

93-106-SP



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

In the Matter of
CLARK ATLANTA UNIVERSITY,
Respondent

Docket Number 93-106-SP
Student Financial Assistance
Proceeding

ORDER OF REMAND

On February 12, 1996, I received Clark Atlanta University's (CAU) appeal of the December 13, 1995, initial decision issued in this matter. The Department's Office of Student Financial Assistance Programs (SFAP) filed an opposition to CAU's appeal on March 8, 1996. In the initial decision, the tribunal below held that CAU "failed to carry its burden of proof in establishing that the institution did not disburse Title IV funds to ineligible students or that the institution's expenditures of Title IV funds were otherwise proper." Initial Decision at 5. The tribunal below ordered CAU to remit \$759,216.55 in disallowed funds to the Department. Id.

On appeal, CAU argues, among other things, that an independent certified public accountant (CPA) recently attested to the validity of reconstructed data which directly affects the school's liability to the Department. CAU concedes the CPA's attestation was not timely submitted into evidence, but the school insists that the delay in submission was attributable to the time consuming task of gathering and reconstructing the files of two institutions that eventually merged to become one.¹

In response, SFAP contends CAU was given ample opportunity to gather and reconstruct the aforementioned files. SFAP claims that CAU's introduction of the above attestation at this juncture is untimely, and it should be rejected. SFAP concludes the initial decision should be affirmed.

After reviewing the evidence available to the tribunal below at the time of its deliberation, I conclude the initial decision was correct. However, in light of the independent CPA's recent attestation, I hereby take official notice of its findings pursuant to 34 C.F.R. § 668.119(c)(2). Therefore, I remand this matter to

¹ In 1988, Clark College and Atlanta University merged to become Clark Atlanta University.

the tribunal below, and instruct it to consider the implications of the CPA's attestation, if any, upon CAU's liability to the Department.

So ordered this 15th day of March 1996.


Richard W. Riley

Washington, D.C.

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