



UNITED STATES DEPARTMENT OF EDUCATION  
WASHINGTON, D.C. 20202

DECISION IN THE MATTER OF  
GOLDEN STATE SCHOOL  
EMERGENCY ACTION PROCEEDING

On October 9, 1991, the Office of Student Financial Assistance (OSFA) of the U.S. Department of Education (ED) imposed an emergency action against Golden State School, 3121 Standard Street, Bakersfield, CA 93308, and its four locations. The emergency action was imposed pursuant to 20 U.S.C. § 1094(c)(1)(E) and 34 CFR § 668.83. In response, Golden State School requested an opportunity to show cause why the emergency action is unwarranted.

Pursuant to the Delegation of Authority from the Secretary to me to conduct proceedings and issue final decisions in circumstances where educational institutions request an opportunity to show cause why an emergency action is unwarranted, I conducted a hearing in Washington, D.C., on December 17, 1991. Golden State School was represented by Gary Goldstick, its president, and OSFA was represented by counsel from the Office of General Counsel, Russell Wolff. The proceeding was transcribed by a Court Reporter and four documents were introduced into evidence. These included: the notice of emergency action; the notice of termination action, dated November 5, 1991; the response of Golden State Schools to the OSFA audit; and a Federal Cash Transactions Report.

Counsel for OSFA submitted that, based on an audit, Golden State School was missing or otherwise unaccountable for certain Government funds. Moreover, based on a random sampling, OSFA demonstrated that Golden State School had, in some instances, failed to make timely refunds of student loans. This showing was complemented by the assertion that the school had failed to provide notices of such refunds to students. Finally, OSFA demonstrated that Golden State School had failed to notify lender(s) of withdrawn students. Cumulatively, OSFA argued that the gravity of the financial balance at issue, particularly in light of the school's status in Chapter 11 bankruptcy in the spring of 1988, merited this emergency action.

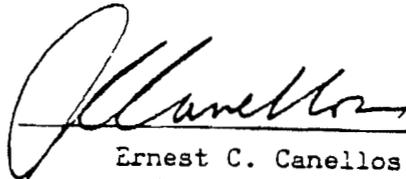
In response, Golden State School introduced evidence of slow Pell Grant disbursements from 1989 to January, 1991, occasions when SARs were not funded for up to six months, and other slow or impeded disbursements or responses from ED's Region IX office. Moreover, Golden State School introduced varying numbers of errors in its Pell Grant disbursements. In short, Golden State School alleged that ED's actions with regard to student loans and grants starved the school of working capital which exacerbated its financial problems.

Pursuant to 34 CFR § 668.83, an emergency action may be taken if: reliable information is received that an institution is violating applicable laws, regulations, special arrangements, agreements, or limitations; it is determined that immediate action is necessary to prevent misuse of Federal funds; and it is determined that the likelihood of loss outweighs the importance of following the procedures set forth for suspension, limitation, or termination.

The holder of Federal funds such as student grants and loans acts as a fiduciary. As such, Golden State School failed in its regulatory obligation to adequately account for such funds and to timely refund student loans. Moreover, Golden State School violated the applicable regulations by failing to properly notify students of refunds and for failing to notify lenders of the withdrawal of students. Under the circumstances, particularly in light of the school's overall problems in accounting, an emergency action is necessary to prevent loss of Federal funds. Finally, with respect to the school's current financial difficulties, it is clear to me that the likelihood of financial loss outweighs the importance of adherence to the procedures for limitation, suspension, and termination actions.

I find that the three conditions for imposing emergency actions, as enumerated in 34 CFR § 668.83(c), are met in this case. Therefore, I hereby affirm the emergency action.

Signed this 24th day of December, 1991, in Washington, D.C.



Ernest C. Canellos