

APPROVED
MARCH 5, 2019

Item #D-4
March 5, 2019

**APPOINTMENT OF HEARING OFFICER
PERTAINING TO THE POTENTIAL REVOCATION OF
OPERATING AND DEGREE GRANTING AUTHORITY
OF AN INDEPENDENT INSTITUTION**

Submitted for: Action.

Summary: This item recommends the appointment of a hearing officer to conduct a hearing regarding the possible revocation of operating authority for Argosy University pursuant to Sections 1030.70(b)(5)(A) and 1030.80(b)(5)(A) of the Illinois Board of Higher Education Administrative Rules

Action Requested: That the Illinois Board of Higher Education approve the appointment of a hearing officer pertaining to the potential revocation of an institution's Authorizations to Operate and Grant Degrees.

STATE OF ILLINOIS
BOARD OF HIGHER EDUCATION

**APPOINTMENT OF HEARING OFFICER
PERTAINING TO THE POTENTIAL REVOCATION OF
OPERATING AND DEGREE GRANTING AUTHORITY
OF AN INDEPENDENT INSTITUTION**

In 1979, the Illinois Board of Higher Education (IBHE) was assigned responsibility to administer “The Private College Act” (100 ILCS 1005/1 et. seq.) and “The Academic Degree Act” (110 ILCS 1010/1 et. seq.), two regulatory statutes governing the operation and degree-granting activity of private colleges and universities in the state of Illinois. Under these statutes and the rules to implement these statutes, postsecondary degree-granting institutions that were established after July 17, 1945, require approval from the IBHE to operate, and institutions established after 1961 require approval to operate and grant degrees.

In authorizing institutions to operate and grant degrees, the Board stipulates that approval is subject to maintenance of the conditions that were presented by the institution in its application and formed the basis upon which the specific authorizations were granted. The failure of an institution to maintain conditions of approval or conditions substantially equivalent to the conditions of approval constitutes grounds for revocation of authorizations as defined in Section 1030.70¹ of the rules to administer the statutes. Procedures for revocation as outlined in Section 1030.70 include the designation of a Hearing Officer who will schedule and conduct a hearing.

Argosy University
225 North Michigan Avenue, Suite 1300
Chicago, Illinois 60601
President: Mr. Kevin Beaver

Institutional Background and History

Argosy University (the University) is a not-for-profit institution owned by the Dream Center Foundation (DCF) based out of Los Angeles, California, and its affiliate, Dream Center Education Holding, LLC (DCEH) based in Chandler, Arizona. DCEH is a non-profit organization that acquired, in 2017, the educational assets of the for-profit chain of institutions held by Education Management Corporation (EDMC), converting these institutions from for-profit to non-profit status. This change of control from EDMC to DCEH impacted several institutions in Illinois – The Illinois Art Institutes (Chicago and Schaumburg) and Argosy University (Chicago and Schaumburg). The Illinois Board of Higher Education (IBHE) authorized the change of control from EDMC to DCEH in September 2017. EDMC subsequently filed for bankruptcy in June 2018.

¹ Argosy is subject to both the Private College and Academic Degree Act, therefore, it is subject to maintenance of approval pursuant to sections 1030.70 and 1030.80. For ease of reference, the IBHE will only cite to Section 1030.70.

Argosy University has campuses located in eleven states, including Illinois. The University is regionally accredited by Western Association of Schools and Colleges (WASC) Senior College and University Commission (WSCUC) because the University's headquarters are based in Orange, California. WASC approved the acquisition of Argosy University by DCEH from EDMC in June 2017.

In 2018, DCEH made the decision to close a number of newly acquired institutions, including the Illinois Art Institutes (Chicago and Schaumburg) and Argosy University (Schaumburg). These closures were finalized on December 28, 2018. As of December 28, 2018, Argosy University (Chicago) is the only remaining institution of higher education in Illinois under the auspices of DCEH.

Argosy University (Chicago) is currently approved to offer associate- through doctoral-level programs in a variety of fields, primarily in business, counseling, psychology, and clinical psychology. Approximately 600 students currently attend Argosy University (Chicago) with 108 students who transferred from the Argosy University (Schaumburg) location that closed on December 28, 2018.

On January 24, 2019, the IBHE notified DCEH that Argosy University (Chicago) was placed under investigation pursuant to 23 *Illinois Administrative Code 1030.70 (b)(4)(i), (iv) and (v)*. The investigation was predicated on IBHE concerns with the institution's financial viability pursuant to 23 *Illinois Administrative Code 1030.30 (a)(11)*, staff capacity to sustain current operations pursuant to 23 *Illinois Administrative Code 1030.30 (a)(3)(B)*, and the WSCUS decision to place the University on "Show Cause" status, among other issues. IBHE staff have completed two site visits to Argosy University (Chicago) on February 8, 2019 and February 19, 2019 and carried out numerous other forms of communication with DCEH and University personnel in the intervening period.

Institutional Compliance and Viability Issues

1030.70(b)(5)(A) Grounds for revocation include the following: i) Violation of any of the conditions governing issuance of the Certificate of Approval; ii) Failure to comply with this Part; iii) Fraudulent conduct on the part of any person operating the institution or of any person, acting within the scope of his/her employment by the institution, on account of which any student ever enrolled in the institution has been injured or has suffered financial loss; iv) Failure to offer degrees or instruction for one continuous 12-month period; v) Abandonment of the institution; vi) Loss of accreditation status with an accrediting body with which the institution is or was affiliated; vii) Actions of federal or state regulatory agencies or Offices of Attorneys General, Offices of Inspectors General, or similar bodies that affect an institution's status with those bodies; viii) Pervasive and substantial student complaints against the institution.

On January 18, 2019, Argosy University entered into Federal Receivership based on the inability of its current owner, DCEH, to meet its outstanding financial obligations. The Federal Receivership involves a legally-appointed receiver acting as custodian of a company's assets or business operations to work out legacy leases, contracts and claims, and restructure debt. According to a DCEH communication, the ultimate goal of the Federal Receivership is protecting the institutions and allowing them to continue to operate.

Immediately following entrance into Federal Receivership, the U.S. Department of Education (ED or the Department) placed Argosy University on Heightened Cash Monitoring Level 2 (HCM2) status. An institution placed on HCM2 status no longer receives federal financial aid funds under the Department's advanced payment method. The institution must make federal

financial aid disbursements to students from its own institutional funds and submit a request for reimbursement to the Department.

On January 19, 2019, the WASC Senior College and University Commission placed Argosy on Show Cause status based on the ED HCM2 sanction and related issues of noncompliance with accreditation standards. Show Cause status results in the loss of accreditation within a maximum period of one year from the date of notice unless Argosy University is able to produce evidence as to why its accreditation should not be revoked.

The IBHE placed Argosy University (Chicago) under investigation on January 24, 2019. Subsequent to filing the letter of notice regarding the IBHE investigation, IBHE Academic Affairs staff held a conference call with Argosy University administrators on January 28, 2019. During this call, IBHE staff confirmed that admissions and some other key personnel had been laid off at Argosy University locations, including Chicago. The loss of admissions personnel in effect places any institution of higher education in “teach-out” mode because no new students are being enrolled. Argosy University staff noted their request that the Receiver allow them to rehire one position in admissions at Chicago but could not confirm when a decision would be made regarding admissions personnel. IBHE staff also requested and secured an extension to the University’s drop date such that students would have more time to withdraw from the University without penalty. An extension of February 1, 2019 was agreed upon with the provision that University personnel formally and proactively communicate this option to students rather than merely making it available to anyone who inquired.

On February 8, 2019, IBHE Academic Affairs staff conducted a site visit to Argosy University (Chicago), meeting with the campus president. During this site visit, IBHE staff verified the current organizational structure and the nature of further personnel reductions that had occurred at both the Chicago campus and system office levels. Staff also discussed with the campus president the concerns about students not receiving federal financial aid disbursements in accordance with requirements of the U.S. Department of Education. The campus president confirmed to IBHE staff that these federal financial aid monies, though disbursed by ED to DCEH in January 2019, had not all been received by Argosy University (Chicago) – a process managed centrally and potentially through an affiliated company. IBHE staff requested a list of all students and the federal funds due to them through the Title IV process. Staff also confirmed that some students had taken advantage of the extended drop date to exit Argosy University (Chicago) without University penalty. Given current conditions, IBHE staff requested that the drop date be extended through the end of the spring semester so that students can exit the institution without University penalty – an arrangement confirmed by the campus president in a subsequent email message. The IBHE staff also urged the campus president in this meeting, and subsequent communications, to execute teach-out agreements with Illinois institutions of higher education in order to allow Argosy University (Chicago) students other options for completing their programs of study.

Concomitantly, the IBHE began to receive complaints from Illinois students who had not received their Spring 2019 semester federal financial aid disbursements from the University. These students are experiencing extreme financial distress due to their inability to access awarded federal financial aid that should have been credited to their student accounts at the University, including inability to pay rent or other basic living expenses. Numerous media outlets began reporting on this issue as the impacts were felt by students across Argosy University locations across the country.

Public filings by the Federal Receiver for DCEH, also raise serious concerns about the staff capacity and financial viability of DCEH and Argosy University, including Argosy University

(Chicago). On February 20, 2019, the Receiver filed a declaration in the U.S. District Court, Northern District of Ohio, Eastern Division, requesting a motion for a temporary restraining order and temporary preliminary injunction. In the declaration, the Receiver stated:

DCEH desperately needs the money due from Studio under the TSLA in order to be able to continue to provide the services required thereunder. If DCEH is rendered unable to pay the costs associated with the provision of those services, and therefore forced to shut down the servers and terminate the staff's employment, all three university systems, [the Art Institutes], South [University], and Argosy [University] will fail as a result of the total lack of critical services like payroll, human resources, IT, accounting and other fundamental requirements of running any business.

If the Receivership Entities are unable to complete their teach-out obligations, the more than 10,000 students attending the Receivership Entities campuses will be entitled to cancel their student loans, but will likely lose the value of the partial semester, as well as previous coursework, as new schools would be under no obligation to give credit for that coursework. Those affected students would lose at least a semester's worth of work if not more.

The WASC Senior College and University Commission, as a follow up to the Show Cause Order, held a meeting on February 21-22, 2019. During this meeting, the WASC Commission considered Argosy University's response to the Show Cause and voted to continue the order to Show Cause. The Commission also stated that WASC would be closely monitoring the University's financial position and administration of education programs and student services. WASC set a hearing date for March 15, 2019 and demanded an accelerated schedule of reports and deadlines for the institution.

On February 27, 2019, the U.S. Department of Education issued a letter informing the Receiver and DCEH that ED had made a determination to deny the pending application for the change in ownership from EDMC to DCEH and the related request to convert Argosy University from a for-profit to a nonprofit institution for the purpose of participating in the federal student aid programs. This Department communication indicated that Argosy University does not meet certain standards, including administrative capability, financial responsibility, and the institution's duty to use federal student aid program funds only for their intended purpose. The Department communication further noted that Argosy University's failure to pay Title IV credit balance refunds to its students and parents demonstrates that Argosy cannot meet the standard and that, effective immediately, Argosy University's participation in the federal student aid program was terminated. A timeline for appeal of March 11, 2019 was provided in order to give Argosy an opportunity to dispute ED's findings with factual evidence.

As of March 1, 2019, Argosy University (Chicago) has not fully complied with IBHE requests for the institution to turn over all student transcripts to the state agency. The University has also provided no evidence of compliance with the IBHE request, communicated on multiple occasions beginning January 24, 2019, to execute teach-out agreements with Illinois institutions of higher education.

In summation, Argosy University (Chicago) has not maintained the conditions under which operating and degree-granting authority were authorized by the Illinois Board of Higher Education. Pursuant to these findings, IBHE staff recommend the appointment of a hearing officer to proceed to schedule and conduct a hearing pertaining to the potential revocation of the Authorizations to Operate and Grant Degrees for Argosy University (Chicago).

Staff Conclusion

The staff has determined that the Board has grounds to revoke Argosy University's operating and degree-granting authority pursuant to Sections 1030.70 and 1030.80 of the rules to implement The Private College (110 ILCS 1005) and The Academic Degree Act (110 ILCS 1010) and the Illinois Board of Higher Education policies pertaining to assessment and accreditation for licensure.

Having considered staff findings and recommendations and pursuant to its authority under the rules to implement The Private College and The Academic Degree Act, the Illinois Board of Higher Education hereby approves the appointment of a hearing officer to conduct a hearing relating to the possible revocation of operating and degree-granting authority for Argosy University. The hearing officer shall make a recommendation regarding revocation to the Board at a future Illinois Board of Higher Education meeting.

