

IN THE MATTER OF Docket No. 90-86-ST
TRANSWESTERN INSTITUTE

Student Financial Assistance Proceeding

Respondent.

DECISION

Appearances: Henry Feltenberg, for the Respondent

Stephen M. Kraut and Howard Fenton, Esq. for the Office of Student Financial Assistance,
United States Department of Education

Before: Judge Allan C. Lewis

This is an appeal by the Transwestern Institute concerning the Notice of Intent to Terminate and Fine, dated October 17, 1990, issued by the U.S. Department of Education. On November 29, 1990, the tribunal issued an Order Governing Proceedings which required the parties, inter alia, to exchange no later than January 14, 1991, lists of proposed witnesses and exhibits and to disclose all contentions of fact and law to the opposing party. In light of respondent's letter of December 19, 1990, the tribunal extended on January 2, 1991, the exchange date to February 1, 1991. On January 31, 1991, the Office of Student Financial Assistance forwarded its materials to the respondent. As of this date, the respondent has not complied with the Order Governing Proceedings. -In light of this noncompliance, the Office of Student,Financial Assistance moved, on February 26, 1991, for an entry of judgment.

Under 34 C.F.R. . 668.89(c) (1990), the administrative law judge is authorized to--'take whatever measures are appropriate to expedite the proceeding. These measures may include, but are not limited to, the following- . . .

(2) Setting time limits for hearings and submission of written documents; and

(3) Terminating the hearing and issuing a decision against a party if that party does not meet those time limits.

In light of the respondent's failure to comply with the Order 2 Governing Proceedings and 34 C.F.R. . 668.89(c), it is hereby-ORDERED that the appeal of the Notice to Terminate and Fine by the respondent is dismissed and that decision is entered against the respondent which terminates its eligibility to participate in the student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended; and it is further ORDERED that the respondent immediately and in the manner provided by law pay fines in the amount of \$1,917,000 to the U.S. Department of Education.

Allan C. Lewis
Administrative Law Judge

Issued: February 26, 1991
Washington, D.C.