

04-41-SF  
(23)



THE SECRETARY OF EDUCATION  
WASHINGTON, DC 20202

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In the Matter of

**POWDER SPRINGS BEAUTY COLLEGE,**      **Docket No. 04-41-SF**

**Federal Student Aid Proceeding**

Respondent.

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**DECISION OF THE SECRETARY**

This matter comes before the Secretary on appeal by the United States Department of Education, office of Federal Student Aid (FSA) of the initial Decision issued by Chief Administrative Judge Ernest C. Canellos (AJ) on April 20, 2005. On July 28, 2004, FSA issued a notice to fine Powder Springs Beauty College (Powder Springs) \$8,000.00 for four (4) separate failures to file or complete surveys which are part of the Integrated Postsecondary Education Data System (IPEDS), in violation of 34 C.F.R. § 668.14(b)(19). There is no dispute that Powder Springs failed to file or complete the required surveys after repeated requests from the United States Department of Education. FSA requests that I reverse the AJ's decision imposing a fine of \$2,000.00 against Powder Springs and enter an order imposing the original fine of \$8,000.00.

Discussion

In his Decision, the AJ properly noted that in accordance with 34 C.F.R. § 668.84 (a)(1), the Secretary is authorized to impose a fine up to \$27,500.00 for each violation of program regulations, and FSA has the burden of persuasion. 34 C.F.R. § 668.84 (c)(2). When considering the amount of the fine, 34 C.F.R. § 668.92 sets forth the factors the Secretary should consider in imposing any fine, including the gravity of the violation and the size of the institution.

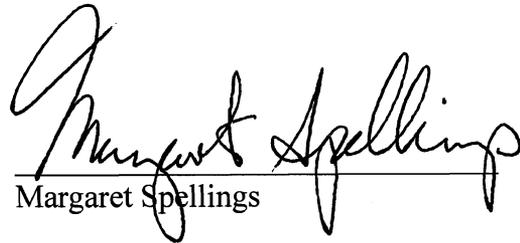
In his decision, the AJ rejected FSA's request to impose a fine of \$8,000.00 and instead imposed a fine of \$2,000.00. Powder Springs had asserted that a fine of \$1,500.00 would be appropriate under the circumstances. Both the AJ in his decision and Powder Springs in its brief cited the small size of the institution and that no federal funds were placed in jeopardy as reasons to mitigate the fine imposed by FSA. In its brief, FSA emphasized how important the survey information is to the United States Department of Education and the efforts that had been made by FSA to obtain Powder Springs' cooperation in filing the required documents.

It is critically important that all institutions, regardless of size, understand their obligation to comply with all regulations when these institutions accept federal funds, including the requirement to comply with the reporting obligations of IPEDS. Based upon a review of the entire record in this case and the gravity of the institution's failure to file or complete reports for IPEDS, the Secretary determines that the fine imposed by the AJ is not appropriate. The original fine imposed by FSA was warranted under the circumstances of this case.

**ORDER**

Accordingly, I HEREBY REVERSE the Decision of Chief Administrative Judge Ernest C. Canellos and order that Powder Springs Beauty College pay the United States Department of Education a fine of \$8,000.00.

So ordered this 1 day of June, 2006.



Margaret Spellings

Washington, D.C.

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