

In the Matter of TRI-STATE BEAUTY COLLEGES, Cincinnati, OH,
Respondent.

Docket No.93-13-ST
Student Financial Assistance Proceeding

DECISION

Walker Hornsby, President of Tri-State Beauty Colleges, for the respondent.

Russell B. Wolff, Esq., for the Office of Student Financial Assistance, U.S. Department of Education.

Before Paul J. Clerman, Administrative Law Judge.

This is a proceeding under the Higher Education Act of 1965, as amended (HEA), initiated by the U.S. Department of Education (DOE) pursuant to procedures provided at 34 CFR 668.86 for the termination of the eligibility of institutions to participate in Title IV HEA financial assistance programs. The respondent is Tri-State Beauty Colleges, an institution located in Cincinnati, OH with four affiliated campuses in Ohio, at Cincinnati and at Fairfield and Dayton (collectively, Tri-State).

By official notice dated January 15, 1993, DOE informed Tri-State that DOE intends to terminate the eligibility of Tri-State to participate in Title IV HEA programs for numerous reasons as set forth in Part A of the notification, and to fine Tri-State \$120,700 for reasons set forth in Part B. The specific Title IV HEA programs are identified in the notification under their short titles as Pell Grant, SEOG, W-S, Perkins Loans, and FFEL, including Stafford Loan, PLUS, and CL. Tri-State was informed that an emergency action was imposed against it and will remain in effect until the termination proceeding is completed, and that the termination action is based on the findings in an on-site program review conducted by a DOE regional office. Those specific findings are set out in some detail in the notification. Tri-State was informed that the termination and fine would become effective unless a timely request for a hearing was filed by Tri-State. Such a request was filed by Tri-State on February 5, 1993. Shortly thereafter the matter was assigned to me for handling and hearing.

On May 13, 1993, I issued a procedural order in this case which directed the parties to, among other things, file with me and serve upon the opposing party, on or before May 28, 1993, the names of the witnesses proposed to be called to testify, and a description of their testimony and of the exhibits proposed to be introduced. DOE's

- Student Financial Assistance Programs (SFAP) by its counsel made timely compliance with that directive, but Tri-State did not. By a motion filed June 4, 1993, SFAP moved for

a decision terminating Tri-State's eligibility to further participate in Title IV HEA programs, imposing a fine against Tri-State in the amount of \$120,700, and terminating the proceeding, on the grounds that Tri-State has defaulted by failing to comply with the requirements of the May 13, 1993, procedural order, that a prima facie case for termination and fine was established in the January 15, 1993, official notification, and that the presiding Judge under statute, regulations and precedent has the authority in the given circumstances to issue the decision requested by SFAP.

In lieu of the action requested by SFAP, however, I issued a show-cause order that accorded to Tri-State a 10-day opportunity to show cause why SFAP's motion should not be granted. That time period has now expired without any response from Tri-State. At this time I will grant SFAP's motion.

DOE regulations at 34 CFR 668.89 give to the presiding Judge the authority and the responsibility to take all steps necessary to conduct a fair and impartial proceeding, and to take whatever measures are appropriate to expedite the proceeding, including but not limited to setting time limits for hearings and the submission of written documents, and terminating a hearing and issuing a decision against a party if that party does not meet the time limits set. In the instant proceeding the official notification sent by DOE to Tri-State on January 15, 1993, spelled out the charges and allegations raised under statute and regulations, and on the whole presented a prima facie case for termination of eligibility and the imposition of a fine. Tri-State has now been given every reasonable opportunity to make substantive response thereto, but has failed to do so. Good cause is thus shown for granting SFAP's motion, and that motion is hereby granted.

IT IS ORDERED,
ACCORDINGLY:

- That the appeal by respondent to the Notice to Terminate and Fine issued by DOE is dismissed; and

That this decision is entered against respondent, which terminates Respondent's eligibility to participate in student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended; and

That respondent shall, in the manner provided by law, pay a fine in the amount of \$120,700 to the U.S. Department of Education; and

That this decision and this order shall take effect when served.

By Paul J. Clerman, Administrative Law Judge, at
Washington, D. C., on June 24, 1993.

