan Funds must be processed in COD prior to submitting your request.

For example:

- An institution submits a request for Federal Pell funds for 20 students in the amount of \$18,500 on the Form 270 (Section 6A).
- Five of the 20 students withdrew and a total refund of \$3,500 has been calculated for those students and processed in COD. The institution must provide a separate withdrawal spreadsheet with student names and the amount of refunds. The institution would subtract the \$3,500 from the claim, listing it as cash on hand on the Form 270 (Section 6B).

- Therefore, the institution would claim a total of \$15,000 of funds on the Form 270 (Section 6C).

### C. REQUIRED STUDENT INFORMATION

The information listed below must be provided for each student for whom the institution is requesting funds in spreadsheet format (hardcopy and/or electronic). Submit a separate spreadsheet for each award year for which funds are requested. The student records on each spreadsheet must be alphabetized by student last name and then numbered in sequential order. A sample spreadsheet is enclosed. The spreadsheet should be modified to fit the school's situation. Any electronic spreadsheet submission must be in Microsoft Excel.

If BCMT has not released outstanding disbursements from G5 into the institution's federal bank account for students prior to its transfer to HCM2, BCMT must request payment for these students through the HCM2 process by reporting them on the student data spreadsheet and providing the required hard copy documentation identified in Section D.

- Sequence Number
- Student Last Name
- Student First Name
- Social Security Number
- Address (street, city, state, zip)
- Telephone Number
- Instructional Program
- Enrollment status (full-time,  $\frac{3}{4}$  time,  $\frac{1}{2}$  time,  $< \frac{1}{2}$  time)
- Admission criteria used for the student's enrollment (high school diploma, GED, ability to benefit test, college transcript)
- Number of Clock or Credit (specify) hours in the student's program of study
- Number of Clock or Credit (specify) hours in the institution's academic year
- Number of Clock or Credit (specify) hours in the payment period
- Number of Clock or Credit (specify) hours completed by the student to date of payment
- Start date/re-entry date (if applicable)/withdrawal date (if applicable)/last date of attendance (if applicable) and midpoint date of student's program. For distance education programs, the first date the student logged on AND engaged in educational activity
- If student withdrew, the percentage of tuition retained
- Student's cost of attendance
- Direct education cost for enrollment period status

- Expected Family Contribution (EFC)
- Certification that student is making satisfactory academic progress (SAP) (qualitatively and quantitatively) – indicate yes or no
- Professional Judgment or Dependency Override adjustment – indicate yes or no
- Grade Point Average (GPA)
- Award amount currently requested for the student, by Title IV program for which authority to disburse is sought. **Title IV programs are: Pell Grant, FSEOG, TEACH Grant, Federal Portion of FWS, Perkins Loan, Direct Loan.** At the bottom of the spreadsheet, you must provide the total funds requested for each Title IV program.

Because the Institution is also a participant in the **Federal Direct Loan** program, it must also include:

- Loan Period
- Grade Level
- Type of Loan

To reiterate, the institution must submit the above information in the format specified. If not submitted in this format, the Department reserves the right to reject the submission request for funds/authorization by the institution.

#### **D. REQUIRED HARD COPY STUDENT DOCUMENTATION**

To support the request for funds, the institution must provide on demand student records that demonstrate:

- The institution's students were eligible to receive their awards;
- The institution calculated student awards properly; and
- The institution has disbursed the award amounts to those students

Initial submission of hard copy student documentation will be capped at 100 students. Institutions with 100 or fewer students on their payment submission should submit hard copy documentation for all students. Institutions with 101 or more students, must submit an electronic list of all students (see Section C above for details) to the Payment Analyst who will select a random sample of 100 students. The Payment Analyst will identify which 100 students the institution with 101 or more students should provide initial hard copy documentation. The Department reserves the right to collect hard copy documentation for any and all students included on an institutions payment submission at its discretion.

For each student for whom the institution is supplying hard copy documentation submit copies of the following documentation, alphabetically grouped by student, in the order listed below.

- **ISIR:** The ISIR upon which the disbursement is based, the ISIR prior to the one upon which the disbursement is based, and the most recent ISIR transaction if different. The ISIR must have all pages, an EFC, and all comment codes with related text.
- **Copies of official institutional student tuition account records,** documenting each completed transaction (including transaction date, description and debit or credit), by cash payment or credit, from the student's initial enrollment through the present. Records must be in chronological historical sequence. The records should demonstrate that the institution has properly credited the student's tuition account records with Title IV disbursements, return of Title IV funds, and paid credit balances.
- **Proof of academic qualifications:** verification of high school diploma/high school diploma equivalent. The following are acceptable forms of proof:
  - High school diploma
    - Copy of high school diploma
    - Copy of high school transcript showing graduation date
    - Home schooling certification
  - Equivalent of high school diploma
    - GED
    - State Certificate if applicable
    - Academic transcript from completed two year program that is acceptable for full credit towards a bachelor's degree
    - Documentation that student excelled academically in high school, in an associate's degree program, etc. See regulation 600.2 (The institution must have a policy for admitting such persons.)
- **Enrollment Agreement/Contract:** For institutions that execute, include the fully completed enrollment agreement or contract, including program name, cost, start date, student signature and date.
- **Institutional pre-enrollment documents if any,** including Application for Enrollment, Application for Financial Aid, Pre-enrollment Student Questionnaire, etc.
- **Complete verification documentation** (per Federal Student Aid Handbook Application and Verification Guide) for applicable award years, including at a minimum:
  - base year AGI
  - base year US income tax paid
  - base year untaxed income and benefits

- household size
- number in college
- **Credit balance documentation:** Documentation for all student credit balances from previous submission that demonstrates that those credit balances were liquidated:
  - Documentation of electronic transfer to the student bank account
  - Front and back copies of check to student
  - Receipt for cash disbursed, and
  - Return of credit balance to Title IV program

Any credit balances **must** be paid to students within 14 days of balance creation according to 668.164(e)(1)(2).

- **Documentation of Return to Title IV funds** for withdrawn students for whom the institution is requesting HCM2/adjustment, including:
  - R2T4 calculation worksheet
  - Student withdrawal form for official withdrawals
  - Documentation of return of funds to the lender / the Department (e.g., front and back copies of check to the lender / the Department, copies of electronic transaction confirmations, Form 270 form showing downward adjustment, copy of negative disbursement record from COD)
  - Documentation of Post Withdrawal Disbursement made to student
  - Screen print showing withdrawal information was reported to NSLDS
- **Attendance Documentation:** Source documents or summary document determined in consultation with the SPD.
- **Proof of Satisfactory Academic Progress**, including:
  - Academic Transcript for entire academic history with the institution, including:
    - Grade Point Average (GPA)
    - Cumulative GPA
    - Hours/Credits attempted
    - Hours/Credits completed
    - Payment period
    - Transfer hours/credits accepted
  - Documentation of any student appeal of failure to make SAP
  - SAP measurement documentation in the student file, if any
- **Award calculation**, by specific payment period and disbursement

- **Documentation to support any institutional intervention** in determining a student's eligibility, e.g., professional judgment, SAP appeals, dependency overrides, etc.
- **Documentation resolving conflicting and discrepant information**, (e.g., C- codes on the ISIR, name changes, gender ambiguity)
- **Additional relevant student file documents**: the Institution must submit any additional information relevant to determining the eligibility of students submitted for review. This must include documentation such as leave of absence documentation, an eligibility checklist, Financial Aid Director notations of changes to eligibility, counseling records pertinent to satisfactory academic and attendance progress, etc.
- **For Direct Loan recipients**, entrance counseling documentation, including student signature and date

#### **E. REQUIRED INSTITUTION INFORMATION**

The institution must submit a copy of its most current:

- School Catalog
- Student Handbook
- Consumer Information handouts/addendums
- Satisfactory Academic Progress policy
- Attendance policy and description of method/system of documenting attendance, including how you determine whether or not the student withdraws, drops out or is expelled before his or her first day of class
- Return to Title IV policy
- Procedures for determining a withdrawn student's last day of attendance (official and unofficial)
- Selection procedures for campus-based recipients
- Award formulas for each Title IV program and for each academic program
- Pell and Campus-Based/Direct Loan cost of attendance/budget for each academic program
- Key/legend for any submitted documentation, e.g., account ledger, academic transcript
- Independent test administrator's ATB certification
- Formula for calculating students' Grade Point Average (GPA) if not included in Student Handbook or catalog
- Information describing characteristics for each academic program to determine program type (term, non-term and non-standard term) and method of delivery (in-person, distance education, correspondence, or combination), Pell grant formula,

disbursement schedule, academic year definition, minimum full time and borrower based vs. scheduled academic year

Subsequent submissions do not require inclusion of these documents unless these documents are revised.

### III. SUBMISSION PROCESSING

Normal processing time is thirty (30) days from the date the submission is received. However, the School Participation Division reserves the right to take the necessary time to review the request for reimbursement and to request and review additional documents before providing funds to the institution. If the Payment Analyst anticipates a delay in processing a request, our office will notify the institution and indicate the expected completion date.

After reviewing a submission, the Payment Analyst will initiate the release of the appropriate amount of funds to the institution. If the review results in only a partial approval, the request will be amended, and the reduced amount will be provided. The Payment Analyst will inform the institution by letter of the program funds and reasons for any rejected amounts. The institution may correct the errors and resubmit the rejected records as part of its next submission. If the institution chooses to resubmit the rejected records as a separate submission, the institution must correct the errors and resubmit the records as a complete package, including Form 270, Student Data Spreadsheet, etc. The institution may submit the request without waiting for the original 30-day submission period to pass. Upon receipt of the resubmitted request, a new 30-day period will begin.

If an entire submission is rejected, the institution will receive a letter with specific information about the errors found. The institution may correct these errors and resubmit the complete package, including the corrected documentation. If a submission is rejected, the institution may resubmit that request without waiting for the original 30-day submission period to pass. Upon receipt of the resubmitted request, a new 30-day period will begin.

Depending upon findings resulting from processing of the institution's initial submissions, the Department may require additional student data and/or hard copy documentation in subsequent submissions. The Department will notify the institution in writing of any additional submission requirements.

The approval of a submission in no way limits the Department's right to later determine that these funds were improperly expended, and to recover these funds from the institution as the result of an audit or program review or in any other manner.

In order to verify the accuracy and completeness of any data submitted, all institutions on the HCM2 method of payment are subject to random unannounced documentation reviews.

If you have any questions regarding these procedures, please contact Joseph Massman, Payment Analyst of the Chicago/Denver School Participation Division at 303-844-0432.

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# Request for Title IV Reimbursement or Heightened Cash Monitoring 2 (HCM2)

## Form 270

81 for 270

Any institution presently on or placed on the Reimbursement or Heightened Cash Monitoring (HCM2) funding methods must now complete **Form 270** and submit it with each claim when requesting reimbursement of Title IV funds under the Reimbursement or HCM2 methods of payment. **Please note that the institution can submit one form for all Title IV programs request/authorization.**

The following pages provide instructions for completing the **Form 270**. The format of the form has changed for efficient and accurate entry and submission of information required for institutions to obtain Title IV reimbursements.

Please read these instructions carefully. These instructions have been written in a general manner in order to be used by all the various types of institutions that participate in the Title IV HEA student financial assistance programs. Since different institutions use different methods for recording, processing or storing information, or use different terminology for certain items, it is important to understand that it may be necessary to contact your Payment Analyst for clarification before submitting a request in order to avoid discrepancies and delays.



# Completing The Request for Title IV Reimbursement or Heightened Cash Monitoring 2 (HCM2) Form

## INSTRUCTIONS

Follow the instructions provided, by item number, to accurately record the required entries.

3 for 1 A

**ITEM #1 - METHOD OF PAYMENT TYPE:**  
Select HMC2 or Reimbursement.

**ITEM #2 - INSTITUTION NAME AND ADDRESS:**  
Separated by commas, type the name of the institution, department/division, street address, maildrop/mailbox/suite (if applicable), city, state, and zip code (e.g., Federal Student Aid College, Office of Financial Aid, 123456 American Street, Suite 7890, Washington, DC 20202).

**ITEM #3 - OPEID NUMBER:**  
Enter the institution's eight (8) digit OPEID#.

**ITEM #4 - DUNS NUMBER:**  
Enter the institution's nine (9) digit DUNS number.

**ITEM #5 - DEPARTMENT OF EDUCATION - FEDERAL STUDENT AID:**  
Using the drop down feature, select the Federal Student Aid School Participation Team (SPT) servicing the state for your institution.

**ITEM #6 - COMPUTATIONS:**  
**6A - ESTIMATED FEDERAL CASH OUTLAYS TO BE MADE.**  
Enter the award year (e.g., "08/09") of the request as the time period for the total Title IV amount disbursed.  
Enter the dollar amounts requested for each program (PELL, ACG, SMART, TEACH, FSEOG, FWS, DL and/or FFEL), using only digits and a decimal to separate cents (e.g., 1234567.89).

# INSTRUCTIONS

(continued)

## 6B. - LESS ESTIMATED BALANCE OF FEDERAL CASH ON HAND.

Select the appropriate date using the calendar. This date will represent the estimated balance of federal cash on hand for each program (PELL, ACG, SMART, TEACH, FSEOG, FWS, DL and/or FFEL). Enter the dollar amounts of the cash on hand using only digits and a decimal to separate cents (e.g., 1234567.89).

## 6C. - REQUESTED FUNDING AMOUNT(S).

Select the beginning and ending periods using the calendars. These dates will represent the period of requested federal funds for each program (PELL, ACG, SMART, TEACH, FSEOG, FWS, DL and/or FFEL). In order to obtain the correct amounts for each program, subtract line 6B from line 6A. After performing the calculations, enter the required dollar amounts using only digits and a decimal to separate cents (e.g., 1234567.89).

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AUTHORIZED FOR LOCAL REPRODUCTION

# INSTRUCTIONS (continued)

## CERTIFICATION

**WARNING & CERTIFICATION STATEMENTS:** Prior to certifying the Form 270, read the warning and certification thoroughly.

Failure on behalf of certifying officials to comply with the Department of Education's warning, as prescribed under the United States Criminal Code, Title 18, Section 1001, and oath, attesting full knowledge of providing false or misleading information, could subject officials to fines, imprisonment (up to five years), and/or deny the institution's request for Title IV funds.

**COMPTROLLER OR THIRD PARTY SERVICER:** The party assigned the responsibility of Comptroller or Third Party Servicer must submit his/her digital signature. **If a digital signature is not used in the Comptroller or Third Party Servicer Signature area, print the Department of Education's Request for Title IV Reimbursement or Heightened Cash Monitoring 2 (HCM2) Form and manually sign page two.**

Select the Certification Date using the calendar. Type your Legal Name (e.g., "John H. Doe" or "Jane M. Doe"). Enter the ten-digit phone number without symbols (e.g., enter (222) 333-4444 as 222333444). Enter the institution's official e-mail address on record at the Department of Education. After completing the certification sections, print the **Form 270** and manually sign page two. If a digital signature is not used in the Comptroller or Third Party Servicer area, print your Legal Name - if the name was not typed in this area. Retain a copy of this completed form for your records.

**PRESIDENT, OWNER OR CEO:** Use the same instructions for certification as the Comptroller or Third Party Servicer.

Mail this completed form and required documents to:

\_\_\_\_\_, Payment Analyst  
U.S. Department of Education, Federal Student Aid

School Participation Team - \_\_\_\_\_

Address \_\_\_\_\_



AUTHORIZED FOR LOCAL REPRODUCTION

8/16/12

# Request for Title IV Reimbursement or Heightened Cash Monitoring 2 (HCM2)

8150712

1. Method of Payment Type:  HCM2  Reimbursement

2. Institution Name and Address: \_\_\_\_\_

3. OPEID # \_\_\_\_\_ 4. DUNS # \_\_\_\_\_

5. Department of Education - Federal Student Aid \_\_\_\_\_

### 6. Computations:

A. During Award Year: \_\_\_\_\_  
[Estimated Federal Cash Outlays To Be Made]

PELL	ACG	SMART	TEACH	FSEOG	FWS	DL	FFEL	FPerkins
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

B. As Of [Month (MM)]/Day (DD)/Year (YY): \_\_\_\_\_  
[Less Estimated Balance of Federal Cash On Hand]

PELL	ACG	SMART	TEACH	FSEOG	FWS	DL	FFEL	FPerkins
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

C. For Period From Month/Day/Year to Month/Day/Year: \_\_\_\_\_ to \_\_\_\_\_  
[Requested Amount Line A Minus B]

PELL	ACG	SMART	TEACH	FSEOG	FWS	DL	FFEL	FPerkins
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____



AUTHORIZED FOR LOCAL REPRODUCTION

# Request for Title IV Reimbursement or Heightened Cash Monitoring 2 (HCM2)

Institution Name and Address:

OPEID #

DUNS #

## PAPERWORK BURDEN STATEMENT

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average five (5) hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain or retain benefit (Section 415 of the General Education Provisions Act, 20 USC 1216a-1, and by the following program regulation: 34 C.F.R. § 668.162, Student Assistance General Provisions). Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, 400 Maryland Ave., SW, Washington, DC 20210-4537 or email [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov) and reference the OMB Control Number 1845-0089.

### CERTIFICATION

Comptroller or Third Party Servicer & President/Owner/Chief Executive Officer

**WARNING:** Any person who knowingly provides false or misleading information on this certification will be subject to the following: a) \$250,000 fine per individual, b) \$500,000 fine (per organization), and/or c) imprisonment (up to five (5) years) under the provisions of the United States Criminal Code, Title 18, Section 1001.

**CERTIFICATION:** In accordance with the WARNING set out above I certify that, to the best of my knowledge and belief, all information in this document is accurate, all Title IV refunds, including Federal Family Education Loan and Federal Direct Loan refunds, have been made as required by Federal regulations and have been returned to the appropriate Title IV program account; all credit balances have been paid, as required by Federal regulations (disbursed to students or returned to the appropriate Title IV account) and the institution has no Title IV funds available, or has reported all Title IV cash on hand on the appropriate Form 270 included with this submission. False certifications may also result in denial of payment to the institution of the funds requested.

Comptroller or Third Party Servicer Signature:	Certification Date:	President, Owner or CEO Signature:	Certification Date:
Legal Name Typed or Printed:	Phone:	Legal Name Typed or Printed:	Phone:
E-Mail Address:		E-Mail Address:	



AUTHORIZED FOR LOCAL REPRODUCTION

8150812

Attachment C

C



JUN 6 2013

Mr. Dirk S. McCuiston  
President/CEO  
Boulder College of Massage Therapy  
6255 Longbow Drive  
Boulder, CO 80301

SENT VIA UPS  
#1Z A54 67Y 01 9413 8938

OPE-ID: 03013100

Dear Mr. McCuiston:

This is to inform you that the United States Department of Education (Department) is hereby imposing an emergency action against Boulder College of Massage Therapy (BCMT). The Department is taking this action under the authority of 20 U.S.C. § 1094(c)(1)(G), and the procedures for emergency action set forth in the Student Assistance General Provisions regulations at 34 C.F.R. § 668.83, for the reasons identified in Part I of this letter. As explained in Part II of this letter, for these same reasons, the Department intends to terminate the eligibility of BCMT to participate in programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* (Title IV, HEA programs). Finally, for the reasons set forth in Part III of this letter, the Department intends to fine BCMT \$25,000.

I.

Under this emergency action, the Department withholds funds from BCMT and its students and withdraws BCMT's authority to obligate and disburse funds under the following Title IV, HEA programs: Federal Pell Grant (Pell Grant), Federal Supplemental Educational Opportunity Grant (FSEOG), Federal Work-Study (FWS), Federal Perkins Loan (Perkins Loan), and William D. Ford Federal Direct Loan (Direct Loan) programs. 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 the campus-based programs.

While the emergency action is in effect, BCMT is barred from initiating commitments of Title IV, HEA program aid to students, whether by accepting Student Aid Reports (SARs) under the Pell Grant Program, certifying an application for a loan under the Direct Loan Program, or issuing a commitment for aid under the campus-based programs. BCMT is also barred from using its own funds or Federal funds on hand to make Title IV, HEA program grants, loans, or work assistance payments to students, or to credit student accounts with respect to such assistance. Further, BCMT may not release to students Direct Loan Program proceeds and must return any loan proceeds to the Department. Finally, unless other arrangements are agreed to between BCMT and the Department, BCMT may not disburse or obligate any additional Title IV, HEA program funds to satisfy commitments in accordance with 34 C.F.R. § 668.26 for as long as the emergency action remains in effect.

**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

P 1058

In order to take an emergency action against an institution, a designated Department official must determine that immediate action is necessary to prevent misuse of Federal funds, and that the likelihood of loss outweighs the importance of awaiting the outcome of the regulatory procedures prescribed for limitation, suspension, or termination actions. As the designated Department official, I have determined that immediate action is necessary to prevent misuse of Federal funds, and that the likelihood of loss outweighs the importance of these regulatory procedures for limitations, suspensions, or termination.

I have based this decision upon reliable information received from the Department's Chicago/Denver School Participation Division (SPD) that indicates that BCMT has severely breached its fiduciary duty to the Department, and has failed to meet the standards of financial responsibility. Based on these violations as set forth below, I have determined that an emergency action against BCMT is warranted.

#### **A. BCMT HAS BREACHED ITS FIDUCIARY DUTY TO THE DEPARTMENT**

An institution may participate in the Title IV, HEA programs only if the institution executes a program participation agreement (PPA) with the Secretary of Education (Secretary). The PPA conditions the continued participation of the institution upon compliance 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 entered into under the authority of statutes applicable to Title IV of the HEA, including the requirement that the institution use funds it receives under any Title IV, HEA program and any interest or other earnings thereon, solely for the purposes specified in and in accordance with that program. 34 C.F.R. § 668.14(a)(1),(b)(1). BCMT's most recent PPA was executed by the Department on March 27, 2012.

By entering into the PPA, BCMT and its officers accepted the responsibility to act as fiduciaries in the administration of the Title IV, HEA programs. As fiduciaries, the institution and 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) and (b).

The Department has established cash management regulations in 34 C.F.R. Part 668, Subpart K which set forth the rules and procedures under which a participating institution requests, maintains, disburses, and otherwise manages Title IV, HEA program funds. These regulations are intended to promote sound cash management of Title IV, HEA program funds by an institution, minimize the financing costs to the federal government of making Title IV, HEA program funds available to a student or an institution, and minimize the costs that accrue to a student. 34 C.F.R. § 668.161(a)(1).

These regulations specifically provide that with the exception of funds received by an institution for administrative expenses and funds used for the Job Location and Development Program under the FWS Program, funds received by an institution under the Title IV, HEA programs are

held in trust for the intended student beneficiaries or the Secretary, and that the institution, as a trustee of federal funds, may not use or hypothecate (*i.e.*, use as collateral) Title IV, HEA program funds for any other purpose. 34 C.F.R. § 668.161(b).

Prior to April 26, 2013, the Department provided funds to BCMT through the advance payment method described at 34 C.F.R. § 668.162(b).<sup>1</sup> Under this method, in order to receive Title IV, HEA program funds, an institution must first request the funds from the Department. The institution's request for funds may not exceed the amount of funds the institution needs immediately for disbursements the institution has made or will make to eligible students and parents. If the Department accepts the request, the Department initiates an electronic funds transfer (EFT) of that amount to a bank account designated by the institution. The institution must disburse the funds requested as soon as administratively feasible but no later than three business days following the date the institution receives those funds. *See* 34 C.F.R. § 668.162(b)(1)-(3).

Institutions use the Department's G5 payment system to request payments, adjust drawdowns, and return funds. G5 provides continuous access to current grant and payment information, such as authorized amounts,<sup>2</sup> cumulative drawdowns, current available balances,<sup>3</sup> and payment histories. Institutions under the advance payment method receive an initial Direct Loan authorization, which is based on the institution's program disbursements from the previous award year, prior to the first day of the award year, which is July 1. As an institution submits Direct Loan disbursement records, the Department's Common Origination and Disbursement (COD) system tracks the total accepted and posted amounts against the institution's authorized amount. Each time the institution's total disbursements exceed the institution's authorization, the COD system gives the institution an automatic authorization increase up to the level of the institution's net accepted and posted disbursements. The institution may also request a funding level increase to increase the amount of Title IV, HEA program funds available for it to draw.

As set forth in more detail in Section I(B) below, in a letter dated January 4, 2013, the Chicago/Denver SPD notified BCMT that in order to continue its participation in the Title IV, HEA programs, it must provide the Department with an irrevocable letter of credit (LOC) in the amount of \$653,525, acceptable and payable to the Secretary, in accordance with the LOC alternative to the standards of financial responsibility set forth at 34 C.F.R. § 668.175(b). (Enclosure 1.) The LOC was due to the Department within 75 calendar days from the date of the letter, or by March 21, 2013. On March 18, 2013, BCMT requested that the Department reduce the amount of the LOC and extend the due date until May 21, 2013. (Enclosure 2.)<sup>4</sup> After reviewing BCMT's submission, the SPD, on March 26, 2013, notified BCMT that it had

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<sup>1</sup> On April 26, 2013, the Department transferred BCMT to the Heightened Cash Monitoring 2 (HCM2) method of payment. The Department has sole discretion to determine the method under which it provides Title IV, HEA program funds to an institution.

<sup>2</sup> An institution's authorization is the amount of Title IV, HEA program funds for which the institution is currently eligible. A separate authorization is maintained for each program by award year.

<sup>3</sup> An institution's available balance is the amount of cash an institution has available to draw down through G5. It is the difference between the authorized amount and the institution's net drawdowns to date.

<sup>4</sup> A voluminous attachment to the request has been omitted because it is not directly relevant to the Department's response.

affirmed the determination that an irrevocable LOC in the amount of \$653,525 was required. (Enclosure 3.) The Department informed BCMT that if the LOC was not received by April 25, 2013, the Department would consider BCMT to be not financially responsible.

On April 23, 2013, Mr. Mel Huffaker of West & Company, who had been in the process of conducting BCMT's annual A-133 audit, called SPD staff to inform the Department that his firm was resigning from the audit because they could no longer trust those in governance at the institution. Mr. Huffaker stated that on April 22, 2013, while he and another auditor were on site, you informed him that you wanted to draw down BCMT's available Title IV, HEA program authorization and use it to obtain the required LOC. Mr. Huffaker reported that he informed you at that time that you could not draw down Title IV, HEA program funds when there were no corresponding active student disbursement records in the COD system. Then, on April 23, 2013, when Mr. Huffaker asked you for an external awards report, you responded by asking if the report should cover the period through April 22, 2013 or through the current day, April 23, 2013. When Mr. Huffaker informed you that he wanted it run up through April 23, 2013, you admitted to him that you had drawn down all of the available 2011/12 and 2012/13 Title IV, HEA program funds available to BCMT, which totaled approximately \$410,000. Mr. Huffaker sent an email to SPD staff later on April 23, 2013 regarding these events. See Enclosure 4.

Also on April 23, 2013, you contacted SPD staff and sent two emails indicating that you wanted to cancel requests for funds that you had submitted, but were unable to do so. (Enclosures 5A and 5B.) Later, at 7:36 PM on April 23, 2013, after speaking with SPD staff, you sent an email to the Department with the subject line "explanation of funds originated from G5 in excess of COD packaging" in which you offered an explanation for your actions. (Enclosure 6.) In this email you admitted that at about 8:30 PM on the evening of April 22, 2013, you drew down all of the Title IV, HEA program funds available to the institution. Although you claimed that you did so in order to disburse funds to students and denied that you intended to use the funds to obtain an LOC, you did not dispute that at the time of the draw, Title IV, HEA funds had not been awarded to eligible students to substantiate the amount drawn. Then, on April 24 and 25, 2013, you provided the SPD with further explanation, and with evidence showing that your bank was sending the funds back to the Department. (Enclosures 7A, 7B, and 7C.) The Department has confirmed receiving the funds on April 29, 2013.

BCMT expressly agreed in its PPA that as a fiduciary responsible for administering Federal funds, if it was permitted to request funds under the Title IV, HEA program advance payment method, the institution would time its requests for funds to meet only the institution's immediate Title IV, HEA program needs. 34 C.F.R. § 668.14(b)(2). The fiduciary standard of conduct also required BCMT to safeguard the Title IV, HEA funds it received as a participant in the Title IV, HEA programs, and to ensure those funds were used only for the purposes for which those funds were intended.

Based upon the facts, the Department has concluded that in violation of the applicable Title IV cash management regulations, BCMT knowingly drew down Title IV, HEA funds that it was not then entitled to receive, and only returned the funds because the auditors learned of the institution's misconduct. BCMT therefore breached its fiduciary duty to the Department and

cannot be trusted to administer the Title IV, HEA programs in accordance with the regulations. The emergency action regulation at 34 C.F.R. § 668.83(c)(2)(i) specifically identifies an institution's procurement of Title IV, HEA program funds in an amount that exceeds the amount for which its students are eligible as a violation of a Title IV, HEA program requirement that causes misuse and the likely loss of Title IV, HEA program funds. An emergency action is therefore warranted.

#### **B. BCMT FAILS TO MEET THE STANDARDS OF FINANCIAL RESPONSIBILITY**

To continue participation in any Title IV, HEA program, an institution must demonstrate to the Department that it is financially responsible under the standards set forth at 34 C.F.R. Part 668, Subpart L. To satisfy the general standard of financial responsibility set forth at 34 C.F.R. § 668.171(b)(1), a private nonprofit institution such as BCMT must demonstrate that its Equity, Primary Reserve and Net Income Ratios yield a composite score of at least 1.5 out of a possible 3.0. The SPD's review of BCMT's audited financial statements for the fiscal year ended (FYE) December 31, 2011, however, disclosed that BCMT's Equity, Primary Reserve and Net Income ratios, calculated as provided in 34 C.F.R. § 668.172(b), yielded a composite score of only 0.1. The review also disclosed that BCMT failed the general standard of financial responsibility set forth at 34 C.F.R. § 668.171(b)(3), as it had failed to make indebtedness payments required under a Mortgage and Loan Agreement, and therefore was not current in its debt payments. The review further disclosed that BCMT failed the audit opinion requirement for financial responsibility set forth at 34 C.F.R. § 668.171(d)(1), as its auditor expressed substantial doubt about the continued existence of the institution as a going concern, which the Department determined had significant bearing on the institution's financial condition. (Enclosures 8A and 8B.)

As an alternative to meeting the standards of financial responsibility under 34 C.F.R. § 668.171(b) and (d), an institution that currently participates in the Title IV, HEA programs may qualify to meet the financial responsibility standards under 34 C.F.R. § 668.175. As previously discussed, to permit BCMT to continue its participation in the Title IV, HEA programs under this alternative financial responsibility standard, on January 4, 2013, the SPD required BCMT to provide the Department with an irrevocable LOC in the amount of \$653,525, acceptable and payable to the Secretary. The LOC was due within 75 calendar days of the date of the letter (by March 21, 2013).

On March 18, 2013, BCMT submitted a letter and attachments to the SPD in which the institution requested that the Department extend the March 21, 2013 deadline for submission of the LOC to May 21, 2013, and that the amount of the LOC be reduced to \$150,000. After considering BCMT's submission, the SPD informed BCMT that based on the analysis of the additional information provided, the Department had affirmed the determination that an LOC in the amount of \$653,525 was required as a condition of continued participation in the Title IV, HEA programs. The Department provided BCMT until April 25, 2013 to provide the LOC, and warned BCMT that if it did not provide the letter of credit within that timeframe, the institution would be considered to be not financially responsible. As of the date of this letter, BCMT has

not provided the required LOC, and therefore does not meet the standards of financial responsibility.

The Department's standards of financial responsibility were established to ensure that only institutions which are sound and financially capable of meeting their educational and administrative responsibilities are allowed to participate in the Title IV, HEA programs. The Department requires LOCs in order to protect students and taxpayers and ensure that funds are available to cover liabilities, including repayment of unearned Title IV, HEA program funds, arising from an institution's participation in those programs. Therefore, in conjunction with BCMT's improper drawdown of Title IV funds, BCMT's failure to demonstrate financial responsibility through its failure to provide the required surety warrants an emergency action.

**This emergency action is effective on the date of this letter**, which is the date of mailing, and will remain in effect until either a decision to remove the emergency action is issued in response to a request from BCMT to show cause why the emergency action is unwarranted or until the completion of the termination action that is initiated by Part II of this notice. The terms of the termination action may supersede the provisions of this emergency action regarding the obligation and disbursement of Title IV, HEA program funds.

**BCMT may request an opportunity to show cause why this emergency action is unwarranted.** To request an opportunity to show cause, please submit a request to me via the U.S. Postal Service or an express mail service at the following address:

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

If BCMT requests a show-cause hearing, my office will refer the case to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of the case to a hearing officer, who will conduct the hearing. BCMT is entitled to be represented by counsel at the hearing and otherwise during the show cause proceeding.

## II.

The Department also intends to terminate BCMT's eligibility to participate in the Title IV, HEA programs for all the reasons stated in Part I of this notice. The Department is taking this action under the authority of 20 U.S.C. § 1094(c)(1)(F) and the Department's regulations at 34 C.F.R. Part 668, Subpart G. Those regulations set forth the procedures and guidelines that the Department has established for terminating the eligibility of an institution to participate in any Title IV, HEA programs. Initiation of this termination action means that the emergency action will remain in effect until completion of the termination proceeding, unless the emergency action

Mr. Dirk McCuistion  
Boulder College of Massage Therapy  
Page 7

is otherwise lifted. 34 C.F.R. § 668.83(f)(1). The termination proceeding includes any appeal to the Secretary.

The eligibility of BCMT to participate in the Title IV, HEA programs will terminate on June 26, 2013, unless I receive by that date a request for a hearing or written material indicating why the termination should not take place. BCMT may submit both a written request for a hearing and written material indicating why the termination should not take place. If BCMT chooses to request a hearing or to submit written materials, you must write to me at the address in Part I of this letter.

If BCMT requests a hearing, the case will be referred to the Office of Hearings and Appeals. That office will arrange for assignment of BCMT's case to an official who will conduct an independent hearing. BCMT is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If BCMT does not request a hearing, but submits material instead, I shall consider that material and notify you whether the termination will become effective, will be dismissed, or limitations will be imposed. The consequences of termination are set forth in 34 C.F.R. § 668.94.

### III.

This is also to inform you that the Department intends to fine BCMT \$25,000 based on the violations set forth in Part I of this letter. This fine action is being taken in accordance with the procedures that the Secretary has established for assessing fines against institutions participating in any or all of the Title IV, HEA programs. 34 C.F.R. § 668.84. Title IV, HEA program regulations permit a fine of \$35,000 for each such violation. In determining the amount of a fine, the Department considers the gravity of the offense and the size of the institution. 34 C.F.R. § 668.92.

In determining the size of an institution, the Department considers the amount of Title IV, HEA program funds received by or on behalf of students for attendance at that institution and compares that figure to the median funding for all institutions participating in the Title IV, HEA programs. The most recent year for which complete funding data is available to determine the median funding level for all Title IV recipients is the 2011-2012 award year. According to Department records, BCMT received \$201,723 in Pell Grant funds and \$1,042,477 in Direct Loan funds during the 2011-2012 award year. The latest information available to the Department also indicates that the median funding level for institutions participating in the Pell Grant Program during the 2011-2012 award year is \$1,621,679, and the median funding level for the FFEL/Direct Loan Program is \$3,208,278. Accordingly, the Department considers BCMT to be a small institution for purposes of this fine because its funding level is below the median funding amounts.

Therefore, for BCMT's drawdown of Title IV, HEA program funds to which it was not entitled, I have set the fine amount at \$25,000. The drawdown of these funds represents a flagrant disregard of BCMT's fiduciary responsibilities to the Department. Based on the extremely serious nature of this action, I have determined that a fine of \$25,000 is appropriate.

P. 7 of 8

Mr. Dirk McCuiston  
Boulder College of Massage Therapy  
Page 8

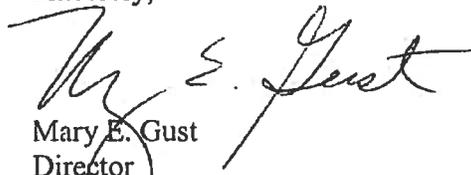
The \$25,000 fine will be imposed on June 26, 2013, unless, by that date, I receive a request for a hearing or written material indicating why the fine should not be imposed. BCMT may submit both a written request for a hearing and written material indicating why the fine should not be imposed. Written material, or a request for a hearing, must be sent to me at the address provided in Part I of this letter. Again, if BCMT requests a hearing, the case will be referred to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of BCMT's case to an official who will conduct an independent hearing. BCMT is entitled to be represented by counsel at the hearing and any time during the proceedings. If BCMT does not request a hearing but submits written material instead, I shall consider that material and notify the institution of the amount of the fine, if any, that will be imposed.

IV.

**ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT BCMT SUBMITS MUST BE RECEIVED BY JUNE 26, 2013, OTHERWISE, THE TERMINATION AND FINE WILL BE IMPOSED ON THAT DATE.**

If you have any questions or desire any additional explanation of BCMT's rights with respect to these actions, please contact Kathleen Hochhalter at the address provided in this letter or by telephone at 303/844-4520.

Sincerely,



Mary E. Gust  
Director  
Administrative Actions and Appeals Service Group

Enclosures

cc: Michale S. McComis, Executive Director, ACCSC, via [mccomis@accsc.org](mailto:mccomis@accsc.org)  
Lorna Candler, Colorado State Department of Higher Education, via  
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## FEDERAL STUDENT AID (FSA) RECIPIENT OPTIONS

### 1. TRANSFER

If you transfer to another school that participates in the FSA programs your enrollment contact with BCMT ends and you will enter into a new enrollment contract with the school you transfer to. The new enrollment contract will be for the remaining hours needed to complete ***the program offered at that school*** (that school determines how many hours they will accept/transfer in from BCMT). That school would also be able award FSA program funds for the remaining hours needed to complete ***the program offered at that school***. The amount of FSA program funds is also dependent on each individual student's eligibility (EFC, etc.). You decide which school to attend.

### 2. TEACHOUT

If you decide to participate in an approved teachout you must attend the school that has been approved for the teachout (you do not get to choose the school). Under a teachout, your enrollment contact with BCMT continues. The school approved to offer the teachout would be able award FSA program funds for the remaining hours needed to complete the BCMT program you are currently enrolled in. The amount of FSA program funds is also dependent on each individual student's eligibility (EFC, etc.).

### 3. CLOSED SCHOOL LOAN DISCHARGES

For general information about loan discharges, visit [www.studentaid.ed.gov](http://www.studentaid.ed.gov). Select the "repaying" tab, then select the "Loan Discharge (Cancellation)" link. Following is some information from that website:

- If your school closes while you're enrolled, and you can't complete your program because of the closure, any U.S. Department of Education loan obtained to pay your cost of attendance at that school can be discharged. If you were on an approved leave of absence, you are considered to have been enrolled at the school. If your school closed within 90 days after you withdrew, you are also considered eligible for the discharge. However, your loan cannot be cancelled because of personal circumstances that caused you to withdraw more than 90 days before the school closed.
- Please bear in mind that you are not eligible for the discharge if you are completing a comparable educational program at another school. If you complete such a program at another school after your loan is discharged, you might have to pay back the amount of the discharge. If you haven't received a diploma or certificate but have completed all the coursework for the program, you're not eligible for the discharge.
- ***Note that your loan cannot be discharged because you weren't satisfied with the school's services.*** Your loan can't be discharged solely because you believe the school

provided poor training or had unqualified instructors or inadequate equipment, did not provide job placement or other services that it promised, or engaged in fraudulent activities (other than falsely certifying the loan).

For a copy of the Closed School Discharge form, visit [www.dlsonline.com](http://www.dlsonline.com). Select the "forms" tab near the top of the page, then select the "Closed School Discharge" form under Other Forms on the left side. Following is some information from that website:

**Closed School Discharge Eligibility Requirements**

1. You received Federal Direct Stafford Loan Program loan funds on or after January 1, 1986, to attend (or, if you are a PLUS borrower, for the student to attend) a school that "closed."
2. You were enrolled at the "closed" school OR on an approved leave of absence (not to exceed 60 days) on the date that it closed, or withdrew from the school not more than 90 days before it.
3. Due to the school's closure, you (or, if you are a PLUS borrower, the student) did not complete the program of study at that school. You (or, if you are a PLUS borrower, the student) did not complete, and are not in the process of completing, that program of study or a comparable program at another school by transferring credits or hours earned at the closed school to another school, or by any other means by which you (or, if you are a PLUS borrower, the student) benefited from the training provided by the closed school.
4. You read and agree to the terms and conditions that apply to this loan discharge, as specified on the form.
5. You certify that, under penalty of perjury, all of the information you provide on the form and in any accompanying documents is true and accurate to the best of your knowledge and belief.

**Certifications/Documents Required**

Complete, sign, and date your form and send it to:

**Direct Loan Servicing Center**  
Borrower Services Department  
P.O. Box 5609  
Greenville, TX 75403-5609

It may take 45 – 60 days for your complete application to be processed.