



UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

In the Matter of)	
)	
AMERICAN BUSINESS COLLEGE,)	Termination Proceeding
)	Under 34 C.F.R. Part
)	668, Subpart G
Respondent)	
)	

FINAL DECISION OF THE SECRETARY

This cases arises out of a proceeding brought by the Department of Education (ED) seeking the termination of Respondent's eligibility to participate in student financial assistance programs under Title IV of the Higher Education Act of 1965 (the Act), as amended. In the Initial Decision issued on February 1, 1989, Administrative Law Judge Walter J. Alprin determined that:

- (i) Respondent is an otherwise eligible post-secondary educational institution authorized to participate in student financial assistance programs under Title IV of the Act;
- (ii) Respondent violated the terms of an agreement implementing Title IV of the Act, which it had entered into with ED, and
- (iii) ED's action seeking termination of Respondent's eligibility to participate in student financial assistance programs under Title IV of the Act is wholly warranted.

Pursuant to 34 C.F.R. S 668.90(c), Respondent now appeals the termination imposed by the Administrative Law Judge. On the basis of the official record in its entirety, the Secretary issues this Order of Final Decision and AFFIRMS the decision of the Administrative Law Judge.

The Secretary finds that the evidence considered by the Administrative Law Judge fully supports the determination that Respondent violated the terms of its agreement implementing Title IV of the Act and that the defense of mistake-of-fact is not applicable to this situation. Too, the Secretary finds that the Administrative Law Judge's determination that neither limitation nor fine is appropriate in light of the circumstances noted in the Initial Decision is supported by the evidence. Furthermore, the Secretary finds that the Administrative Law Judge properly considered the policies and purpose of Title IV of the Act in determining that termination is wholly warranted.

On appeal, Respondent submitted as a proposed finding of fact the assertion that a special agent from ED's Office of the Inspector General stopped processing its paperwork, leading to the termination procedure. This alone cannot satisfy Respondent's burden on appeal. There is no evidence in the record upon which this assertion can justify further action by the Secretary.

The Secretary concludes that the Administrative Law Judge's findings of fact are supported by the record and that the sanction imposed is wholly warranted. Therefore, the Secretary adopts and AFFIRMS the decision of the Administrative Law Judge.

This Order of Final Decision dated this 30th of May, 1989.


Lauro F. Cañazos
Secretary of Education

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