

UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF HEARINGS AND APPEALS

**IN THE MATTER OF**

**STATE COMMUNITY COLLEGE OF EAST ST LOUIS**

**Respondent.**

**Docket No. 92-96-SA**

**ACN: 05-05333; 05-13281**

**Student Financial Assistance Proceeding**

**DECISION ON ADMINISTRATIVE HEARING**

By request dated August 28, 1992, the State Community College of East St. Louis (State) seeks an administrative hearing concerning a final program review determination (FPRD) issued on March 27, 1992 by a component of the Department of Education's Office of Student Financial Assistance (OSFA).

The matter was referred to me through ED's Office of Hearings and Appeals. The request of State is in the nature of an appeal against the findings in the FPRD. Both State and OSFA filed briefs upon the matters in dispute.

The FPRD finds that during the 1988-89 and 1989-90 Award Years a total of 282 State students improperly were given financial assistance totaling \$219,677 which must be repaid by State.

The financial assistance included \$204,326 in Pell Grants and \$15,351 for other assorted financial aid. Only the Pell Grant awards are disputed in this appeal.

The FPRD finds the Pell awards improper because the students receiving them were not seeking a degree. They took a range of courses within two undergraduate disciplines, religion and philosophy. Some students took additional courses in other disciplines but none is shown to have ever intended to gain an associate degree such as in religion. They were not regular students.

In addition, the FPRD finds that State's documentation for the Pell Grants was deficient in that no student, prior to a Pell Grant was shown to have a high school education, a GED, or to have taken a standard test of ability to benefit. Probably, some of the students were high school graduates but required documentation initially was lacking.

The FPRD additionally finds that the students were overawarded Pell Funds because State neglected to compute correctly the financial need of the students. State waived tuition for the students and did not factor that waiver in its Pell Grant calculations.

In its appeal, State argues that the students in issue met the ability to benefit standard and were properly disbursed Pell funds because they were enrolled in eligible programs.

The facts in this matter do not support State. Students must establish an ability to benefit prior to the award of Pell funds, not afterwards as is urged by State. Here State failed to timely document this precondition. Also, even though the courses taken by the subject students could lead to an associate degree, factually speaking such was not an option pursued by the students. Essentially, they took selective courses for personal satisfaction.

Finally, the failure of State to make proper Pell calculations is apparent. Although it is true that a Pell Grant can be awarded in an instance of tuition waiver, the latter circumstance still must be considered in determining the extent of a student's financial need.

As a final note it is observed that the students in question were senior citizens who attended a State branch located at a senior citizen center. The students received free education and were bolstered by Pell Grants averaging about \$700 a piece. This is a fine piece of social work but in my opinion State shows no error in the FPRD.

#### **FINDING AND ORDER**

State fails to show that the expenditures disallowed by ED in the FPRD were proper. State also fails to show that it complied with the program requirements of ED. The FPRD is affirmed and the appeal of State is denied.

Dated this 9th day of February, 1993.

Paul S. Cross  
Administrative Law Judge  
Office of Higher Education Appeals  
U.S. Department of Education  
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