THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

In the matter of

CENTRAL STATE UNIVERSITY,

Respondent.

Docket No. 11-55-SA
Federal Student Aid Proceeding

ORDER VACATING DECISION ON REMAND

For the purposes of this order, I very briefly summarize this case's extensive procedural history. This case originally arose from an appeal by Central State University (CSU) of a Final Audit Determination (FAD) issued by the office of Federal Student Aid (FSA) of the U.S. Department of Education. CSU challenged FSA's finding that CSU failed to complete and properly document the verification process for 39 students during the 2008-2009 award year. CSU challenged the finding with regard to 10 students. Administrative Judge Richard I. Slippen upheld the FAD for eight students, but found that CSU had completed the verification process for two students.

FSA and CSU filed cross-appeals of Judge Slippen's decision. On appeal, I affirmed Judge Slippen's decision in all respects, except that I remanded the case for a determination of whether CSU had completed the verification process for Student #33. I found that "the issue of discrepancies in Student #33's file was properly before the hearing official," but the judge had not reviewed the issue.

On remand, Chief Administrative Law Judge Rod Dixon concluded that he first had to consider whether FSA could alter its theory of CSU's liability. Because Judge Dixon found that FSA had not altered the legal basis of its decision in a manner that satisfied due process, he held that CSU's liability remained unchanged from the initial decision, at $138,371.92. FSA has since appealed Judge Dixon's decision on remand, arguing CSU's liability should be $162,470.19.[1]

On February 5, 2015, I received a motion to dismiss from CSU. Through counsel, CSU asserts the matter under appeal is moot because it has since paid the full amount sought by FSA, $162,470.19. Subsequently, on February 12, 2015, I received a Joint Motion to Vacate Decision on Remand from counsel for FSA on behalf of both FSA and CSU. In the motion, the parties agree that no live controversy remains before me. They also agree the proper disposition of the case is to vacate the decision on remand.

[1] Department of Education Appeal of Decision on Remand to the Secretary, p. 2.

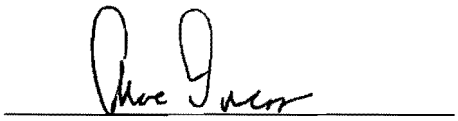
In *U.S. v. Munsingwear, Inc.*, the Supreme Court held that vacatur is the appropriate disposition when a case has become moot "through happenstance."[2] By vacating the judgment, none of the parties are prejudiced by a judgment that was never reviewed on appeal.[3] Vacatur is also appropriate where the party that prevailed below took unilateral and voluntary action to moot the case.[4]

The present appeal is limited to whether CSU is liable for funds disbursed to Student #33. On that narrow issue, CSU prevailed below. As the prevailing party, CSU unilaterally chose to pay the amount remaining in controversy, which caused this matter to become moot. I agree with the parties that the appropriate disposition of this case is to vacate the decision on remand on grounds of mootness.[5]

ORDER

Accordingly, the decision on remand is VACATED on grounds of mootness.

So ordered this 2nd day of April 2015.



Arne Duncan

Washington, D.C.

[2] *U.S. v. Munsingwear, Inc.* 340 U.S. 36, 39–40 (1950).
[3] *Id.* at 40.
[4] *U.S. Bancorp Mortgage Co. v. Bonner Mall P'ship*, 513 U.S. 18, 25 (1994). The Supreme Court noted, however, that vacatur is not the appropriate result where the parties mutually settle the claim. *Id.*
[5] *See In the Matter of Derech Ayson Rabbinical Seminary*, Dkt. No. 94-50-ST, U.S. Dep't of Educ. (Jan. 12, 1995) (Decision of the Secretary); *In the Matter of Bliss College*, Dkt. No. 93-15-ST, U.S. Dep't of Educ. (Feb. 23, 1994) (Decision of the Secretary), at 2–3.

Service List

Office of Hearings and Appeals
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202-4616

Ms. Erin Auerbach, Esq.
Ms. Bonnie Little Graham, Esq.
Leigh Manasevit, Esq.
Brustein & Manasevit, PLLC
3105 South Street, N.W.
Washington, D.C. 20007

Ms. Jennifer L. Woodward, Esq.
Office of the General Counsel
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202-2110