



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

In the Matter of

**PENNSYLVANIA SCHOOL OF
BUSINESS,**

Respondent

Docket No. 15-04-SA

Federal Student Aid Proceeding

ACN: 03-2014-04226

Appearances: Steven M. Gombos, Esq. Robert B. Walker, Jr., Esq, Ritzert & Leyton, PC,
Fairfax, VA, for Pennsylvania School of Business.

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

Before: Judge Robert G. Layton

DECISION

Pennsylvania School of Business (PSB) was a private higher education institution located in Allentown, Pennsylvania, offering educational programs leading to associates degrees and certificates. Its programs were eligible to participate in the Federal Pell Grant and the Federal Family Education Loan Programs that are authorized under Title IV of the Higher Education Act of 1965, as amended (Title IV), 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. 2751 *et seq.* In the U. S. Department of Education (ED), the office having jurisdiction over and oversight of these programs is the office of Federal Student Aid (FSA).

On January 9, 2014, PSB voluntarily closed. As a result of the closure, several students could not complete their respective educational programs. PSB did not arrange for the students to complete their programs at another school. Under 20 U.S.C. § 1087(c), the Secretary of Education is to pay off the Title IV loan obligation of any such student and then discharge the obligations of any student who applies to ED for such discharge and certifies that they were unable to complete their education because of the closure of the school. Once a student is discharged, the Secretary, as the subrogee of the student's rights, is directed to pursue recovery against the closed school for the amounts forgiven. 34 C.F.R. § 682.204(d) (4).

Because of the requirement to recover amounts forgiven, FSA on behalf of the Secretary performed a review of PSB's student records and applications for discharge submitted by its former students. A Final Audit Determination (FAD) dated November 7, 2014 was issued finding that \$235,140 was due for thirteen students whose loans were discharged under the above

provisions. By letter dated December 22, 2014, Respondent filed an appeal of the Final Audit Determination's Close-Out Audit.

In any Subpart H audit and program review proceeding, the Respondent has the burden of proving by the preponderance of the evidence that the Title IV funds received were lawfully disbursed and earned. If it fails to establish the correctness of the expenditure of federal education funds under the criteria of the statutes and regulations, the Respondent must return the funds to the Department. 34 C.F.R § 668.116 (d).

While the Respondent has the burden of proof in this proceeding, FSA also has the burden of providing adequate notice of its demand. Here, FSA has presented sufficient information to establish a prima facie case for its demand in the FAD. A student must apply to be considered for a closed school loan discharge. Under that application, the student must swear under penalty of perjury that he or she meets the requirements for discharge. 34 C.F.R. §§ 682.402(d)(3), 685.214(c). FSA has shown that the students at issue certified in their applications for relief that they met the requirements, did not complete their programs of study at PSB because of its closure and did not complete such programs at another institution. The records provided from FSA further confirm those claims.

Counsel for PSB asserted that for nine of the thirteen students, ED failed to demonstrate and establish the students were legally entitled to a loan discharge. PSB conceded liability of \$38,321 for the remaining four students from the original thirteen. Of the remaining nine students with amounts that are still sought by FSA, PSB presented three main arguments. First, PSB argues six were erroneously granted loan liability discharge by FSA, since the students subsequently transferred to other schools and continued their studies. Second, PSB argues erroneous discharges were given to two students who had a gap in enrollment or change in course of study. Finally, PSB argues that two students completed their program at PSB, making them ineligible for loan liability discharge.

1. Subsequent Transfer and Continuation of Studies

PSB's proof established that the six students transferred to another school. However, merely proving a student transferred to another school doesn't meet the legal requirements for PSB to avoid liability. For PSB to prevail, it is not enough for it to establish that the students transferred. PSB must disprove the student's application stating that the student "did not complete the program of study through a teach-out (which is not applicable here), or by transferring academic credits or hours earned at the closed school to another school." 34 C.F.R. §§ 682.402(d)(3)(ii)(C).

The sworn applications from the students were un rebutted by PSB on this issue. There is no proof showing the transferal of credits or hours for completion of the program of study at another school. In fact, PSB's evidence shows the opposite-students left PSB at "academic level 2" but then started at their new schools at "academic level 1". PSB failed to present evidentiary material sufficient to meet its burden of proof and persuasion on the transferred students.

2. Gaps in Enrollment or Change in Course of Studies

PSB identified two students with gaps in enrollment or change in course of studies it contends made the student loan discharge inappropriate. PSB argues loans for periods preceding a gap in enrollment and or a change in study violate the criteria for discharge found in 34 C.F.R. §§ 685.214(c)(1)(i)(B). PSB identifies a student who was enrolled in “Medical Assisting (Day)” program of studies before sitting out two terms and then returning enrolled in “Medical Assisting (Night)” program of studies, and another student who sat out and then returned.

The above referenced regulation does not contain language to support PSB’s argument about enrollment gaps or change in course studies. Furthermore, although it is not promulgated policy, FSA’s acceptance of the students’ discharge applications in these circumstances is further supported by the illustrative questions and answers on its website. Those answers also state that a change in course of studies does not disqualify a student from loan discharge. The loans of the two students were discharged in compliance with the statute and regulations, and PSB is required to repay them.

3. Completion of Courses of Studies While at PSB

For two students, PSB identified a credential of Personal Computer Administration that it says was awarded to the students. Due to that award and completion, PSB argues the students were ineligible for discharge. Both students were enrolled in a “Networking Technology” program during the time, and swore their loans were for Networking Technology programs which PSB stopped offering the program. PSB’s subsequent academic catalog also removed the choice of Networking Technology.

While PSB’s argument was accompanied by some submitted evidence, it is contradictory and inconsistent with its argument. For one of the students, PSB’S records reported the student as withdrawn and not having completed any records. Both students’ transcripts show that neither had taken all the required courses for the Personal Computer Administration award. Further, even if both students had been properly issued the Personal Computer Administration degrees, such degrees were for a program that neither student selected to be in, that neither student completed, and that neither student appeared to even know they were enrolled in. I find that FSA’s discharge of loan liability for these two students was proper.

Conclusion

In response to the evidence submitted by PSB during this appeal pertaining to certain items imposing liability from the loans of the nine students, counsel for FSA has conceded reductions are appropriate in the amount of \$39,940 from the initial imposed liability of \$235,140. The liability imposed includes \$38,321 conceded by PSB as appropriate as well as \$156,879 for the above discussed areas of liability where PSB failed to meet its burden of proof and persuasion. In sum, based on the evidence of record in this appeal and by applying the burdens of proof discussed above, I find that PSB must pay a total of \$195,200 in Title IV liability for the federal student loans that were discharged.

ORDER

On the basis of the foregoing findings of fact and conclusions of law, it is HEREBY ORDERED that Pennsylvania School of Business pay to the United States Department of Education the sum of \$195,200, in a manner as required by law.

Robert G. Layton
Judge

Dated: October 27, 2015

SERVICE

A copy of the attached initial decision was sent by Certified U.S. Mail, return receipt requested, to the following:

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