



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

---

In the Matter of  
**YUBA COLLEGE,**

**Docket No. 12-26-SP**

Federal Student Financial Aid  
Proceeding

Respondent

PRCN: 200720927051

---

Appearances: Dr. Kay Adkins, President, for Yuba College.

Sarah L. Wanner, Esq., Office of the General Counsel, U.S. Department of  
Education, Washington, D.C., for Federal Student Aid.

Before: Judge Ernest C. Canellos

**DECISION**

Yuba College (Yuba) is a public institution of higher education with its main campus located in Marysville, California. In January 2008, in lieu of an on-site survey, representatives of the U.S. Department of Education held phone conferences with Yuba's Dean of Financial Aid and Vice President of Academic and Student Services to discuss the eligibility of Yuba's cosmetology program to disburse funds authorized under Title IV of the Higher Education Act of 1965, as amended (HEA). A Program Review Report (PRR) was issued on 11/13/2009. On 02/10/2012, the Department issued a Final Program Review Determination (FPRD) finding that Yuba disbursed Title IV, HEA money to students in an ineligible program, Yuba's cosmetology program, during the 2006-07 and 2007-08 award years. The FPRD assessed a total liability of \$319,521.29 for that finding, and, on 03/21/2012, Yuba filed this appeal.

**DISCUSSION**

Institutions participating in any student financial assistance program authorized by Title IV must comply with rules and guidelines established by federal regulations. 34 C.F.R. § 668.1. If an institution contracts with a third party to administer any aspect of a Title IV program, the

institution remains responsible for compliance with those rules, which are also applicable to the third party. 34 C.F.R. § 668.1(a). If an institution contracts with a third party that is ineligible to receive Title IV program assistance, the third party may be considered eligible if it meets certain guidelines. 34 C.F.R. § 668.5(c). If the third party does not meet these guidelines and remains ineligible, the institution is not authorized to disburse Title IV funds to students participating in that program.

There is no dispute about the facts pertinent to the allegations in the FPRD. Yuba admits that for the 2006-07 and 2007-08 award years it awarded Title IV funds to students participating in its cosmetology program. Yuba contracted with Sutter Beauty School, an ineligible institution, to provide over 50 percent of the cosmetology program instruction. Yuba further concedes that these actions were in conflict with 34 C.F.R. § 668.5(c), which states that the Secretary may consider an ineligible institution eligible if it provides "... more than 25 percent but not more than 50 percent of the educational program...." Therefore, Yuba did not meet its burden of proof to show that it complied with federal regulations when it disbursed Title IV funds to students in its cosmetology program. 34 C.F.R. § 668.116(d). However, Yuba requests forgiveness or reduction of the monetary liability assessed in the FPRD for the following reasons: (1) it acted in good faith when it disbursed funds to students participating in the ineligible cosmetology program, (2) the students receiving the ineligible funds benefitted from the program, (3) it immediately took corrective action when it learned of its ineligible disbursements, and (4) the payment of the monetary liability will significantly worsen the condition of the Yuba Community College District.

In its defense, Yuba asserts its good faith belief that Sutter Beauty School was accredited when it distributed Title IV funds to students participating in the cosmetology program. However, 34 C.F.R. § 600.10(c)(3) provides that even if an institution incorrectly determines that its educational program is an eligible program for Title IV, HEA program purposes, the institution must repay the Title IV, HEA program funds received by or on behalf of students who were enrolled in that educational program. Therefore, Yuba's good faith beliefs of program eligibility are irrelevant to its obligation to repay the Title IV funds disbursed to students participating in the ineligible cosmetology program. *See, In the Matter of Molloy College*, Docket. No. 94-63-SP, U.S. Dep't of Educ. (March 1, 1995). Further, while it is commendable that the students receiving funds for this program have been largely successful in their endeavors, Yuba was nonetheless in violation of federal regulations and overstepped its authority when it disbursed these Title IV funds.

Yuba also seeks forgiveness or reduction in monetary liability because it took corrective action after learning that it disbursed Title IV funds to students participating in an ineligible program. However, federal regulations state, and this tribunal has accordingly ruled, that Title IV compliance after the time period in question is irrelevant and immaterial to its compliance during the time period covered by the program review when there is no dispute about the factual findings in the FPRD. 34 C.F.R. § 668.116(f). *See also, In the Matter of Philander Smith College*, Docket. No. 09-28-SA, U.S. Dep't of Educ. (November 16, 2009).

Finally, Yuba presents evidence suggesting that it will suffer significant economic hardship if it is ordered to repay the total financial liability determined in the FPRD. Unfortunately, this tribunal does not have authority to grant equitable relief. 34 C.F.R. § 668.89(d). *See also, In the Matter of American Institute of Business*, Docket No. 10-29-SA, U.S. Dep't of Educ. (December 14, 2010). *But see*, 31 U.S.C. § 3711 and *In the Matter of Howard Community College*, Docket. No. 08-21-SP, U.S. Dep't of Educ. (December 4, 2008).

ORDER

On the basis of the forgoing, it is hereby ORDERED that Yuba College pay to the U.S. Department of Education \$319,521.29.

---

Ernest C. Canellos  
Chief Judge

Dated: July 16, 2012

SERVICE

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

Dr. Kay Adkins, President  
Yuba College  
2208 North Beale Road  
Marysville, CA 95901

Sarah L. Wanner, Esq.  
Office of the General Counsel  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202-2110