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**In the Matter of**

**Knoxville College,  
Knoxville, Tennessee,**

**Docket No. 94-175-SP  
Student Financial Assistance Proceeding**

**Respondent.**  
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Appearances: William A. Blakey, Esq., and Andrea Hefferman, Esq., Dean, Blakey, and Moskowitz, Attorneys at Law, Washington, D.C., for Respondent.

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

Before: Frank K. Krueger, Jr., Administrative Judge

## **DECISION**

### **INTRODUCTION**

Knoxville College is a private, four-year, traditionally-black, liberal arts college located in Knoxville, Tennessee. The College enrolls approximately 725 students. On December 13-17, 1993, the Student Financial Assistance Programs (SFAP), U.S. Department of Education (ED), conducted a program review of Knoxville College concerning its participation in and administration of the Federal student financial assistance programs, covering award years 1991-92, 1992-93, and 1993-94. As part of its Final Program Review Determination, issued on August 23, 1993, SFAP found that Knoxville College had a total liability of \$488,326.25 for violations of program requirements in three areas. First, SFAP found that Knoxville College had made invalid Pell Grant disbursements to students who failed to sign Student Aid Reports, for a liability of \$14,850. Second, SFAP found the Knoxville College made invalid Federal student assistance disbursements without conducting required verifications of information on applications for student assistance, for a liability of \$488,776.25. And third, that the College had failed to apply its policy concerning satisfactory academic progress with respect to two students, for a liability of \$3,400. These liability determinations were appealed by Knoxville and are the subject of this decision.

I find in favor of the Respondent on the issue of signed Student Aid Reports. On the remaining two issues, I find in favor of SFAP.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

#### **I. Failure to Sign Student Aid Reports.**

During the program review, SFAP determined that Knoxville College had disbursed Pell Grants to eleven students without obtaining signed Student Aid Reports. Based on this failure, SFAP determined that Knoxville College owed ED \$14,850 in Pell Grants awarded to these students. SFAP does not claim that these awards were otherwise invalid, *e.g.*, the students did not submit adequate Selective Service Status Reports or Statements of Educational Purpose, or that the information on the Student Aid Reports was inaccurate or false. Knoxville College does not challenge this finding, except to contend that one of the students involved never received the Pell Grant at issue, and that liability concerning three other students should be excused since it recently obtained the signatures of those students.

A Student Aid Report is a “report provided to the applicant showing the amount of his or her expected family contribution.” 34 C.F.R. § 690.2 (1991, 1992, and 1993). A “Valid” Student Aid Report is one “[o]n which all the information used in the calculation of the applicant's expected family contribution is accurate and complete. . . .” *Id.* Although the Student Aid Report form requires that it be signed by the student who is applying for the Federal assistance (see Respondents's Exhibit F for an example of the form), there is no actual regulatory or statutory requirement that the Student Aid Report be signed. Given the absence of any regulatory requirement that the Student Aid Report be signed as a condition for receiving Federal student financial assistance, and the absence of any evidence in the record of actual harm to ED or the Federal taxpayers, I find that Knoxville College is not liable to pay back the Pell Grants for these students.

## **II. Failure to Conduct Required Verifications.**

During the course of its program review, SFAP determined that Knoxville College failed to conduct required verifications of information contained on student assistance applications for a large number of students, for a liability of \$198,243 in unauthorized Pell Grants, \$39,800 in Supplemental Educational Opportunity Grants (SEOG), and \$232,483.25 in unauthorized Stafford Loans. Respondent admits that it failed to perform the required verifications, but seeks a reduction in its liability for several students because it recently secured the tax returns for the parents of these students.

Unlike the requirement that a student applicant sign the Student Aid Report, the requirement for verification is firmly ingrained in the regulations. *See* 34 C.F.R. §§ 668.54, 668.56, and 668.57 (1991, 1992, and 1993). Moreover, the regulations make it very clear that verifications must be completed before any funds are disbursed. 34 C.F.R. §§ 668.58 and 668.60 (1991, 1992, and 1993). Thus, Knoxville College was in clear violation of these clear regulatory requirements.

The fact that Knoxville College has, several years after the awards were made, now secured tax returns for some of the students' parents does nothing to minimize the violation. Risk cannot be alleviated retroactively. Even if the students in question are retroactively determined to be eligible, the failure to verify questionable information created a risk to the Federal taxpayer that students not eligible for assistance were being awarded assistance. Thus, I find that the tax returns are not material to the legal issue created by the failure of Knoxville College to perform the required verifications. In addition, even if considered material to the legal issue being

considered, as noted by SFAP in its brief at pages 11-12, the tax returns proffered by Knoxville College have little or no probative value.. For example, for Student #1, Knoxville was required to verify the student's income, household size, and number of persons in the household attending college. (SFAP Exhibit 2, p.11.) The income tax return for Student #1's parents does indicate household size, but does not indicate the student's income or the number of family members in college. For the remaining students for whom the tax returns of their parents are proffered, one is not able to determine on the basis of the present record that these students were the same students whose applications contained information requiring verification, or exactly what information was required to be verified and how the tax returns for their parents provide this verification. Thus, even if the tax returns were material, Knoxville College has not sustained its burden of proof. *See* 34 C.F.R. § 668.116(d).

Consequently, I find that Knoxville College is liable to pay back \$198,243 in unauthorized Pell Grants and \$39,800 in unauthorized SEOGs. I also find that Knoxville College has a liability to ED concerning the Stafford Loans awarded to these students. This liability may be satisfied, as suggested by SFAP's brief at pages 12-13, by Knoxville purchasing the unauthorized loans from their present holders, including, for defaulted loans, ED or the guarantee agency. However, the liability may also be satisfied by determining the actual loss to ED concerning the unauthorized loans, using Knoxville's cohort default rates for the years in question, or by determining which of the students at issue actually have defaulted, and working out an arrangement whereby Knoxville assumes the risk for future defaults. *See* 34 C.F.R. § 682.609(a)(1994). In summary, Knoxville College must either purchase the remaining balances of the loans in question or reimburse ED for its actual present and future losses as a result of defaults on these loans.

### **III. Satisfactory Academic Progress.**

SFAP identified two students receiving Pell Grants whom SFAP alleges were not eligible since they were not maintaining satisfactory academic progress in accordance with the standards established by Knoxville College. SFAP identified the College's liability as \$400 in SEOG funds and \$3,000 in Pell Grant funds. SFAP contends that the two students were not maintaining satisfactory academic progress because they were not maintaining a 1.4 grade point average, as required by Knoxville's standards. Knoxville, in defense, argues that one of the students in question in fact was making satisfactory academic progress in accordance with its standards for students receiving Federal financial assistance.

The regulations in effect for the period in question, 1991-92, required that a participating institution establish, publish, and apply "reasonable" standards for measuring whether a student receiving Federal financial assistance is maintaining satisfactory academic progress in his or her course of study. 34 C.F.R. § 668.14(e)(1991). "Reasonable" standards are defined as standards which are the same as, or stricter than, those applied to students not receiving Federal financial assistance. *Id.* at (e)(2).

The school catalog in effect for the period in question contains two sections which are relevant to this issue (see SFAP Exhibit 3). The first section applies only to students receiving Federal financial assistance and defines satisfactory academic progress in terms of credit hours, although it references grade point average "if applicable." The College notes that one of the students in

question was maintaining the required number of credit hours, and thus was in compliance with the College's standards. However, a second section of the catalog, which applies to all students, defines satisfactory academic progress in terms of grade point average, and the student in question was not maintaining the minimum grade point average required by that section. Counsel for Knoxville never cites, or even alludes, to the second section of the catalog which requires that *all* students maintain a specified minimum grade point average. Simply because there are separate standards which apply only to students receiving Federal financial assistance, does not mean that those are the only standards which apply to those students. In fact, 34 C.F.R. § 668.14(e)(2) makes it clear that "reasonable" standards are, at a minimum, those which apply to all students, not just those which are receiving Federal financial assistance. Thus, I find that the two students in question were not maintaining satisfactory academic progress as measured by Knoxville's own standards, and conclude that Knoxville's award of Pell and SEOG funds to those students was a violation of 34 C.F.R. § 668.14(e), and that Knoxville College is legally responsible for reimbursing ED \$3,400 for those grants.

### Order

ORDERED, that Respondent reimburse ED \$201,243 for unauthorized Pell Grants and \$40,200 for unauthorized SEOGs.

FURTHER ORDERED, that Respondent satisfy its liability for unauthorized Stafford Loans awarded without the required verifications by purchasing the unauthorized loans from the present holders of those loans, including ED and the guarantee agency, or reimburse ED for actual present losses, plus actual or estimated future losses, resulting from defaults on those loans.

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Frank K. Krueger, Jr.  
Administrative Judge

Issued: July 31, 1995

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**S E R V I C E**  
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Copies of the attached initial decision have been sent by **CERTIFIED MAIL, RETURN RECEIPT REQUESTED**, to the following:

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