

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF HEARINGS AND APPEALS

IN THE MATTER OF

INTERNATIONAL TECHNICAL INSTITUTE

Respondent .

Docket No. 93-80-ST

Student Financial
Assistance Proceeding

DECISION

By letter notice dated July 14, 1993, the Student Financial Assistance Programs (SFAP) of the Department of Education (ED) sought to terminate the eligibility of International Technical Institute (ITI) to participate in Federal student financial assistance programs and to impose a variety of fines upon ITI amounting to \$332,800. ITI accepted termination. However, the proposed fines still are at issue. Presently, SFAP seeks the imposition of fines totaling \$267,500.

Initially, ITI sought a hearing to contest the fines proposed in the letter-notice. Subsequently, however, SFAP and ITI agreed to a stipulation of facts. As a result, the facts of record essentially are those stated in the letter-notice of July 14, 1993. However, ITI does assert that there are extenuating circumstances warranting reduction or elimination of the proposed fines.

ITI says that it was a small school and that, as such, the proposed fines should be reduced. ITI also says that the fines should be mitigated because the school's difficulties arose only during a brief period when a "great deal of resources and personnel time and effort" was spent on a troubled sister school in Dallas.

SFAP filed a comprehensive brief in this matter under a November 9, 1993 date. I adopt the brief in its entirety and incorporate it by reference.

Events at the Dallas school can not serve to reduce the severity or gravity of the violations of ED requirements at the subject Tampa, FL school. Each school must be viewed separately.

Further, In The Matter of Bnai Arugath Habosem, decided August 24, 1993, the Secretary defined a small school as one which has a level of participation in the Pell Grant program at a median level for all schools, which is around \$221,000. ITI's level of Pell Grant participation during the period of its difficulty was \$800,000 or more.

Why the Secretary picked a median level rather than an average of Pell Grant Funds in determining school size is not clear. Also, the Secretary did not consider either whether a fine, by itself, would have the effect of closing or terminating a school, or even whether a school would

have sufficient financial resources or an ability to pay a fine. Nonetheless, ITI does not offer an alternative to the rule-of-thumb adopted by the Secretary in the Bnai Arugath Habosem matter.

ITI says that it had only 100 students when it closed, but it had many more when the subject violations occurred. Also, even assuming that ITI was a small school, the violations of ED requirements were especially egregious approaching theft in the case of unpaid refunds.

In my opinion the gravity of the violations is such that after taking into consideration the size of the school, full penalties should be imposed.

It is concluded that fines, totally \$267,500, as currently sought by SFAP. should be and are imposed.

ITI shall pay ED \$267,500 in fines. In the absence of a timely appeal, this decision shall become final as the decision as the Secretary.

Dated this 22nd day of December, 1993.

Paul S. Cross
Administrative Law Judge
Office of Hearings and Appeals
Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

SERVICE LIST

Russell B. Wolff, Esq.
Office of the General Counsel
U.S. Department of Education
Room 4115, FOB-6
400 Maryland Avenue, SW
Washington, DC 20202-2110

Michael Brustein, Esq.
BRUSTEIN & MANASEVIT
3105 South Street, N.W.
Washington, DC 20007

Lauren McDonald
Compliance and Enforcement Division
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-2110