

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

AMERICAN ASSOCIATION OF  
COSMETOLOGY SCHOOLS,

Plaintiff,

V.

ELISABETH DEVOS, *in her official capacity*  
*as Secretary of Education,*

Defendant.

Civil Action No.: 17-0263 (RC)

Re Document Nos.: 8, 18

## ORDER

**GRANTING PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT;  
DENYING DEFENDANT’S MOTION FOR SUMMARY JUDGMENT  
DENYING PLAINTIFF’S MOTION FOR A PRELIMINARY INJUNCTION**

For the reasons stated in the Court’s Memorandum Opinion separately and contemporaneously issued, Plaintiff’s motion for summary judgment (ECF No. 8) is **GRANTED**; Defendant’s motion for summary judgment (ECF No. 18) is **DENIED**; Plaintiff’s motion for a preliminary injunction (ECF No. 8) is **DENIED**. It is hereby:

**ORDERED** that the Department of Education (“DOE”) shall not require American Association of Cosmetology Schools (“AACS”) member schools to adhere to the portions of the regulation at issue that an institution to “[d]emonstrate that annual earnings data were obtained for more than 50 percent of the number of students in the cohort period not excluded pursuant to paragraph (b)(3) of this section, and that number of students must be 30 or more” contained in 34 C.F.R. § 668.406(d)(2); and it is

**FURTHER ORDERED** that the DOE shall not require AACCS member schools to adhere to the requirements that an institution must “include in its appeal the alternate earnings of

all the students who completed the program during the same cohort period that the Secretary used to calculate the final D/E rates under § 668.404(e) or a comparable cohort period,” and must “conduct a survey to obtain annual earnings information of” “all the students who completed the program during the same cohort period that the Secretary used to calculate the final D/E rates under § 668.404(e) or a comparable cohort period” contained in 34 C.F.R. § 668.406(b)(3) and (c), as well as any other requirement that a particular number or percentage of students respond to institutional surveys for alternate earnings appeals under 34 C.F.R. § 668.406. It is

**FURTHER ORDERED** that, in light of the Court’s memorandum opinion, the DOE shall reasonably extend the deadline for AACCS member schools to file alternate earning appeals under 34 C.F.R. § 668.406; it is

**FURTHER ORDERED** that the DOE shall reopen the alternate-earnings appeal process for any AACCS member schools who failed to timely submit notice of alternate earnings appeal under 34 C.F.R. § 668.406; it is

**FURTHER ORDERED** that the DOE shall not require AACCS member schools who failed to timely submit notice of alternate earnings appeal under 34 C.F.R. § 668.406 to post warnings as required by 34 C.F.R. § 668.410(a) until the new deadline for alternate earnings appeal has passed.

**SO ORDERED.**

Dated: June 28, 2017

RUDOLPH CONTRERAS  
United States District Judge