



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

In the Matter of

Docket No. 06-20-SP

**NEW CONCEPT MASSAGE
& BEAUTY SCHOOL, Inc.,**

Federal Student Aid
Proceeding

Respondent.

PRCN: 200430422954

Appearances: Maria M. Vazquez, President, Miami, Florida, for New Concept Massage & Beauty School, Inc.

Russell B. Wolff, 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

New Concept Massage & Beauty School, Inc. (Respondent) is a participant 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.* These programs are administered by the Office of Federal Student Aid (FSA), U.S. Department of Education (ED). In April, 2004, FSA conducted a review of Respondent's compliance with the Title IV program statutes and regulations, and on April 5, 2006, FSA issued a Final Program Review Determination (FPRD) informing Respondent of its findings. Respondent appealed certain of those findings and the associated institutional liabilities assessed by FSA. More specifically, Respondent has appealed FSA's findings of inconsistent/discrepant information in the files of four students and the resulting demand for repayment of \$11,913 to ED and \$4,778 to the holders of Federal Family Education Loans (FFEL).

An institution that participates in the Title IV programs has the burden of establishing that it properly disbursed the Title IV funds at its disposal. 34 C.F. R. § 668.116(d). As such, it has

an obligation to develop and apply a system for identifying and resolving discrepancies in information it receives with respect to a student's application for financial aid. 34 C.F.R. § 668.16(f).^{*} Respondent has no issue with these obligations, but differs with FSA as to whether it properly resolved the information in the files of these four students.

When conducting its program review, the FPRD explains that the reviewers examined the contents of selected student files, to include the Free Application for Federal Student Assistance (FAFSA), Institutional Student Information Record (ISIR), Low Income Forms, and other documentation such as federal income tax forms. After comparing the various documents in the files, the FPRD highlights inconsistent/discrepant information for four students that FSA believes was not adequately resolved by Respondent when it was brought to the institution's attention.

Student #16:

FSA points out in the FPRD that this file contains conflicting information regarding whether the student was married, had dependent children, lived with her father and, if so, what support he provided her; whether she provided the sole support for her grandmother, or whether her father also assisted in this endeavor.

Respondent attempted to clarify this information by submitting a Conflicting Information Resolution Form that indicates the student lived with her father in the same apartment; she was supporting her grandmother for some, but not all, of the time relevant to these proceedings; her father was employed but did not support the grandmother.

I find Respondent failed in its attempt to resolve the conflicts raised in this finding. It remains unclear whether the student had any children she supported, whether she lived with her father, and whether he provided any support for her and any dependents she may have had. Because of this remaining inconsistent/discrepant information, Respondent was unable to compute a proper award of Title IV funds for this student and it has a liability of \$5375 in Pell Grant funds and \$1000 in FFEL funds.

Student #25:

The FPRD indicates this student's file contains information that he was single, earned \$5000 in 2002, did not file taxes, had no dependents, and had a household size of one. Other documentation in his file shows he lived with someone rent-free, had no bills, and earned \$5000 that year. FSA discovered that he lived with his parents.

Respondent, in attempting to resolve the inconsistencies, admitted that the errors contained in this record were attributable to it not having properly-trained personnel in the financial aid office. At Respondent's request, the student completed a Low-Income Documentation Form and Verification Worksheet that established that the student lived with his

^{*} See *In re National Beauty College*, Dkt. No. 06-17-SP, U.S. Dep't of Educ. (Oct. 19, 2006).

parents who provided \$6200 of support for him for the year.

Despite Respondent's efforts, there still remains the unresolved issue of the initially-reported \$5000 in income for the year, and there is no documentation to substantiate the value of the parental support. As a result, the student's file still contains unresolved, inconsistent information that does not serve as a proper basis for awarding Title IV funds. The school's liability for this student is \$2269 in Pell Grant funds and \$2064 in FFEL funds.

Student #27:

The FPRD reports that for tax year 2002 this student's FAFSA indicates he was single, filed a tax return, had an adjusted gross income of \$8008 (which appears to have been crossed out to indicate income of only \$8), claimed one exemption, no dependents, and a household size of one. His ISIR agrees with the FAFSA and shows income of only \$8. Respondent had the student complete a Low Income Documentation Form that states only that the student has no bills in his name. Sections on the form that would indicate whether he is living with someone "rent free", whether someone else is paying his bills for him, or is providing some other form of financial assistance are blank. The institution acknowledges that this form is inadequate and apparently has begun using an improved form for these purposes.

Despite its efforts, I find the institution has failed to eliminate inconsistent/discrepant information regarding the actual income earned by this student, and the amount and sources of financial assistance he received for the year in question. The student's income tax return for 2002 should have been submitted, along with information from relatives and/or friends who supported him during the year. Without this documentation, a reviewer must resort to guesswork to make a determination of the amount of Title IV aid for which the student is eligible. The school's liability for this student is \$2269 in Pell Grant funds and \$1714 in FFEL funds.

Student # 28:

The FPRD explains that the student's 2002-2003 ISIR indicates that she was married, did not file a tax return, earned \$4500 in income, her spouse had no income, and she had a household size of three. The 2002-2003 FAFSA shows \$0 income for the student and \$4500 for her spouse. The student's file also contained a 2001 tax return for her spouse indicating he had \$18,243 in total income.

The institution concedes there were errors in this student file. It agrees the spouse's 2001 income should have been included in the FAFSA and ISIR and reports that the student had no income for 2001. Based upon amended calculations of the expected family contribution, Respondent submits that the Pell Grant disbursement to the student was \$125 more than authorized and that its liability for this student should be that amount.

I find Respondent has failed to remedy the inconsistent/discrepant information it relied upon for making a Title IV award to this student. Without the relevant tax returns and clarifying statements from the student and spouse regarding the income of each, it is impossible to make a

correct computation of the student's eligibility. The school's liability for this student is \$2000 in Pell Grant funds.

ORDER

On the basis of the foregoing, it is hereby **ORDERED** that New Concept Massage and Beauty School pay \$11,913 to the United States Department of Education and \$4778 to the holders of FFELs.

Judge Richard F. O'Hair

Dated: November 15, 2006

SERVICE

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

Ms. Maria M. Vazquez
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