



UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

FINAL DECISION
DATE February 23, 1989

UNITED STATES OF AMERICA
DEPARTMENT OF EDUCATION

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In the Matter of *
*
NORTH AMERICAN EDUCATION CENTER *
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FINAL DECISION OF THE SECRETARY

This is a proceeding brought by the Department against North American Education Center ("NAEC"), a proprietary, post-secondary educational institution providing vocational training, which has its principal office in Baton Rouge, LA. The Department seeks to terminate NAEC's eligibility for student financial aid programs under Title IV of the Higher Education Act of 1965, as amended. In a decision dated January 9, 1988, Administrative Law Judge Walter J. Alprin ("ALJ") determined that Respondent NAEC had violated statutes and regulations by applying for and accepting Federal student financial aid on behalf of its students at two of its campuses at a time when those campuses were not eligible for such aid. The ALJ found further that these violations were knowing, willful, serious and numerous, and that termination of eligibility and a fine of \$95,000 were warranted.

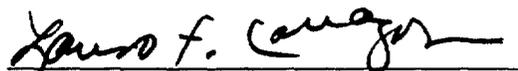
NAEC timely appealed the decision and a briefing schedule was prepared and served on the parties on May 23, 1988. NAEC asserted it had not received a copy of the schedule and, consequently, a new schedule was prepared and served in December, 1988. After one continuance requested by Respondent, briefs were duly submitted by both parties. NAEC asked that the termination and fine be reversed, while the Department asked that the termination be upheld and that the fine be increased to \$300,000. One month after the deadline for its submission had passed, NAEC submitted an additional brief, attacking the integrity and conduct of several ED officials, including the attorney representing the Department, and officials at the Office of the Inspector General. These allegations have been deemed improper and untimely and have not been considered in arriving at this Decision.

The Secretary has carefully considered the evidence submitted with regard to this matter, including the timely briefs on appeal submitted by Respondent and by the Office of the General Counsel on behalf of the Office of Student Financial Aid. The Secretary affirms the Initial Decision of the ALJ in its entirety. The Secretary finds that, in assessing the penalty, the ALJ properly considered aggravating and mitigating factors, including the wilfullness of the violations and their number, as well as Respondent's arguable good faith in believing that its application was about to be processsed. The Secretary is fully convinced that the severe penalty of termination is completely appropriate, given the totality of the circumstances and the weight of the evidence.

The Secretary further finds that the ALJ's findings of fact, including those findings based on his personal observation of the credibility of the witnesses, are supported by the record. The Secretary concludes tht the ALJ's weighing of the mitigating and aggravating factors was not arbitrary, capricious or an abuse of discretion, and further determines that the sanctions imposed were not disproportionate to the offense.

The Secretary therefore adopts and AFFIRMS the decision of the ALJ.

This Order of Final Decision is dated this 23rd day of February, 1989.


Lauro F. Cavazos
Secretary of Education