



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 202027

In the Matter of

Docket No. 17-02-SA

**COLLINS SCHOOL OF COSMETOLOGY
(KY)**

Federal Student Aid Proceeding

ACN: 04-2016-61927

Respondent

DECISION AND ORDER OF DISMISSAL

On January 18, 2017, I received a written Request for Review from Reta McDaniel, President of Collins School of Cosmetology, the Respondent in the above-styled proceeding. The Department seeks return of \$91,929 due to Collins failure to submit a close-out audit. Collins did not submit a close-out audit for the 2015 fiscal year period. As a result, the Department issued a liability for Federal Pell Grant proceeds of \$91,929. Collins challenged the findings presented in the Final Audit Determination, dated October 19, 2016, issued by the U.S. Department of Education, Federal Student Aid (FSA) office. Collins' request was filed pursuant to 34 C.F.R. § 668.113 (a). The appeal procedures for these proceedings are set forth in 34 C.F.R. Part 668, Subpart H.

Collins has the burden of proof in this proceeding. *See* 34 C.F.R. § 668.116 (d). On January 24, 2017, an Order Governing Proceedings was issued directing Collins to file its brief and supporting evidence by February 28, 2017, and giving Collins the option to file a reply brief by April 10, 2017.

Collins failed to file its brief by the deadline, and on March 23, 2017, the Department filed an amended motion for a default judgment based on Collins's failure to comply with the order's deadline. To be certain Collins was given every opportunity to file, the motion was ordered passed and a show cause order was entered, in which Collins was given until April 21, 2017 to file its initial brief. That deadline also passed without Collins filing its brief. The show cause order was served by certified mail to the address provided by Collins. Because Collins has not provided any filing, the administrative record in this appeal is ordered closed. The Respondent has abandoned its appeal.

34 C.F.R. §668.117(c)(3) provides in relevant part that:

The hearing official shall take whatever measures are appropriate to expedite the proceedings. These measures may include terminating the hearing process and

established by the hearing official.

Because Collins failed to provide its brief and supporting evidence, this decision must be based on a review of the administrative record as it exists. The record shows the liability for this appeal is based on Collins's failure to provide a close-out audit, which has resulted in a \$91,929 liability.

Collins ceased its participation in the Title IV loan program on April 27, 2016. 34 C.F.R. § 668.26(b)(2)(ii) provides that when an institution ceases to provide education or loses its eligibility, it must submit a close-out audit, with a Letter of Engagement required within 45 days, and an independent audit of all funds the institution received is due within 90 days in the form of a close-out audit. The Determination imposes a liability on Collins to repay \$91,929 to the U.S. Department of Education in obligations for Pell Grant awards and interest. Collins's review request was filed pursuant to 34 C.F.R. § 668.113 (a). The appeal procedures for these proceedings are set forth in 34 C.F.R. Part 668, Subpart H.

34 C.F.R. §668.117(c)(3) provides in relevant part that:

The hearing official shall take whatever measures are appropriate to expedite the proceedings. These measures may include terminating the hearing process and issuing a decision against a party if that party does not meet time limits established by the hearing official.

Because Collins failed to provide its brief and supporting evidence, this decision must be based on a review of the administrative record as it exists. The record shows the liability for this appeal is based on Collins's failure to provide a close-out audit, which has resulted in a \$91,929 liability.

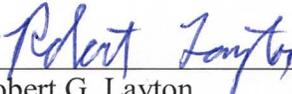
34 C.F.R. § 668.82 imposes a fiduciary obligation on a participating institution for administration of Title IV, HEA programs. That obligation requires the highest standard of care and diligence administering the program and accounting to the Department for funds it receives under the program. The Final Audit Determination notes that Collins ceased participating in Title IV programs on April 27, 2016. Under 34 C.F.R. § 668.26(b)(ii), Collins was required to have a close-out audit performed and the resulting report filed with the Department within 90 days after it ceased participating in the program. As of the date of this decision, this Tribunal has been provided no evidence indicating that the Department has received the close-out audit. Collins has not shown it provided a close-out audit, and, therefore, Collins has failed to account for the Title IV, HEA funds it received during the unaudited period for fiscal year 2015. Because no close-out audit was submitted, the Department has identified as liabilities all the Title IV funds Collins received during the period. The amount due to the Department is \$91,929, including interest.

The record above reflects that Collins has been given a more than reasonable period of time to comply with the Order Governing Proceedings and to submit evidence in support of its appeal. Collins has failed to submit any evidence. Under 34 C.F.R. § 668.116(d), Collins has

the burden of proof, but has not filed its brief or evidence in this proceeding. Collins has failed to meet its burden of proof.

ORDER

On the basis of the above findings, it is ordered that Collins pay to the U.S. Department of Education the sum of \$91,929, including the Funds and Administrative Cost Allowance, as demanded in the Final Audit Determination.



Robert G. Layton
Judge

Dated: May 22, 2017

SERVICE

This decision and order has been sent via USPS, certified mail, return receipt requested, to:

Reta McDaniel, President
Collins School of Cosmetology
111 West Chester Avenue
Middlesboro, KY 40965-2809

And via email scan to:

Oluwaseun O. Ajayi, Esq.
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(sent via email scan to: oluwaseun.ajayi@ed.gov)