



UNITED STATES DEPARTMENT OF EDUCATION

FEDERAL STUDENT AID
SCHOOL ELIGIBILITY CHANNEL
FOREIGN SCHOOLS TEAM
WASHINGTON, DC 20202-5340

FEB 15 2005

Dr. David L. Frederick
President
Saba University, School of Medicine
Round Hill Campus
The Bottom
Saba

**Re: NOTICE OF DENIAL OF APPLICATION TO PARTICIPATE IN TITLE IV
STUDENT FINANCIAL ASSISTANCE PROGRAMS**

Dear Dr. Frederick,

In June 2003, the U.S. Department of Education (Department) received from the Saba University, School of Medicine (Institution) an application for initial certification to participate in the Title IV Federal Student Aid (FSA) Programs, specifically the Federal Family Education Loan (FFEL) Programs.

In a letter from the Department dated June 1, 2004, your Institution was informed that based on our review of your school's application, further information was required. Your institution was advised to submit the additional information requested if it would like FSA to continue consideration of your institution for approval to participate in the FFEL programs.

According to our records, we have not received any further information from your institution indicating that it would like its application to be further considered for initial certification. Therefore, it has been determined that the institution does not meet the eligibility requirements set out in 34 CFR 600.54, 600.55, 668.5, 668.15, 668.23, and Subpart L of Part 668. It should be additionally noted that as outlined in the letter dated June 1, 2004 from the Department, the Institution's application for initial certification was not materially complete.

Therefore, we are denying your institution's application for initial approval to participate in the Federal Student Aid programs, effective as of the date of this letter.

In the future, should Saba University, School of Medicine provide the information necessary to establish eligibility, and submit a materially complete application, we will review that request at that time.

Sincerely,

A handwritten signature in cursive script that reads "M. Geneva Coombs". The signature is fluid and elegant, with a large, looping initial "M" and a long, sweeping tail on the "s".

M. Geneva Coombs, Director
School Participation Teams -- NE



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Dr. David L. Frederick
President
SABA University School of Medicine
Round Hill Campus
The Bottom
SABA 00000

JUN 1 - 2004

Dear Dr. Frederick:-

OPEID#: 03780300

Thank you for your application for initial certification to participate in the Title IV Federal Student Aid Programs, specifically the Federal Family Education Loan (FFEL) Programs. FSA performed a thorough review of the application and documents SABA University School of Medicine submitted, and FSA has concluded that your submission requires further information. If you would like FSA to continue to consider your institution for approval to participate in the FFEL programs, we will need the following information to proceed.

1. We have determined that your school does not meet the requirement that school's clinical training program be approved by a State as of January 1, 1992, 34 CFR § 600.55(a)(5)(ii). There is a great deal of conflicting information in the documentation the Department has received as to the date your school began providing its M.D. program, and, in any event, no pre-1992 State approval has been submitted. This deficiency would not preclude a determination of eligibility if your school were to submit evidence that your school complies with 34 C.F.R. § 600.55(a)(5)(i). We invite you to send us documentation on that issue.¹
2. In addition, Saba University School of Medicine's financial statements submitted as of December 31, 2002 do not meet Title IV requirements. Please submit your December 31, 2003 financial statements for consideration. Also, since your

¹Specifically, your school would need to submit the following information: (i) the number of full-time regular students enrolled at your school during academic year 2003-2004 plus the number of students graduating during that year; (ii) the number of full-time regular students enrolled in your school plus the number of students graduating from your school during academic year 2003-2004 who were persons not meeting the citizenship and residency criteria contained in section 494(a)(5) of the HEA, 20 U.S.C. 1091(a)(5); (iii) the number of students enrolled in your school during academic year 2003-04, plus the number of your school's graduates in academic years 2003-04, 2002-03, and 2001-02, who took any step of the examinations administered by the Educational Commission for Foreign Medical Graduates (including the ECFMG English test) during academic year 2003-04; and (iv) the number of such students and graduates who received passing scores on those tests

school's accrediting agency indicates that your school's accounts are audited in the United States by Venning and Jacques P.C., we would like to receive the statements prepared by that firm as well. Depending upon the outcome of the additional inquiries described below, we may need financial statements from other entities as well.

The following points also need to be addressed.

3. The law requires that your school have legal authorization to provide a postsecondary program in the country where the school is located, and that the program be one for which your school is legally authorized to award an M.D. degree. 34 CFR § 600.54(a), (c)(1)). Your application is in the name of "Saba University School of Medicine."

The documentation the Department has obtained on legal authorization issues to date consists of:

- A. The January 21, 1988 certificate from the Minister of Health at the Netherlands Antilles stating that graduates of "the Saba School of medicine" "upon successful completion of their course of studies at said institution and upon presentation of their diploma will be considered as eligible for licensure to practice medicine in the Netherlands Antilles. It is further stipulated that the granting of licensure will only be made on an individual basis and will be dependent on review of each applicant's complete credentials. This agreement should not be considered as a statement of accreditation of said school's academic program."

To understand the implications of this document, the Department will need the charter or articles of incorporation of the "Saba University School of Medicine"; a copy of any charter or articles of incorporation of the "Saba School of Medicine"; any documents describing the relationship of "Saba University School of Medicine" and "Saba School of Medicine"; and a copy (in English) of the laws and regulations governing the grant of licenses to practice medicine by the Government of the Netherlands Antilles.

- B. An Agreement signed on October 29, 1992 on behalf of the Government of Saba, Netherlands Antilles and the "Saba School of Medicine Foundation." This document states that the Government "hereby grants to the SCHOOL the right to establish a Medical School with the right to confer the degree of Doctor of medicine after the successful completion of a minimum of four academic years of study. . . . Students of such school who successfully complete the prescribed course of studies shall be considered as eligible for licensure to practice medicine in the Netherlands Antilles [citing January 21, 1988 letter]." Paragraph 28 of the document further states that within ninety days of execution of the agreement, the

government would grant Saba School of Medicine Foundation “a charter for establishment of a school of medicine . . . which school shall have the authority to grant appropriate degrees to candidates who successfully complete courses of study in the field of medicine.”

To understand the implications of this document, the Department will need the documents described above as well as: the charter or articles of incorporation of Saba School of Medicine Foundation; and all other documentation that establishes the relationship between Saba University School of Medicine and the Foundation.

- C. A letter of August 20, 2003 from the Executive Council of the Island Territory of Saba. This document, addressed to Dr. Frederick of Saba University School of Medicine, states that “You have asked the Ministry of Education to confirm that the Saba University School of Medicine is authorized by the government of Saba to offer graduate –level medical programs and confer medical degrees to its students. We have reviewed our records and hereby confirm that the Executive Council of Saba reviewed the University upon its formation in 1986 and granted approval to operate and confer graduate level degrees at that time.”

To understand the implications of this document, the Department will need to see the approval issued in 1986.

- D. A letter of May 22, 2001 to the Kansas State Board of Healing Arts, stating that “SABA University School of medicine came into existence and was approved by the Executive Council of Saba in June 1986. Since that time, the medical school was also approved by the Kingdom of the Netherlands.”

To understand the implications of this document, the Department would need to see the two approvals referred to.

- E. The Inspection Report of the Accreditation Commission on Colleges of Medicine states that “in October 2002 the School was officially chartered and recognized by the Government to confer upon its students the M.D. degree,” and that a “deed of foundation registering Saba School of Medicine Foundation” as a “not for profit foundation” was signed in October 1988.

To understand the implications of this document, the Department will need to see the official charter and deed of foundation referred to.

4. For schools, such as yours, that provide programs of clinical instruction in the United States, the law requires that the programs have been approved by all

medical licensing boards and evaluating bodies whose views are considered relevant by the Secretary. 34 CFR 600.55(a)(1)(ii).

The Secretary deems relevant the views of your accrediting body with regard to your clinical program. The Secretary will need to see the inspection report and the decision from the Accreditation Commission on Colleges of Medicine, when one is reached, as to the accreditation of your school's clinical program.

The Secretary also deems relevant the views of the States in which your school provides clinical training. For those States in which (i) your school provides clinical training and (ii) an approval of the clinical training is required under state law to be obtained from a state agency, please provide a copy of the requisite state approvals and any reports from such states.

5. Schools applying for participation must establish whether they are public, private non-profit, or proprietary. 34 CFR §§ 600.54, 600.55.

Although your school has indicated that it is a private non-profit institution, it has not included a certified English translation of its nonprofit status as required.

While the October 29, 1992 agreement referred to above indicates that "A tax holiday period of (10) years shall be negotiated for the SCHOOL by the Government in respect of any earnings and profits if any from any of its activities," the Department would need the documentation granting such a holiday, and the other documentation described above regarding this agreement, before it could determine the implications of this reference to a tax holiday.

In addition, while the May 22, 2001 letter to the Kansas State Board of Healing Arts described above states that "SABA University is a 'non-profit' Foundation approved in the Netherlands-Antilles," the Department would need the documentation granting such approval before it could determine the implications of this statement.

Although the Inspection Report of the Accreditation Commission on Colleges of Medicine states that the School is a non-profit organization because "all annual surpluses are designated for new buildings, faculty recruitments and development, technology investment and increase in faculty salaries," and further states that "all administrative and faculty members are salaried," the Department would need the documentation designating such allocations of surpluses, as well as accounts of administrative and faculty salaries (by name as well as title), before it could determine the implications of this statement.

While a December 21, 1998 report of a "Commission of Good Services" expresses the opinion that "The Medical School of Saba" is a "non-profit foundation for the purpose of the PO and consequently it does not have to pay

profit tax," the Department would need the following documentation to determine the implications of this statement:

- A. a copy of any documentation from the Inspectorate of Taxes on St. Martin regarding its annual reviews of this issue as contemplated on page three of the report
- B. documentation as to the identity (by name and not just by title) of all members of the Commission of Good Services
- C. documentation regarding the authority of the Commission and/or adoption of its views by the Government of the Netherlands or of the Netherlands Antilles.
- D. the charter or articles of incorporation of the Medical School of Saba and all other documentation that establishes the relationship between Saba University School of Medicine and the Medical School of Saba.

In addition, in view of documentation indicating that (1) your school's President was asked by your Accrediting Association to resign from the Board of Trustees; (2) your school's accrediting agency asked that a Chief Financial Officer other than your school's President be appointed to assure accountability; (3) the Commission of Good Services asked that the Medical School of Saba "enlarge the Board of Directors in such manner that Mr. and Mrs. Frederick will represent a minority"; (4) your school's financial statements reflect a payment of \$700,000 in management fees to EIC, (5) Education Information Consultant, Inc., is a for-profit corporation organized and run by your school's President, Dr. David Frederick, the Department would need the following documentation before it could evaluate your school's application as a non-profit entity:

- A. a copy of all contracts and correspondence between or on behalf of your school and Education Information Consultant, Inc.
 - B. a list of all current members of your school's Board of Trustees
 - C. a description of all payments made during the last 12 months (salaries, fees, contractual payments, etc.) by or on behalf of your school to Dr. David Frederick or to any family member of Dr. David Frederick.
6. The law requires that participating schools must admit as regular students only persons who have a secondary school completion credential or the recognized equivalent. 34 C.F.R. § 600.54(a)

The Department cannot evaluate your school's compliance with this requirement given your school's policy of accepting students from countries other than the U.S. and Canada according to the standards of these students' country of origin.

7. We note that your school offers or has offered a joint degree program with Fielding Institute. Such contracts are pertinent to Title IV eligibility. (e.g., 34 C.F.R. §668.5.) Accordingly, we would like copies of any contracts between or on behalf of the your school on one side and Fielding Institute on the other. In addition, we would like copies of all materials provided to students or prospective students regarding the joint degree program with Fielding Institute,
8. We also have information that your school has an educational affiliation with Warnborough College. Please provide a copy of any such agreement for our review. If SABA has other agreements with other ineligible Title IV schools, you must include that information as well.

Once the Institution is ready to make the necessary revisions, please let us know so that the appropriate analyst can turn the electronic application on to enable the submission of this additional information. If you have other updates (e.g., officials and directors) please enter those revisions at this time also. The application will only be open for ten calendar days from the date it is turned on. The hard copy documents must be submitted to the following address:

U.S. Department of Education
Federal Student Aid, School Eligibility Channel
Attention: Foreign Schools Team
830 First Street, NE
Union Center Plaza, 73C3
Washington, DC 20202-5340
U.S.A

If you have any questions and/or comments, please do not hesitate to contact Sally Wanner at (202) 401-8302 or myself at (202) 377-3173.

Sincerely,



M. Geneva Coombs
Director

Hough, Valerie

From: Coombs, Geneva
Sent: Friday, April 23, 2004 2:22 PM
To: 'jglass@dlalaw.com'
Cc: Wanner, Sarah; Hough, Valerie
Subject: SABA University, School of Medicine

Jonathan, Valerie and I have received your messages, based on our review to date, we will be requesting additional information. That request for information should be ready to share by next week. thanks, Geneva

Hough, Valerie

From: jglass@dowlohn.com
Sent: Friday, April 23, 2004 4:07 PM
To: Coombs, Geneva; jglass@dowlohn.com
Cc: Wanner, Sarah; Hough, Valerie
Subject: RE: SABA University, School of Medicine

Thank you. The written request should help. We are concerned about the timing of the review, and if there is more that we need to do or provide then we would like to do it promptly, including coming in to meet if that will help resolve any questions.

Jonathon

-----Original Message-----

From: Coombs, Geneva [mailto:Geneva.Coombs@ed.gov]
Sent: Friday, April 23, 2004 2:22 PM
To: 'jglass@dlalaw.com'
Cc: Wanner, Sarah; Hough, Valerie
Subject: SABA University, School of Medicine

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Geneva

