

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF HEARINGS AND APPEALS

IN THE MATTER OF

PARKS COLLEGE,

Respondent.

Docket No. 92-63-SP

Student Financial Assistance Proceeding

DECISION

By motion for termination of Proceeding and Entry of Judgement Against Respondent, dated December 18, 1992, the Office of Student Financial Assistance (OSFA) seeks entry of a decision by the Administrative Law Judge upholding a Final Program Review Determination (FPRD) issued by OSFA on March 13, 1992.

Respondent Parks College failed to meet a December 16, 1992, filing date for its evidence and argument relative to its appeal of the FPRD. As well, Respondent failed to contact the Administrative Law Judge until about December 17, 1992, when I received a telephone call from counsel.

Parks College opposes the motion for the reason that its counsel suffered injuries which occurred around December 16, 1992. Also, on the merits of the FPRD, respondent says that Career College Association (CCA), the accrediting agency for Parks College, approved a 600 clock hour program for the Manicurist/Pedicurist program of Parks College which is in issue under Finding 2 of the FPRD. However, such approval would be possibly relevant only if it had been granted retroactively. Here, it is clear that CCA did not grant retroactive relief to Parks College. As a result, respondent had no authority from CCA during the period covered by the FPRD audit (July 1, 1989, to June 30, 1991) for a 600 hour program. Moreover, the State of New Mexico licensing agency confirms that only 500 clock hours were authorized.

All that can be said is that Parks College voluntarily offered 100 additional hours of training over the approved 500. That circumstance did relieve respondent of its obligation to receive prior CCA approval. As noted, Parks College did not have such approval during the period covered by the audit. In the circumstance, presented, the FPRD is not shown to be incorrect.

Moreover, it is clear to me that Respondent failed to give sufficient attention to the procedural requirements established by the Administrative Law Judge.

For cause shown, that is, the unlikely prospect that Parks College can prevail on the merits and because of the tardy filing action of Parks College, the motion of OSFA is granted and the appeal of the respondent is rejected.

Dated this 6th day of January, 1993.

Paul S. Cross
Administrative Law Judge
Office of Higher Education Appeals
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-3644