



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

Extra

In the Matter of

NEW YORK PARALEGAL SCHOOL,

**Docket No. 10-16-SA
Federal Student Aid Proceeding**

Respondent.

ORDER

This matter comes before me on motion by Respondent, dated September 17, 2010, requesting that I vacate the judgment of Judge Richard F. O'Hair, who issued an Initial Decision on August 5, 2010, requiring Respondent to pay the Department the sum of \$225,069.¹ For the reasons that follow, Respondent's request is denied.

Respondent does not directly challenge the judge's findings, but asserts that it did not receive "notice of the decision" until September 8, 2010, and, as a result, should be offered an additional opportunity to appear before Judge O'Hair for a hearing. In response, FSA argues that I should deny Respondent's request because the appeal is untimely.² In addition, FSA argues that Respondent's appeal should not be accepted because Respondent asserts no plausible ground for granting relief. According to FSA, despite the passage of months since Judge O'Hair's decision was issued, Respondent still has not submitted acceptable documentation accounting for the school's disbursement of Federal student aid funds.³ Fundamentally, the goal of the audit review process is accountability. There is no dispute that Respondent has not accounted for the expenditure of Federal student aid funds; consequently, at issue here is whether Respondent has been provided sufficient opportunity to account for the Federal funds it has received. In light of

¹ In his decision, Judge O'Hair notes the following: "the Final Audit Determination...sufficiently states allegations that place upon Respondent the burden of proving that its disbursement of Title IV funds complied with the statutes and regulations. Respondent's failure to submit a close-out for the period of January 1, 2007, to December 5, 2008, or any other evidence to rebut FSA's findings permits me to find that Respondent has failed to carry its burden of proving that the questioned disbursements were proper and that it complied with all Title IV program requirements. Accordingly, the Final Audit Determination is affirmed and the liability addressed therein is upheld."

² FSA notes that the record reveals that Respondent received a copy of Judge O'Hair's decision on August 11, 2010, and Respondent's regulatory deadline for filing an appeal to the Secretary was September 10, 2010. Respondent's appeal request was submitted on September 20, 2010.

³ Included with Respondent's appeal request is an unsigned copy of a letter from an auditor purporting to establish the objectives of an audit to be performed and completed by October 15, 2010. FSA's brief was submitted on October 18, 2010, and indicates that as of October 18, 2010, Respondent had not submitted an audit.

the factors identified by Judge O'Hair and the facts noted by FSA, I find no reason to conclude that the hearing procedures followed by Judge O'Hair were insufficient to provide Respondent with an opportunity to come forward and submit a close-out audit that constitutes acceptable documentation accounting for the school's disbursement of Federal student aid funds.

ORDER

ACCORDINGLY, Respondent's *Request to Vacate Judgment, Appeal and/or Review by the Secretary* is DENIED; Judge Richard F. O'Hair's Initial Decision requiring New York Paralegal School to pay the U.S. Department of Education the sum of \$225,069 is AFFIRMED.⁴

So ordered this 19 day of April 2011.



Arne Duncan

Washington, D.C.

⁴ As my prior decisions clearly require, FSA must consider to what extent, if any, the recovery sought by the Department should be reduced as a result of the HCM2 process. See *In the Matter of Harrison Career Institute*, Dkt. Nos. 07-55-SA & 07-63-SA U.S. Dep't of Educ. (Order of the Secretary March 18, 2009); *In the Matter of Quality College*, Dkt. No. 08-36-SA, U.S. Dep't of Educ. (Decision of the Secretary Nov. 25, 2009).

SERVICE LIST

Office of Hearings and Appeals
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Kitty Whitfield
President
New York Paralegal School
115 West 45th Street
Fifth Floor
New York, NY 10036

Denise Morelli, Esq.
Office of the General Counsel
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202-2110
Denise.Morelli@ed.gov