



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

In the Matter of

NATIONAL BEAUTY COLLEGE,

Respondent.

Docket No. 06-17-SP

Federal Student Aid
Proceeding

PRCN: 200440623365

Appearances: Vonda Hutchings, President, Garland, Texas, for National Beauty College.

Denise Morelli, 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

On February 10, 2006, the Office of Federal Student Aid (FSA), of the U.S. Department of Education, issued a Final Program Review Determination (FPRD) to National Beauty College (National) of Garland, Texas. The FPRD contained findings identifying discrepancies in National's student eligibility documentation for its 2001 – 2002 and 2002 – 2003 award year participation in the federal student aid programs authorized under Title IV of the Higher Education Act of 1965, as amended (Title IV). 20 U.S.C. § 1070 *et seq.* National challenged two of the FPRD's findings: 1) it failed to resolve inconsistent financial information in five student files (Finding 15), and 2) that one student failed to register with the Selective Service System (Finding 16). Upon its review of the documentation submitted by National in support of the school's appeal, FSA reduced the alleged outstanding discrepancies to National's failure to resolve inconsistent information and to properly recalculate the Title IV awards for two students, Students F and H, in Finding 15 of the FPRD. For these remaining violations, FSA asserts a liability of \$4833.32.

An educational institution that participates in federal student aid programs acts as a fiduciary with respect to the federal funds it dispenses and is subject to the highest standards of care and diligence in administering these programs. 34 C. F. R. § 668.82(a). Accordingly, it is

the institution's burden to establish that all Title IV funds it disbursed were properly spent. 34 C.F. R. § 668.116(d). An institution must develop and apply an adequate system to identify and resolve discrepancies in information it receives from different sources with respect to a student's application for financial aid under Title IV before it awards those funds.

34 C.F. R. § 668.16(f). The amount of financial aid to which a student is entitled is based upon a formula that takes into account the cost of attendance, the student's need, and the student's expected family contribution (EFC). 20 U.S.C. §§ 108711 – 1877ss. Some of the factors that are considered to determine the student's EFC are the student's marital status, household size, dependency status, and student, spouse, or parent income. Through guidance found in the 2002-2003 Federal Student Aid Handbook available to all institutions, an institution must examine these factors to compute the student's EFC. As stated in Chapter 2 of the Handbook, all questions regarding the student's marital status refer to status on the day the application for Title IV aid is completed.

During its program review of National's student files, FSA asserts that it found inconsistent information in the files of Students F and H that National had failed to resolve. FSA points to evidence in each of the two student files indicating they both had spouses, but neither file contained evidence detailing the amount of income attributable to each of these spouses during that award year. FSA argues that this prevented National from determining the appropriate amount of an EFC for either of them. Consequently, FSA argues that National should not have disbursed \$4833.32 in Title IV funds to these two students.

National denies all liability because it says it complied with all Title IV program requirements and properly calculated and disbursed the Title IV funds in question. At the outset, National argues that because neither of the files in this appeal was selected for verification pursuant to 34 C.F. R. § 668.54, it was unaware that any of the information contained in the files was inaccurate. Nonetheless, upon notice of the inconsistencies in the files, it says it began a good-faith effort to resolve the issues and it believes it did so successfully.

With respect to Student F, National says it found that she was married on November 23, 2001, but because she was married for less than six months of the year, she was not required to claim her husband on her 2001 tax return. Therefore, National sees no inconsistency with the fact that her loan application papers indicate she was married and that her tax return says otherwise. As to Student H, National confirmed that she was married and, because she was a recent immigrant, she and her husband had not filed a tax return for the prior year. National required the student to submit a letter of support in lieu of a tax return. In that letter, the student's spouse said he would "would provide for her living expenses and housing of total cost for \$3,000.00." National believes this was sufficient to support the student's eligibility and does not believe there is any inconsistency in this situation. It does not see the need for the file to contain any other information regarding the student's husband's income.

National is incorrect in both instances. A student must provide income information for his or her spouse if the student is married at the time he or she applies for financial aid. Moreover, even if the student were not married during the base tax year upon which his or her EFC is calculated, but is married at the time he or she applies for financial aid, the student must

provide income information for the new spouse.*

In this case, there is evidence to prove that both student applicants were married on the date of their applications. Therefore, the incomes of the students' spouses are critical components in the computation of their EFC. Since the recently-married Student F did not provide documentation of her spouse's income, either on her tax return, or by submitting his tax return or other appropriate documentation, National had an incomplete picture of her financial situation and could not possibly make an educated determination of her EFC. Similarly, although Student H and her husband may not have filed tax returns for the pertinent year, National should have requested alternate documentation substantiating her spouse's income. A statement that Student H's husband is willing to provide \$3000 for her living expenses is not sufficient to constitute alternate documentation of her husband's income.

National's use of these inconsistent, insufficiently documented applications for Title IV aid for Students F and H was in error. It had insufficient information to accurately determine their eligibility for Title IV aid. Accordingly, National has failed to show that the Title IV funds dispensed to these two students were properly spent and it must repay ED \$4833.32. Addressing National's other argument, the fact that neither of these students was selected for verification, has no impact on its fiduciary duty to disperse funds only to students with documented financial need.

ORDER

On the basis of the foregoing, it is hereby **ORDERED** that National Beauty College pay \$4833.32 to the United States Department of Education.

Judge Richard F. O'Hair

Dated: October 19, 2006

* See, 2002-2003 Student Aid Handbook, Chapter 2, available at <http://ifap.ed.gov/sfahandbooks/0203AppVerGuide.html>.

SERVICE

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

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