

IN THE MATTER OF Docket No. 93-55-SP .

FORT LAUDERDALE COLLEGE, . Student Financial
. Assistance Proceeding

.
Respondent. .

Appearances: Leslie H. Wiesenfelder, Esq., of Dow, Lohnes & Albertson, Washington, D.C.,
for the Respondent.

Karla Y. Byrd, Esq., Office of the General Counsel, U.S. Department of Education,
Washington, D.C., for the Office of Student Financial Assistance Programs.

Before: Judge Ernest C. Canellos

DECISION

Fort Lauderdale College of Fort Lauderdale, Florida (College) is one of a number of proprietary schools owned by Phillips Colleges, Inc. On March 26, 1993, Region IV of the Office of Student Financial Assistance Programs (SFAP) of the U.S. Department of Education (ED), issued a final program review determination (FPRD) on the results of a program review performed at the College. The report analyzed administration of the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (Title IV) for the period July 1, 1989, to June 30, 1991.

The FPRD contained 11 findings, only three of which are subject to this appeal. The three are: the College disbursed Title IV funds in two rather than the required three installments, student application data was not verified, and Student Aid Reports (SARs) were signed after the last day of attendance.

The issue of the payment in two rather than three installments, has been litigated previously between Phillips Colleges Inc., the parent of the College, and ED. In the Matter of Edmondson Junior College, Docket No. 93-7-SP, U.S. Dep't of Educ. (June 4, 1993). The law in this area is abundantly clear. I find that the facts of the current case and in Edmondson, are clearly indistinguishable,

therefore, I find that the College did not disburse federal student financial assistance by utilizing incorrect payment periods. See also, In the Matter of Phillips College of Chicago, Docket No. 93- 58-SP, U.S. Dep't of Educ. (November 14, 1994), and the cases cited therein.

SFAP also seeks recovery for the College's failure to properly verify student application data. SFAP claims that the College must return \$75,063. The College disputes some of the claimed errors and asserts that the maximum liability is \$53,733.14. As a result of errors discovered during the program review, the College and SFAP agreed to have the College's Certified Public Accountant (CPA) examine a statistically significant sample of files which were supposedly verified for compliance, and the resulting error rate would be extended out to the universe of cases. This was done and the result was a recovery demand of \$75,063. The College disputed the CPA's determination as to two students, provided evidence that it was correct in those two instances, and recalculated the amount due as \$53,733.14. SFAP added no evidence but questioned how the College could dispute the calculations of its own CPA. I find that the College is free to dispute its CPA's calculations, and its evidence is convincing. Consequently, I find that only \$53,733.14 was misspent and must be remitted to ED.

Finally, SFAP seeks \$1,351.00 because SARs of two students were signed after the last day of attendance. The College disputes that there is such a requirement and, regardless, the claim of error is wrong factually. The College admitted its action in the two cases constituted error in its April 3, 1992 response to the program review. Now it points to factual inconsistencies and claims that the allegations are not supported. I have reviewed the record. It seems quite clear to me that SFAP has juxtaposed the allegations involving students 6 and 22. When the numbers are reversed, the facts are quite clear and the College's claims to the contrary have no merit. I find that the College has failed to sustain its burden that the funds in issue here were properly spent and, as a result, the College must return \$1351.00 to ED.

Accordingly, Fort Lauderdale College is obligated to refund a total of \$55,084.14 to the U.S. Department of Education.

SO ORDERED:

Judge Ernest C. Canellos

Issued: November 17, 1994