



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)

September 17, 2021

**ELECTRONIC DELIVERY**

██████████  
Interim CEO/Chief Financial Officer  
Center for Excellence in Higher Education  
4021 South 700 East, Suite 400  
Salt Lake City, Utah 84107

***Withdrawal of Accreditation  
Appeals Panel Decision***

***Re: Independence University – School #M070581***

Dear ██████████

The purpose of this letter is to deliver the decision of the independent Appeals Panel on the appeal of the decision by the Accrediting Commission of Career Schools and Colleges (“ACCSC” or “the Commission”) to withdraw the accreditation of Independence University (“IU” or “the school”) (M070581) and its branch campuses – Stevens-Henager College in Murray, Utah (B070583), Stevens-Henager College in Boise, Idaho (B070764) – operated by the Center for Excellence in Higher Education (“CEHE”).

**APPEALS PANEL DECISION**

CEHE brought an appeal from the April 22, 2021 decision of the Accrediting Commission of Career Schools and Colleges (“ACCSC” or “the Commission”) to withdraw the accreditation IU” and to remove the school from the list of ACCSC-accredited institutions. The school submitted a timely Letter of Intent to Appeal a Commission Decision on May 3, 2021 and its Grounds for Appeal were duly submitted on May 27, 2021. Pursuant to the Commission’s *Rules of Practice and Procedure*, a virtual hearing was held before an independent Appeals Panel on July 8, 2021. For the reasons set out below, the Appeals Panel affirms ACCSC’s decision to withdraw the accreditation of Independence University.<sup>1</sup>

**Background: ACCSC’s Decision to Withdraw Accreditation**

The rationale for ACCSC’s decision to withdraw IU’s accreditation is succinctly stated in its April 22, 2021 Withdrawal Letter to CEHE: IU “failed to demonstrate successful student achievement by maintaining acceptable rates of student graduation and employment in the career field for which the school provided education over a significant history of reporting and monitoring” (ACCSC April 22, 2021 Withdrawal Letter, pg., 1). The decision letter went to great effort to explicate the lengthy chronology of Commission actions with respect to IU, noting that “the history is significant in terms of the length of time afforded to IU to come into compliance with standards, significant in terms of the breadth of the failure throughout the school’s programmatic offerings, and significant in terms of the number of students the school failed to serve” (*Id.*). The “Accreditation Actions Considered” concerning CEHE and related schools and the “History/Compliance History” are described in detail in Appendix I and Appendix II of the April 22, 2021 Withdrawal Letter and are not restated here.

---

<sup>1</sup> Pursuant to *Section VIII (B)(3), Substantive Standards, Standards of Accreditation*, the accredited status of a branch campus is dependent upon the continued accreditation of its main school. Therefore, the Appeals Panel decision to affirm the Commission’s action to withdraw the accreditation of the main school also withdraws the accreditation of the branch campuses, Stevens-Henager College in Murray, Utah (B070583) and Stevens-Henager College in Boise, Idaho (B070764).

ACCSC’s serious concerns with CEHE schools are longstanding. The Commission’s decision letter stated that “[f]rom 2012 to the present, the [CEHE system of] schools have been subject to scrutiny by the Commission due to an inability to demonstrate continuous compliance with accrediting standards, particularly in the areas of acceptable student achievement, advertising and recruitment tactics, rigor of the admissions process, and employment classifications” (ACCSC April 22, 2021 Withdrawal Letter, pgs., 1-2). ACCSC’s reservations about the compliance of CEHE-affiliated campuses compliance grew considerably over time: “[t]he Commission’s findings and communications, particularly in the last four years, reflect a deepening concern regarding the magnitude of the schools’ failure to demonstrate compliance with standards and heightened awareness of the expiration of the timeframe available to the school to remedy the areas of non-compliance” (ACCSC April 22, 2021 Withdrawal Letter, pg., 2).

In 2018, the Commission’s concerns about the non-compliance of the CEHE system of schools became so grave that in September of that year it placed the institutions on Probation. In its September 6, 2018 Probation Order, ACCSC also warned the school that “the period allotted to the schools to remedy the noncompliance or cure the deficiency would end on September 7, 2020 (ACCSC September 6, 2018 Probation Order, pg., 78). The Commission also informed the school that the Commission is “under no obligation to wait for the maximum timeframe to expire and may take an adverse action prior to the expiration of the maximum allowable timeframe” (*Id.*). The May 2, 2019 letter reiterated that both the maximum timeframe would end on September 7, 2020 and that the Commission could act sooner if warranted (ACCSC May 2, 2019 Probation Order, p., 54). The September 7, 2020 date was later extended by the Commission to May 31, 2021 with the same admonition that the Commission could act sooner if warranted (ACCSC July 21, 2020 Probation Order, pg., 31).

After all but one ground campus indicated an intention to cease enrolling new students and to teach-out its current students, ACCSC continued to express concerns about IU’s compliance with accreditation standards, especially in the critical area of student success. For example, in the Commission’s July 21, 2020 letter to CEHE, ACCSC stated:

*Of particular concern is that IU continues to report below-benchmark rates of student achievement. Of the 13 active (non-discontinued) programs that have been operational long enough to be reportable, the school has reported above-benchmark rates of student achievement for only four. The rates reported for the other nine will require significant improvements in order to achieve acceptable rates. The lack of significant improvement over the last three years calls into question the depth of assessment the school has conducted, and therefore does not provide assurance that the current plans will have the needed impact on rates of student achievement (pg. 5).*

The Commission’s consideration of IU’s compliance with accreditation standards came to a head at its February 2021 meeting. At that time, as explained in the April 22, 2021 Withdrawal Letter:

*The Commission reviewed the new data presented in Graduation and Employment Charts prepared using a Report Date of December 2020. The school reported below-benchmark rates of student achievement in 82% (14 of 17) programs that are active and have been operational long enough to be reportable. The Commission also reviewed the history of student achievement outcomes reported by the school in the 2016, 2017, 2018, 2019, and 2020 ACCSC Annual Reports (pg., 6).*

The Commission’s analysis of this data led it to conclude that “the new data does not represent a significant upward trend in the ongoing pattern of unacceptable student achievement rates. IU consistently

reported below benchmark rates of student achievement in 65% (11 of 17) of the active/reportable programs over the last five years” (ACCSC April 22, 2021 Withdrawal Letter, pg., 9). The Commission also found that the programs that are performing below acceptable standards for student achievement affect the highest number of students – 14,327 of 15,377 students were enrolled in programs which reported unacceptable rates of student achievement (*Id.*). And, notably, only 16% of the 15,377 students available to graduate successfully completed the program and achieved the vocational objectives of the program – i.e., employment in the field of training (*Id.*).

The Commission also carefully examined trend data and projections provided by IU to demonstrate progress toward student achievement to the level required by the Commission’s standards. ACCSC concluded that “the school’s projections and trend data show that the school’s current efforts will not achieve minimum student achievement benchmarks for years” (*Id.*). The Commission had requested IU to provide trend data regarding student achievement including a Retention Chart to report how many students who started the program during a defined period (and available for retention) have remained in school. Upon examination of the data supplied by IU, the Commission found that the “retention rates are so low for nine programs that it appears the school will report unacceptable rates of student graduation minimally over the next two to three Annual Report years” (*Id.*). ACCSC also concluded that “three new programs are predicted to have unacceptable rates of student graduation by the time they are first reportable using the Graduation and Employment Chart formula, adding to the number of programs at the school that are failing to demonstrate successful student achievement” (*Id.*).

The Commission also directed IU to furnish a list of graduates in each program over the most recent six months and report the graduates’ employment status. Because fewer than 70% have achieved employment objectives, it is, said the Commission, “difficult to predict whether the school’s efforts are likely to make sufficient improvement by the time the data is reportable via the Graduation and Employment Chart formula” (*Id.*). For this reason, these “unverified predictions do not rise to the level of proof” (*Id.*). The withdrawal letter laid out the Commission’s findings with respect to the retention data provided for fifteen specific programs.

The decision letter also examined the associate degree and baccalaureate degree programs in light of the retention data proffered by IU. The Commission reached the following determination:

*IU projected that associate degree programs will take four years to achieve minimum benchmarks (2024 Annual Report) and baccalaureate programs are expected to take six years to achieve minimum benchmarks (2026 Annual Report). The Commission noted that the pattern shows only the potential for incremental improvement (single digit percentage points) over the next three to five years and would require a marked increase to an average of 13 percentage point improvement in the year where the program attains benchmark. If IU underestimated the timeline for improvement, it will take even longer for the programs to demonstrate compliance with acceptable student achievement benchmarks (ACCSC April 22, 2021 Withdrawal Letter, pg., 14).*

The Commission also evaluated the school’s plan for improving student achievement rates and demonstrating compliance with accrediting standards. The April 22, 2021 Withdrawal Letter recited the shortcomings in the plan:

*The Commission found the plan, although lengthy, does not account for the persistent and pervasive lack of acceptable student achievement and the short timeframe in which to achieve compliance with ACCSC’s minimum requirements. The Commission found that the assessment*

*presumes the validity of programs that have failed to serve students over many years, but does not demonstrate that the school designed and delivered programs that can lead to students' successful attainment of knowledge, skills, and vocational objectives (Id.).*

Taking all of the foregoing into account, the Commission made the following decision: “Based on the school’s history of non-compliance with ACCSC’s student achievement standards, the lack of improvement over an extended period of time, and the projected length of time the school will still be out of compliance with standards, the Commission has acted to withdraw the accreditation of IU and to remove the school and its branch campuses from the list of ACCSC-accredited schools” (ACCSC April 22, 2021 Withdrawal Letter, pg., 16).

### **Appeals Panel Consideration of IU’s Grounds for Appeal**

The arguments which IU advanced in support of its appeal are set forth in its written Grounds for Appeal as well as in the oral hearing before the Appeals Panel. According to the Grounds for Appeal, IU contends that the “Appeals Panel should vacate the Decision on the following grounds (1) the Commission disregarded evidence demonstrating that the College’s programs are on track to meet student achievement benchmarks; (2) the Commission inconsistently applied student achievement *Standards* to the College, resulting in disparate treatment as compared to other member institutions; and (3) the Commission acted with bias towards CEHE and its executive leadership in withdrawing the College’s accreditation (IU Grounds for Appeal, pg., 2).

In considering IU’s appeal, the Appeals Panel is keenly mindful of *Section VIII (B) of the Commission’s Rules of Process and Procedure, Standards of Accreditation*, which provides that on appeal, the school has the burden of proving that the Commission’s decision to withdraw accreditation “was arbitrary, capricious, or otherwise in substantial disregard of the criteria or procedures of the Commission, or not supported by substantial evidence in the record on which the Commission took action.” This is an evidentiary burden and it rests squarely on the appealing institution. Based upon its assessment of the arguments proffered on appeal, ACCSC’s *Rules of Process and Procedure* provide that the Appeals Panel has the authority to affirm, remand, or amend the Commission’s decision to withdraw IU’s accreditation. The Appeals Panel’s findings and conclusions with respect to IU’s appeal arguments follow.

As an initial matter, IU contended that the Commission’s withdrawal decision disregards its own criteria and is not supported by the evidence in the record. In particular, the Grounds for Appeal posit that the withdrawal decision:

*unfairly applies an impossible standard to CEHE and the College that, until now, was never contemplated by the Commission. The Commission has always known that the multiple initiatives CEHE developed and implemented to solve the College’s student achievement issues would take several years to materialize in annual reports. The College does not offer short-term certificate programs (as most other member schools do); it offers degree programs. As such, cohorts enrolling now may not report outcomes for 54 months (IU Grounds for Appeal, pg., 4).*

The withdrawal decision, IU asserted “invokes a new, impossible retroactive standard requiring the College’s 20-to-36 month degree programs to report above-benchmark rates in a fraction of the time” adding that “[p]ut simply, the Commission arbitrarily and capriciously not only moved the goalposts, but narrowed them to make the goal impossible to achieve” (IU Grounds for Appeal, pg., 5).

IU repeatedly raised the “moving the goalposts” argument in both its written appeal document and during the appeal hearing. However, the Appeals Panel does not agree that ACCSC ever moved the goalposts, let alone narrow them. There is absolutely nothing in the record of this matter that states that the Commission was willing to wait four or six years for the school to establish compliance with the critical standards governing student achievement. To do so would be for the Commission to concede that programs could be out of compliance for multiple years and that all during that time students would be matriculating in non-compliant programs, and even that is assuming that the school’s projections and predictions were all correct and accurate. In addition, in its many communications with the school, the Commission always made it manifest that the Commission was under no obligation to wait for the maximum timeframe to expire and that it had the authority to take an adverse action prior to the expiration of the maximum allowable timeframe. In short, the Commission never informed IU that it had a guaranteed four to six years to establish compliance.

The Appeals Panel found no firm basis for concluding that the Commission led the school to believe that it had multiple years to demonstrate compliance. Indeed, such a position would fly in the face of a school’s obligation to demonstrate continuous compliance with all accreditation standards and policies. The *Introduction, Preamble, Standards of Accreditation*, clearly states that:

*The burden rests with the school to establish that it is meeting the standards. 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 be granted and maintain accreditation. A high level of reliance is placed upon information, data, and statements provided to the Commission by a school. (Emphasis added)*

The responsibility to establish compliance is continuous – “Participation in the process of accreditation is voluntary on the part of the school. By applying for and receiving accreditation, a school accepts the obligation to demonstrate continuous compliance with the *Standards of Accreditation*” (*Section I (B)(4), Rules of Process and Procedure, Standards of Accreditation*). The inability of a school to demonstrate continuous compliance with accreditation requirements can lead to adverse actions including withdrawal of the school’s accreditation (*Section I (G)(3), Rules of Process and Procedures, Standards of Accreditation*) states that: “Failure by a school to maintain continued compliance with all ACCSC standards and requirements will lead to the Commission taking appropriate action as described in *Section VII, Rules of Process and Procedure, Standards of Accreditation.*”

IU seized on various statements made in Commission correspondence and offered them as admissions that ACCSC was accepting of the fact that it would take years before the school would be able to demonstrate compliance (IU Grounds for Appeal, pg., 6). The Appeals Panel believes that IU misapprehends the meaning and significance of such statements. Again, there is no evidence in the record to prove that the Commission gave the school carte blanche for four or six years to demonstrate that it was in compliance with the student achievement standards. The fact that the Commission understood that college programs of 20 to 36 months would not produce reportable graduation or employment outcomes for 30 to 54 months does not mean that it would accept such an approach. The various statements cited by IU are most appropriately read against the backdrop of its duty to protect students in the programs as well as its continued warnings to the school that it could take adverse action at any time and it did not have to wait for the expiration of an extension for good cause.

IU also characterized the withdrawal of accreditation as an “abrupt change in position” arguing that “[i]t was only after it became clear that CEHE was going to succeed that the Commission suddenly moved the goalposts to withdraw the College’s accreditation” (IU Grounds for Appeal, pg., 8). The Appeals Panel

does not believe that the record supports this assertion. The Commission's decision is explicit that accreditation was withdrawn specifically because it had concluded that IU had failed to prove that it had or could succeed.

Much of the IU's argumentation is contingent upon the validity of its projections and predictions about how well the various new strategies it put in place would perform over time. The Commission took issue with the reliability of the projections and IU's assessment of their likely effectiveness and laid out the reasons for this skepticism in the withdrawal letter. The school, however, asserted that "the Decision is not based on any meaningful evidence that the College's projections are invalid (IU Grounds for Appeal, pg., 8). Numerous times the school reminded the Appeals Panel that "the majority of the improvement measures—including the highly successful Five-Credit Hour Model and pre-enrollment assessment tools—were not fully implemented until 2020 (IU Grounds for Appeal, pg., 9). The school also noted that it had tested dozens of initiatives to improve retention and employment rates for online students but only fully implemented those where there was evidence that they improve outcomes (*Id.*). Additionally, IU argued that "the Commission cannot claim that the corrective measures failed" because "[t]hroughout the testing process, the Five-Credit Model alone resulted in substantial improvement to course completion rates and drop rates for the Business and Accounting programs" (*Id.*).

The Appeals Panel carefully considered this line of argumentation but in the final analysis did not find it persuasive. The Commission clearly had deep-seated reservations about the data, trends, projections, and predictions presented by IU, particularly those in the December 2020 response. ACCSC was also viewing this information through the lens of several years of non-compliance by CEHE schools as well as exceptionally bad data and trends among student cohorts up to those in 2020 who would be subject to the new initiatives. In addition, it appears that the Commission was not convinced about the reliability of school's predictions. The Appeals Panel could not find no proof in the appeal record that ACCSC's misgivings were misplaced. In the absence of reliable, data-driven, and verifiable projections, the Appeals Panel cannot conclude that the Commission had erred in reaching the conclusion it did.

The Grounds for Appeal contend that the Commission had no basis for a system-wide withdrawal of accreditation citing the purported success at on campus – IU-West Haven (IU Grounds for Appeal, pg., 10). In the Appeals Panel's view, the asserted compliance with benchmark in the programs offered there does not offset the long history and systemic deficiencies in IU campuses and their predecessor entities.

The Appeals Panel also examined IU's argument that good cause existed to allow CEHE to continue to establish compliance with benchmark rates (IU Grounds for Appeal, pgs., 10-13). The gravamen of this assertion is that "the College's currently enrolled students are successfully completing courses and finding employment at increasing rates. CEHE's students are successfully learning. The Commission simply ignored this evidence and concluded without basis 'the record does not reflect any reason to extend the maximum time frame [for compliance].'" CEHE also argued that the Commission "took away time that it had previously granted to CEHE to continue demonstrating progress towards compliance" – i.e., the Commission had previously extended the maximum time to May 31, 2021 (IU Grounds for Appeal, pg., 11).

In the face of the long, detailed, and well-documented chronology of the Commission's actions with respect to the CEHE schools, the Appeals Panel is not convinced that the Commission acted in a manner inconsistent with the record in this matter. The Commission took into account the totality of the facts with respect to the CEHE schools and did not focus on one late-in-the-game slice of time as CEHE does in its appeal. The decision as to whether good cause exists to extend the maximum time frame is within the sole

discretion of the Commission and the Appeals Panel finds nothing in the record that would lead to the conclusion that ACCSC abused its discretion in finding that IU should not be given additional time. As for the contention that the Commission had taken away time that it had already granted, ACCSC was abundantly clear in numerous letters to the institution that it did not have to wait until the end of the extended time frame to take action. In addition, there is nothing in the Commission's rules or policies which say that once good cause is determined to exist, that determination cannot be changed or the time frame accelerated. Finally, the amount of time that is at issue is simply a month or two given the date of the withdrawal letter and the end of the extended time frame – May 31, 2021. IU offered no showing that additional data introduced in that short time period would be determinative.

CEHE's Grounds for Appeal posit that the decision to withdraw accreditation "evades the Commission's requirement to consistently apply its *Standards*" (IU Grounds for Appeal, pg., 13). Specifically, IU states that "The Commission has routinely permitted schools with a history of failing to meet benchmark rates in all of their programs to remain accredited, even when the Commission recognizes that a school has not yet demonstrated it is on track to achieve compliance" (*Id.*) In support of this allegation, CEHE makes much of ACCSC's refusal to furnish records showing the Commission's application of the Standards to other institutions as well as excerpts from the Commission's Executive Director explaining that such records were not before the Commission when it decided to withdraw IU's accreditation. In the Appeals Panel's opinion, CEHE's argument ignores the simple fact that accreditation decisions are predicated on the individual facts and circumstances pertaining to the institution as contained in the detailed record of actions and communications with the institution under review. Accordingly, the specific facts pertaining to one school's actions would not be determinative in how another institution was treated. That is not to say, however, that the Commission through numerous decisions over many years does not have a keen sense of the consistency of its decisions which it brings to bear on its actions. It is for these reasons that the Appeals Panel finds that CEHE's discussion of other schools – [REDACTED] – does not establish that the Commission inconsistently applied its standards to IU.

CEHE characterizes ACCSC's decision to withdraw IU's accreditation as a "continuation of unnecessarily punitive actions" and that CEHE's relationship with the Commission has been fraught with "disproportionate actions, harsh rhetoric, and a refusal to recognize CEHE's corrective actions and compliance with ACCSC *Standards*" (IU Grounds for Appeal, pg., 16). CEHE stated that the decision was "an effort to harm CEHE" and was "in retaliation for CEHE exercising its right to challenge the Commission's improper handling of unsubstantiated and unexamined anonymous complaints" (*Id.*). In support of these serious allegations, CEHE points to the manner in which the Commission handled a series of complaints against the College, "unnecessarily onerous requests for information", the system-wide Show Cause Order, and the promulgation of new standards "for the specific purpose of excluding [REDACTED] from CEHE's Board of Directors" (IU Grounds for Appeal, pgs., 16-21).

Allegations impugning the motive for the Commission's actions against CEHE are serious and as such demand a high standard of proof, the burden of which lies squarely and exclusively on the shoulders of CEHE. This burden is not met by simply coloring ACCSC's actions in a harmful light or viewing those actions through CEHE's own prism. The question for the Appeals Panel is whether the Commission's extensive actions concerning CEHE were motivated by a desire to punish or seek retribution or whether the Commission was simply discharging its responsibilities as an accrediting agency in a manner consistent with its rules, policies, and quality standards. The Appeals Panel found no evidence in the Grounds for Appeal or from the appeal hearing that in fact supports or proves CEHE's assertions about the Commission's conduct. Indeed, there was no proof that that ACCSC's decision was punitive,

retaliatory, or disproportionate – characterizing the rationales for the Commission’s actions in a denigrating manner does not constitute proof. To the contrary, the lengthy record in this matter shows that the Commission was responding within its authority and mandate to CEHE’s consistent failure to demonstrate compliance with accreditation standards. CEHE may have labored under the impression that it was being unfairly treated and that the Commission’s motives were misguided but it clearly did not carry its burden of adducing evidence to prove that point.

**Conclusion**

For the foregoing reasons, it is the unanimous opinion of the Appeals Panel that the decision of the Commission to withdraw the accreditation of Independence University and its branch campuses be affirmed.

\*\*\*\*

**EFFECTIVE DATE AND DISCLOSURE**

The decision of the Appeals Panel to affirm ACCSC’s withdrawal of accreditation makes that action final. Normally, the effective date of the final decision to withdraw accreditation would be effective as of the date of this letter (Section VII (B) & VIII (A)(2) Rules of Process and Procedure, Standards of Accreditation). However, in the case of Independence University in West Haven, Utah and its branch campuses – Stevens-Henager College, Murray, Utah and Stevens-Henager College, Boise, Idaho, – because the campuses closed on August 1, 2021, the final decision to withdraw the accreditation of these campuses is effective August 1, 2021.

In accordance with Section X (C)(4) & (D)(4), Rules of Process and Procedure, Standards of Accreditation, the Commission will make this action public. The school(s) may submit comments using the enclosed Public Comment Disclosure Form **on or before September 27, 2021** to accompany the Commission’s disclosure of this final adverse accreditation action.

For additional information pertaining to this matter, please contact me directly at [REDACTED]

Sincerely,

[REDACTED]  
Michale S. McComis, Ed.D.  
Executive Director