



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

In the Matter of

Docket No. 04-41-SF

POWDER SPRINGS BEAUTY COLLEGE,

Federal Student Aid Proceeding

Respondent.

Appearances: Martin Niforth, of Atlanta Student Aid, Inc., Canton, Georgia, for Powder Springs Beauty College.

Brian P. Siegel, Esq., of the Office of the General Counsel, United States Department of Education, Washington, D.C., for Federal Student Aid.

Before: Judge Ernest C. Canellos

DECISION

Powder Springs Beauty College (College) is a proprietary institution located in Powder Springs, Georgia. It is eligible to participate in the Pell Grant Program authorized by Title IV of the Higher Education Act of 1965, as amended (Title IV). 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* Within the U.S. Department of Education (ED), the office of Federal Student Aid (FSA) is the organization that has cognizance over and administers this program.

On July 28, 2004, FSA issued a notice of its intent to fine College \$8000 for four failures to file surveys which are part of the Integrated Postsecondary Education Data System, in violation of 34 C.F.R. § 668.14(b)(19). The College's timely appeal of that notice is the subject of the current proceeding. The appeal does not contest the fact that the surveys had not been timely submitted -- the College explains that its computer system failed in some unspecified way and it attempted to provide the information on a few occasions, but were unsuccessful. Rather, the College only argues that the fine is excessive and that a fine of \$1500 is appropriate.

The procedures for fining an institution are enumerated in 34 C.F.R. § 668, Subpart G. In accordance with 34 C.F.R. § 668.84 (a)(1), the Secretary is authorized to impose a fine of up to \$27,500 for each violation of program regulations. In any such proceeding, FSA has the burden of persuasion. 34 C.F.R. § 668.88(c)(2). When considering the amount of the fine, the

provisions of 34 C.F.R. § 668.92 are instructive. Generally the fine should be set after due consideration is given to the gravity of the violation and the size of the institution. It has been consistently held that an institution's small size is a mitigating factor in any fine case.

In the present case, although the College violated its reporting requirements, it is clear that no federal funds were placed in jeopardy. Equally clear is that the College is a small school. In fact, the College's total expenditures of Title IV funds during the 2002/2003 award year, \$139,518, is miniscule when compared with the \$2,577,403 which is the median funding level for all participating institutions during the same award year. Given these facts I find appropriate a mitigated fine of \$500 per violation of a reporting requirement, for a total fine of \$2000.

ORDER

On the basis of the foregoing findings of fact and conclusions of law, it is ORDERED that Powder Springs Beauty College to pay the U. S. Department of Education a fine of \$2000 for its admitted failure to complete in a timely manner surveys in the Integrated Postsecondary Education Data System.

Ernest C. Canellos
Chief Judge

Dated: April 20, 2005

SERVICE

A copy of the attached document was sent to the following:

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