



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

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In the Matter of

**INSTITUTO IRMA VALENTIN-MANATI,**

Respondent.

**Docket No. 04-42-SF**

Federal Student Aid  
Proceeding

OPE-IDs: 03098100  
03098103

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Appearances: Angel Abreu, School Vice-President, for Instituto Irma Valentin-Manati, Utuado Puerto Rico.

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

Before: Richard F. O'Hair, Administrative Judge

**DECISION**

Instituto Irma Valentin-Manati (Valentin) is a private, for-profit educational institution that participates in Federal Student Aid programs authorized by Title IV of the Higher Education Act of 1965, as amended (HEA). 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751, *et seq.* Valentin's main campus is in Manati, Puerto Rico, and it has a smaller campus in Isabela, Puerto Rico. The Office of Federal Student Aid (FSA), U.S. Department of Education (ED), administers these Title IV, HEA programs. On July 28, 2004, FSA informed Valentin that it intended to fine the institution \$17,500 for its failure to complete, in a timely manner, and to the satisfaction of the Secretary of Education, surveys conducted as part of the Integrated Postsecondary Education Data System (IPEDS). Specifically, Valentin did not complete five surveys during the 2003-04 award year – two for the Manati campus and three for the Isabela campus. Valentin exercised its right to appeal this intention to impose a fine.<sup>1</sup>

IPEDS is the core postsecondary education data collection project mandated by the

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<sup>1</sup> FSA's June 27, 2005, Motion for Default Judgment is DENIED.

National Education Statistics Act of 1994, 20 U.S.C. § 9001, *et seq.* IPEDS consists of a series of interrelated on-line surveys that collect institution-level data in such areas as student enrollments, program completions, graduation rates, faculty, staff, and finances. ED uses the information collected in these surveys to make policy choices in the field of federal student aid and to advise Congress about higher education in the United States. Additionally, this information is available to the public to help students and parents compare institutions of higher education. As an indication of the importance of this data collecting function, Congress added § 487(a)(17) to the HEA which requires that the Program Participation Agreement (PPA) signed by institutions prior to participating in the Title IV programs of the HEA contain language which obliges the institutions to complete the IPEDS surveys “in a timely manner and to the satisfaction of the Secretary.”

An investigation by ED’s Office of Inspector General in 2001 and 2002 disclosed that there was a significant amount of non-compliance with the requirement to complete these IPEDS surveys. As a result, FSA initiated a program to re-emphasize the importance of completing these surveys and, a year later, began levying fines against those institutions that failed to comply.

IPEDS consists of nine surveys: two to be completed in the Fall, three in the Winter, and four in the Spring. Not all institutions have to complete all nine surveys each year; however, for an institution with multiple locations or campuses, each location of an institution may have to complete a survey because faculty, staff, students, and finances may all be different at each location. IPEDS is a web-based collection system and the institutions are notified as to which surveys must be completed, accompanied by an explanation of each survey. Generally the institutions have six to eight weeks to enter the data requested by each survey. To assist the institutions during the survey completion process, ED provides them with online help, training for those individuals who are responsible for providing the data, and it maintains a Help Desk to answer questions. Once the survey periods begin, the IPEDS staff sends e-mails to the institutions to remind them to complete the surveys and also makes telephone calls if necessary.

Valentin signed its PPA on June 26, 2001, and by doing so obligated itself to complete its IPEDS surveys in a timely manner and to the satisfaction of the Secretary. Prior to the beginning of the 2003-2004 IPEDS surveys, ED notified all institutions of the surveys they needed to complete and the due dates. During the Fall survey, Valentin’s Manati campus did not complete either of the two surveys it was required to submit, despite the fact that IPEDS staff members made four telephone calls to the institution to remind them of the due date and sent two e-mail reminders. Valentin’s Isabela campus did not submit either of the two Fall surveys or the one Winter survey it was required to submit. As they did with the Manati campus, IPEDS staff called and e-mailed the Isabela campus on numerous occasions to remind them of the need to submit the surveys. The Manati campus, however, satisfactorily completed its required Winter and Spring surveys, and the Isabela campus submitted all of its Spring surveys. From these facts, it is clear that Valentin knew it had an duty to complete the required IPEDS surveys in a timely fashion and it did not, despite repeated attempts to notify the institution to remind it of its obligation and offer the opportunity for it to request assistance. Clearly Valentin violated a material provision of the PPA and should be fined for these infractions.

Valentin concedes that its failure to submit the required surveys was improper and in violation of its PPA. Its rationale for appealing the FSA fine, however, was that it contested the amount of the fine, not its legitimacy. During a conference call I conducted with representatives from Valentin and the Office of General Counsel, the institution's representative pointed out that it had completed IPEDS both before and after the times in question. He also pointed out that Valentin had only one PPA, although there were several campuses covered by it. He believed this amounted to excessive punishment. He further added that Valentin had unsuccessfully attempted to negotiate a settlement with FSA prior to submitting this appeal by offering to settle FSA's claim for \$3,000.<sup>2</sup>

ED's regulations, at 34 C.F.R. § 668.84, authorize the imposition of a fine against an institution for violations of the HEA, regulations, or any agreement with the Secretary. The maximum fine prescribed for each violation is \$27,500. In this instance, apparently FSA assessed a fine of \$3,500 for each of the five uncompleted surveys for a total fine of \$17,500. In its July 28, 2004, letter to Valentin, FSA noted that in arriving at this amount, it took into consideration the gravity of the situation, and that Valentin was considered a small institution because its level of federal student aid funding was below the median level of funding for all participating institutions. *See In the Matter of Bnai Arugath Habosem*, Dkt. No. 92-131-ST, U.S. Dept. of Educ. (Dec. of the Secretary) (Aug. 24, 1993).

I adopt the rationale FSA used for determining the appropriate amount to be imposed by fine. The requirement to annually complete the IPEDS surveys is found in federal statutes and regulations, as well as the PPA. FSA has further presented evidence of the significant information that not only Congress and ED can gain from these surveys, but the general public also has a keen interest in how specific educational institutions are performing. The failure of certain institutions to regularly submit these surveys deprives many interested persons and entities of valuable information. Therefore, I find that when Valentin, despite all of the publicity and encouragement from the IPEDS staff, disregarded all attempts to induce it to completely and timely submit the surveys, it violated HEA statutes, regulations and its PPA. Thus, it is deserving of a fine in the amount FSA has proposed.

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<sup>2</sup> The nature and content of settlement negotiations are not for the tribunal's consideration and will be disregarded if they are included in the pleadings in any fashion.

**ORDER**

On the basis of the foregoing, it is hereby **ORDERED** that Instituto Irma Valentin-Manati pay a fine of \$17,500 to the United States Department of Education.

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Judge Richard F. O'Hair

Dated: August 19, 2005

SERVICE

A copy of the attached initial decision was sent by certified mail, return receipt requested, to the following:

Mr. Angel Abreu  
Vice President  
Instituto Irma Valentin  
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