



THE SECRETARY OF EDUCATION  
WASHINGTON, D.C. 20202

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In the Matter of

**CHATTAHOOCHEE  
TECHNICAL INSTITUTE**

Respondent.

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**Docket No. 97-46-SP**  
Student Financial  
Assistance Proceeding  
PRCN: 199620412302

**DECISION OF THE SECRETARY**

Chattahoochee Technical Institute (CTI) is a fully accredited, state-supported postsecondary institution located in Marietta, Georgia. CTI offers programs in business studies, allied health, management and public services, and technical studies. CTI has participated in Federal student financial aid programs authorized under Title IV, since 1987.

On February 15, 1996, the Office of Student Financial Assistance Programs (SFAP), of the U.S. Department of Education (Department), issued a program review report evaluating CTI's Title IV compliance during the 1993-94, 1994-95, and 1995-96 award years. On February 26, 1997, SFAP issued a Final Program Review Determination (FPRD) affirming two major adverse findings: 1) CTI's Pell Grant disbursements exceeded its Pell Grant authorization level by \$120,699 as a result of its failure to timely file payment vouchers in the 1993-94 award year; and 2) CTI failed to properly verify \$59,149 in Pell Grant Payments.<sup>1</sup> On April 21, 1997, CTI requested an administrative hearing to appeal the FPRD. On November 13, 1997, oral argument was held before Judge Ernest C. Canellos. Judge Canellos issued an Initial Decision on May 18, 1998, ordering CTI to pay the Department \$893.84 for Pell Grant expenditures over its Pell Grant authorization during the 1993-94 award year and \$29,801 for Pell Grants disbursed without proper verification. SFAP appealed.

**Pell Grant Authorization and Payment Process**

The Federal Pell Grant authorization and payment process is designed to reconcile an institution's authorized Pell Grant amount with the total of Pell Grants actually disbursed to students. An eligible institution is provided an initial authorization at the beginning of the award year based on the estimated need for funds. The initial authorization amount is adjusted upward and/or downward to reflect actual student disbursements. These disbursements are recorded on Student Aid Report payment vouchers, (SAR) filed periodically with SFAP throughout the award year.

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<sup>1</sup> In this proceeding, after adjustments, SFAP seeks to recover \$43,850 for this finding

By September 30, schools are expected to have submitted all SAR payment vouchers reflecting all changes in individual student information and its institutional records. 34 C.F.R. § 690(a)(1)(i) (1997). After all adjustments, the institution's final authorization amount should equal the total amount of the actual Pell Grant funds disbursed. If an institution disburses funds to an eligible student without submitting an SAR reflecting the disbursement to the Department, then the institution's final authorization level will not match the actual amount of Pell Grant funds disbursed, as it should.

On appeal, SFAP argues that if the payment documentation is not submitted by the required deadline, the Pell disbursements related to those students becomes unsupported expenditures. *See* SFAP's Appeal Brief at 15. Specifically, SFAP argues that for the award year in question, 1993-1994, CTI's final authorization was \$380,873, after all adjustments based on timely submitted initial SAR payment documents and all other corrected SAR payment documents submitted during the course of the year. SFAP determined that CTI disbursed \$110,169 in Pell funds beyond its authorization without submitting any documentation before the regulatory deadline. Thus, SFAP asserts that CTI is liable for these unauthorized expenditures.

In response to SFAP, CTI admits that it failed to submit payment vouchers for several students prior to the regulatory deadline. CTI argues, however, that it should not be held liable for the full amount of funds reflected in the FPRD. CTI asserts that the complete reconciliation considered by Judge Canellos shows that the school only exceeded its authorization in the amount of \$893.84. On appeal, CTI contends that a complete reconciliation must include both adjustments reflecting Pell disbursements in an amount less than the submitted payment voucher and Pell disbursements made without a submitted payment voucher (upward and downward adjustments).

Judge Canellos properly found that CTI violated 34 C.F.R. § 690.83(a)(1)(i), but correctly frames the issue of this case, asking, "Can SFAP recoup the aid on the basis that it was misspent?" *See* Initial Decision, p.5. Section 34 C.F.R. § 690.83 (c) provides that when an institution fails to timely submit payment data, the Secretary may impose a fine on the institution. SFAP has elected to bring this action under the regulations set forth in Subpart H. In this Subpart H proceeding, SFAP can only recover actual losses. Subpart H proceedings may not be used to impose punishment.

The facts of this case show that the Federal Pell funds disbursed to students were proper at the time they were made and then later determined by SFAP to be unauthorized as a result of untimely filed vouchers. Judge Canellos properly found that the evidence clearly established that the Pell Grants in question were disbursed to eligible students. Therefore, CTI's administrative errors associated with those disbursements are actionable by way of a Subpart G proceeding, through which a fine may be imposed, not by recouping the funds properly spent.

## Verification

In accordance with 34 C.F.R. § 668.54, CTI was required to verify selected financial aid student applications. Specifically, CTI was required to obtain acceptable documentation to verify items such as adjusted gross income, income tax paid and household size. 34 C.F.R. § 668.56. The purpose of this verification requirement is to establish that the students are eligible to receive Title IV assistance.

CTI admits that it failed to verify certain required information prior to disbursing awards, but argues that by obtaining student signatures on electronic SARs after the verification deadline it has established that the funds in question were disbursed to eligible students. Thus, CTI contends that these “after-the-fact” verifications prevented any harm to the Federal interest.

Citing In the Matter of Knoxville College, Docket No. 94-175-SP (July 31, 1995) (Knoxville), SFAP argues that the signed electronic SARs are insufficient to complete verification since verification must be obtained before the Title IV disbursement is made. In Knoxville, SFAP determined that the school failed to conduct required verifications and was liable for the unauthorized Pell Grant awards disbursed. In response, the school sought a reduction in its liability since it later secured the tax returns for the parents of the students who received awards without verification. The court in Knoxville stated, “Risk cannot be alleviated retroactively. Even if the students in question are retroactively determined to be eligible, the failure to verify questionable information created a risk to the Federal taxpayer that students not eligible for assistance were being awarded assistance.” Id. at 2. Consequently, the Knoxville court properly held the school liable for the unauthorized Pell Grants disbursed without verification.

In his Initial Decision, Judge Canellos stated that he reviewed CTI’s submissions and held that “except for the timing such submission satisfies the verification requirement.” Initial Decision at 4. Judge Canellos also points to the absence of “fraud or any impropriety” as a basis for his decision. As SFAP correctly states, neither fraud nor impropriety are essential factors for consideration when determining that expenditures are improper. Further, the applicable regulations require that verification must be complete before full Title IV disbursements are made. If verification is not completed within a reasonable time, the funds must be returned. *See* 34 C.F.R. §§ 668.58, 668.60. Therefore, without correct verification, students receiving Pell Grant funds may not be deemed eligible and such disbursements may not be considered proper.

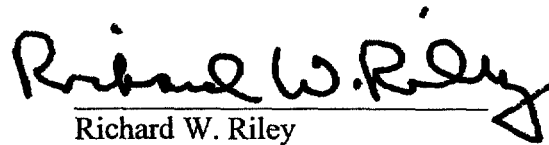
### Findings

1. CTI is liable for only the misspent funds associated with its administrative errors.
2. In accordance with the regulations and the Knoxville decision, CTI is liable for the Pell Grants disbursed without timely verification.

### ORDER

Based on the forgoing findings, it is hereby ordered that CTI pay the U.S. Department of Education the sum of \$893.84 for the first finding and \$43,850 for the second finding.

So ordered this 23<sup>rd</sup> day of June, 1999.

  
Richard W. Riley

Washington, D.C.

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