



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

In the Matter of

Docket No. 08-51-SF

**4-STATES ACADEMY
OF COSMETOLOGY,**

Federal Student
Aid Proceeding

Respondent.

Appearances: Tanya Flock, CEO, 4-States Academy of Cosmetology

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

Before: Richard I. Slippen, Administrative Judge

DECISION

4-States Academy of Cosmetology (4-States) participates in the various student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA). These programs are administered by the Office of Federal Student Aid (FSA), U.S. Department of Education (Department). On September 19, 2008, FSA issued a Notice of Intent to Fine (Notice) 4-States. FSA proposed to fine 4-States \$2,000 for its failure to complete and submit, on a timely basis, two required surveys for the Integrated Postsecondary Education Data System (IPEDS) as required by Section 487(a)(17) of the HEA, 20 U.S.C. §1094(a)(17). FSA alleged that 4-States' failure to complete and submit the surveys violated the HEA, the Department of Education's regulations at 34 C.F.R. §668.14(b)(19) (2007) and the Program Participation Agreement (PPA) under which 4-States participates in the Federal student financial aid programs under Title IV of the HEA. In that Notice, FSA informed 4-States that it intended to fine the institution based on its failure to submit two required IPEDS surveys during the Fall 2007 data collection period as mandated by the HEA, the Department's regulations and the PPA. The Notice gave 4-States until October 10, 2008 to challenge the proposed fine and on October 7, 2008 4-States requested a hearing on the proposed fine.

The tribunal issued an Order Governing Proceedings on December 4, 2008, in which FSA was required to file its brief on or before January 5, 2009, and it did so on a timely basis.

The Order required 4-States to file its brief on or before February 5, 2009. Because 4-States failed to file either its brief or a request for extension, on February 11, 2009, counsel for FSA filed a Motion for Default Judgment against 4-States. As a result, the tribunal issued an Order to Show Cause on February 11, 2009, which required 4-States to respond on or before March 9, 2009, as to why I should not issue a default judgment in this proceeding. On February 11, 2009, Tanya Flock, CEO of 4-States, faxed and mailed a letter to the tribunal that did not deny its failure to file the surveys but attributed the failure to what she termed was an unfortunate mishap with her computer, email and internet system. She further stated that 4-States had reevaluated all areas of concern in this matter and gave assurances that this situation would not arise in the future. 4-States submitted no exhibits or evidence and I can only assume that the letter was a substitute for its brief.

The HEA at §487(c)(3)(B) and the Department's regulations at 34 C.F.R. §668.84(a)(1), authorize the imposition of a fine whenever an institution violates the HEA, the regulations or any agreement with the Secretary of Education. It is clear from the evidence in the record of this case that 4-States violated its obligation under §487(a)(17) of the HEA, 34 C.F.R. §668.14(b)(19) (2007) and the PPA which require an institution to "complete, in a timely manner, and to the satisfaction of the Secretary," the IPEDS surveys and that FSA has met its burden of persuasion under 34 C.F.R. § 668.88(c)(2). I will, therefore, impose an appropriate fine.

FSA requests that I order a fine of \$2000.00 for the failure to submit the surveys. I find that, on the facts of this case, the proposed fine is appropriate considering the nature of the offense, the circumstances and the mitigating effect of 4-States' small size. *See In the Matter of Powder Springs Beauty College*, Dkt.No. 04-41-SF (Decision of the Secretary, June 1, 2006). Therefore, upon consideration of the violation found, the amount of Title IV funds received by 4-States and the mitigating factor of its small size, the tribunal finds that a fine of \$2000.00 is appropriate and FSA's Motion for Default Judgment is granted.

ORDER

On the basis of the foregoing, it is hereby ORDERED that 4-States Academy of Cosmetology pay to the U.S. Department of Education the sum of \$2000.00.

Judge Richard I. Slippen

Dated: March 9, 2009

SERVICE

A copy of the attached document was sent by mail and fax to the following:

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