



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

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In the Matter of

**TEXAS CAREER INSTITUTE  
KERRVILLE-HOUSTON,**

Respondent.

**Docket No. 06-47-SA**

Federal Student Aid  
Proceeding

ACN: 06-2004-42000

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Appearances: Marvin C. Keller, President, for Texas Career Institute Kerrville-Houston.

Steven Z. Finley, Esq., Office of the General Counsel, United States Department of Education, Washington, D.C., for the Office of Federal Student Aid.

Before: Richard F. O'Hair, Administrative Judge

**DECISION**

Texas Career Institute Kerrville-Houston (TCI) participated in the federal student aid programs authorized under Title IV of the Higher Education Act of 1965 (Title IV), 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* The Office of Federal Student Aid (FSA), U.S. Department of Education, administers these programs. On August 10, 2006, FSA issued a Final Audit Determination (FAD) that assessed a repayment liability of \$1,463,782.00 on TCI for failure to submit closeout audits for the periods of June 1, 2002, through May 31, 2003; June 1, 2003, through May 31, 2004; and June 1, 2004, through December 6, 2004, as well as other compliance audit deficiencies for the fiscal years ending May 31, 2000, May 31, 2001, and May 31, 2002. TCI filed a timely appeal of FSA's determination.

I issued an Order Governing Proceedings on December 6, 2006, requiring Respondent to file a brief by January 10, 2007. On January 11, 2007, this tribunal granted Respondent a time extension to file its brief due to the poor health of the school's owner. A second time extension was granted on March 13, 2007. Under this order, Respondent was required to file a brief by April 10, 2007. Respondent failed to submit a brief within this deadline and, to date, has not filed a brief.

On December 4, 2007, FSA submitted a Motion to Dismiss Appeal. In response, this tribunal issued an Order to Show Cause on December 5, 2007, which was returned undeliverable from the address listed on file for Respondent. After locating a new address, the Order to Show Cause was sent to Respondent on January 4, 2008. The Order required Respondent to file a submission on or before January 24, 2008. On January 28, 2008, this tribunal received a letter from Respondent indicating that closeout audit results would be sent within the next few days. Respondent has not submitted any subsequent documents. FSA submitted a second Motion to Dismiss Appeal on June 5, 2008.

Under 34 C.F.R. § 668.117, I am obligated to regulate the course of proceedings and may terminate the hearing process and issue a decision against a party that does not comply with the deadlines established by this tribunal. Here, it is appropriate to terminate this proceeding because Respondent has failed to file a brief in the 20 months since it initially filed this appeal. Respondent also has the burden of proving that it properly expended the Title IV funds it received. 34 C.F.R. § 668.116(d). By failing to submit evidence contrary to the findings made by FSA, Respondent has failed to carry its burden. Consequently, the findings in the FAD are affirmed.

### **ORDER**

On the basis of the foregoing, it is hereby **ORDERED** that Texas Career Institute Kerrville-Houston's appeal is dismissed and **FURTHER ORDERED** that TCI pay \$1,463,782.00 to the U.S. Department of Education.

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Judge Richard F. O'Hair

Dated: July 8, 2008

**SERVICE**

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

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