



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

In the Matter of

CENTRAL STATE UNIVERSITY,
Respondent

Docket No. 11-55-SA

**Federal Student
Aid Proceeding**
ACN: 05-2009-01677

Appearances:

Leigh Manasevit, Esq., and Erin Auerbach, Esq., Brustein & Manasevit, PLLC,
Washington, D.C., for Respondent

Jennifer L. Woodward, 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

Respondent, Central State University (CSU), operates as an institution of higher education in Wilberforce, Ohio and participates 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. and administered by the Office of Federal Student Aid (FSA or the Department), United States Department of Education.

On May 29, 2011, FSA issued a final audit determination (FAD) containing nine findings. Finding No. 7, which found that CSU failed to complete and properly document the tax verification process for 39 students during the 2008-2009 award year, is the only issue appealed by the Respondent and before this Tribunal. A stipulation agreement, filed by the parties on November 14, 2011, resolved the verification issue of 14 students, identified in Appendix I to the FAD as #6, #19, #39, #44, #62, #64, #74, #85, #102, #150, #153, #157, #213, and #218, leaving 25 students' verification documentation in dispute, subsequent evidence resolved the verification issues for an additional 14 students, leaving only 10 student verification files in dispute. In its appeal of the FAD, CSU challenges the substance of Finding No. 7 and alleges complete verification for the 10 remaining students.

Finding No. 7: Verification Violations

Verification for Dependent Students---Students #90, #95, #111, #209, #246, #75 and #33

Pursuant to 34 C.F.R. § 668.57 (a)(1)(ii) (2008) institutions must require dependent students to submit a copy of their parents' income tax returns to verify students' eligibility of Title IV funds. "The copy must be signed by the filer of the return or by one of the filers of a joint return." § 668.57 (a)(1)(i). Because signatures symbolize assent to the content of documents and provide an opportunity for the Department to verify the validity of documents, income tax returns must be signed.¹

STUDENT #90

FSA asserts that CSU inappropriately disbursed Pell Grant funds to dependent student #90. CSU does not provide any evidence in response to FSA's allegations. Therefore, I find that CSU has not met its burden of proof for student #90 and the liabilities are upheld.

STUDENT #95

CSU claims that it resolved the financial discrepancy in student #95's file by establishing that the untaxed pension withdrawal was actually a rollover, but provides no financial documentation supporting its claim. Student #95, a dependent, submitted a parental tax return form listing, on line 16a, \$149,134 in pensions and annuities. However, on the CSU Verification Worksheet student #95 listed \$0 near the box that read "Untaxed portions of pensions from IRS Form 1040 --lines (16a-16b) or 1040A-lines (12a – minus 12(b). Exclude rollovers. If negative, enter zero here."² Although the verification form was altered to represent \$141,160 in untaxed pensions, there is no evidence indicating the student made this change.³ CSU provides a verification checklist completed by a CSU employee, but I find it unlikely that its financial aid counselor could know a parent's financial status regarding pensions without receiving proper tax documentation. CSU should have received documentation verifying the rollover and pension information. The failure to document or verify the status of student #95's parental tax information, as to the rollover and pension information indicates, and I so find, that verification for student #95 is incomplete. Therefore, the liability is upheld.

STUDENT #111

According to FSA, student #111 submitted a tax return without a parent's signature. CSU claims that student #111 provided proper verification when he signed CSU's 2008-2009 verification worksheet. However, Respondent is mistaken, § 668.57(a)(i) is very clear and states income tax returns must be signed by the filer. Since the tax return provided by student #111 states "a copy only, do not file" and has no signature as required by § 668.57 (a)(i), verification is incomplete.

STUDENT #209

CSU disputes FSA's claim that a discrepancy exists in dependent student #209's financial aid file relating to taxable interest income and states that the circumstances surrounding the student's file does not present a conflict. On the verification worksheet, the total parental taxable interest is \$0, despite the submitted parent's tax return listing interest at \$2,564.⁴ Since the Respondent bears the burden of proof and an institution has a fiduciary responsibility to correct inconsistencies in a student's financial record, it is CSU's responsibility to provide additional information to reconcile the difference in taxable interest. The Respondent has provided no additional information to

¹ *Ocean County Vocational Institute*, Docket No. 98-16-SP, U.S. Dep't of Educ. (July 29, 1999).

² Resp. Ex. R-10 at 2-3.

³ *Id.*

⁴ Resp. Ex. R-1 at 2, 5.

reconcile the difference in taxable income thus CSU owes \$4,731.00 in Pell Grant liabilities and \$5,390.00 Subsidized FFEL liabilities for student #209.

STUDENT #246

“In determining family size in the case of a dependent student [...] the new spouse and any dependents of the new spouse if that spouse’s income is included in determining the parents’ adjusted available income.” 20 U.S.C. § 1087vv (l)(1)(C)(B) (2006). Student #246 is a dependent student and therefore required to submit “a copy of each Internal Revenue Service (IRS) Form W-2 received by the parent whose income is being taken into account.” §668.57 (a)(ii). Although student #246 submitted the parental information of his biological parent, he did not submit financial documentation for his stepparent as required by 20 U.S.C. § 1087vv (l)(1)(C)(B) (2006). On the CSU verification worksheet, the student included the stepparent and her two biological children as family members. Since the stepparent is a household member, her income affects the student’s EFC, therefore the stepparent’s income tax information is also required for verification. CSU did not collect financial documentation from both parents of the dependent making verification for student #246 is incomplete.

STUDENT #75

FSA claims student #75 has an array of verification issues including conflicting family size, income discrepancies, and source of parental tax return. CSU’s verification worksheet, the student’s Free Application for Federal Student Aid (FAFSA), and Tax Return Transcript each list the household family size at four.⁵ Therefore, I find there is no discrepancy in family size. Additionally, the Department claims the father’s adjusted gross income (AGI) should have been listed at \$30,092 instead \$15,000. All financial documentation in the record, including the Income Tax Return Transcript, FAFSA application submitted by CSU, lists \$30,092 as the amount of the adjusted gross income.⁶ Therefore, I find there is no dispute in the AGI amount. CSU asserts that the tax transcript is an alternative tax form that came directly from the IRS. The evidence shows an IRS Uniform Resource Locator (URL) located on the transcript. In addition, the information printed on the transcript coincides with the information printed on the FAFSA application and verification worksheet. Therefore, I find it likely that the tax transcript came directly from the IRS and verification for student #75 is complete. The issue before this tribunal is whether student #75 was eligible to receive Title IV funds. Based on the evidence submitted, I find student #75 is entitled to Title IV funds and verification is complete.

STUDENT #33

Unlike FSA’s allegations that student #33 is a dependent and required to submit a parental tax return, CSU claims that student #33 is an independent student; therefore, a parental tax return is not required for student verification. An FSA employee informed CSU on September 28, 2011, and I agree, there appears to be no regulatory requirement that a school document a student’s claim of independence for Title IV aid.⁷ Because student #33 was declared an independent student on the Free Application for Federal Student Aid and there is no regulatory requirement to verify independency, I find no parental tax information is required. CSU submitted a signed copy of student #33’s tax return, as required by § 668.57(a)(i). Therefore, I find that verification is complete for student #33.

⁵ Resp. Ex. R-3 at 13, 15, 21.

⁶ *Id.* at 18, 21.

⁷ Resp. Ex. R-5 at 1.

Verification for Independent Students---Students #189, #248, and #275

Verification for a financially independent student is needed if the applicant is single, divorced, separated, or widowed and the number of family members is greater than one. § 668.56 (a)(3)(ii)(A). If a discrepancy emerges in a student's file, the institution has the fiduciary responsibility to verify any inconsistencies in students' records and ensure that federal funds are properly administered.

STUDENTS #189, #248, and #275

FSA claims that students #189, #248, and #275 should have submitted documentation showing they provided at least 50% of their children's support. CSU asserts that it is not required to obtain such documentation from independent students. Students #189 and #248 indicated they were supporting children on their FAFSA applications, yet they filed income tax returns for single and joint filers with no dependents. When the students claimed to financially support their children on the FAFSA application, but filed income tax returns for individuals with no dependents, a discrepancy arose in the students' files. CSU should have investigated the inconsistencies in the student files to ensure that the funds were properly distributed. Student #275 indicated on the FAFSA application that her household size was two, received Women, Infant, and Children (WIC) benefits, and obtained food stamps.⁸ In a statement, signed October 27, 2011, the student indicated that she supported her child with the monies obtained from refund checks and federal work-study programs.⁹ After reviewing the FAFSA application indicating that the student received WIC and food stamp benefits, I find that the student may have financially provided support for her child through government entitlement programs, federal work-study jobs, and financial aid refunds. However, the Department is correct in its claim that CSU failed to complete verification for student #275. The student completed a CSU verification worksheet and checked that she would not file and was not required to file a 2007 federal income tax return, yet on the FAFSA application the student indicated that she had completed her 2007 tax return and received an income of \$3,000.¹⁰ When such discrepancies arise, CSU has a fiduciary responsibility to resolve those issues.¹¹ Evidence presented by the Respondent does not clarify the inconsistencies in the student's record. Therefore, I find that the liabilities for students #189, #248, and #275 are upheld.

In accordance with 34 C.F.R. § 668.116(d), to sustain its burden, an institution must establish through the submission of relevant and credible evidence, that (1) the questioned expenditures were proper, and (2) the institution complied with program requirements. CSU has failed to meet its burden. I hereby affirm that CSU did not properly verify students #90, #95, #111, #209, #246, #189, #248, and #275.

LIABILITY

FSA calculated liability using an extrapolation method using ten students for whom a verification violation occurred. However, I found that CSU satisfied its burden of proof for two of the ten students receiving Title IV funds. Consequently, CSU's liability for both the Pell Grant and Federal Family Education Loan (FFEL) funds must be recalculated.

⁸ Resp. Ex. R-8 at 21-22.

⁹ *Id.* at 19.

¹⁰ Resp. Ex. R-8 at 16, 21.

¹¹ § 668.82 (b) (1).

For the Pell funds, I have determined that the amount of the liability owed using FSA's extrapolation formula is **\$103,368.08**.¹²

FSA used the estimated loss formula to calculate CSU's FFEL liability.¹³ The estimated loss formula measures the estimated loss to the Department that has or will result from ineligible loans certified by the institution.¹⁴ Under this formula, an institution's cohort default rate is multiplied by the total amount of ineligible loans disbursed during a given award year, this amount is then added to the estimated loan subsidies and interest payments to yield the estimated loss liability.

While I am able to reconstruct the extrapolation amount FSA uses in performing its estimated loss calculation,¹⁵ I am unable to calculate CSU's estimated loss liability because one of the data elements, the daily interest and special allowances (ISA) factor, used in the formula is not in the record.¹⁶ Therefore, in accordance with the decision, FSA must recalculate the FFEL liability using the estimated loss liability formula.

ORDER

On the basis of the foregoing, it is hereby ORDERED that CSU pay to the United States Department of Education \$103,368.08 in Pell Grant liabilities, and pay the sum of the recalculated estimated loss FFEL liability.

Richard I. Slippen,
Administrative Judge

Dated: _____

¹² The calculation that gives rise to this liability is as follows: \$26,115 in Pell Grant Liabilities (for the eight students whom CSU cannot satisfy its burden of proof as discussed herein) ÷ 287 (for the number of students in the sample) = 90.99303 x 1,136 (for the total number of students in the population) = \$103,368.08 in total projected Pell Grant liabilities.

¹³ FSA's calculation of CSU's estimated loss liability is contained in an appendix to the FAD.

¹⁴ *Christian Brothers University*, Docket No. 96-4-SP, U.S. Dep't of Educ. (January 7, 1997).

¹⁵ ¹⁵ The calculation that gives rise to this liability is as follows: \$21,105 in FFEL liabilities (for the eight students whom CSU cannot satisfy its burden of proof as discussed herein) ÷ 287 (for the number of students in the sample) = 73.53658 x 1,136 (for the total number of students in the population) = \$83,537.56.

¹⁶ The estimated actual cost formula measures the estimated loss to the Department that has or will result from the ineligible loans certified by the institution, *See Christian Brothers University*, Docket No. 96-4-SP, U.S. Dep't of Educ. (January 7, 1997).

SERVICE

A copy of the attached document was sent to the following:

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