

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

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In the Matter of

**Docket No. 94-176-ST**  
**CINDERELLA BEAUTY SCHOOL,** Student Financial Assistance Proceeding  
Respondent.

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Appearances: Barbara Burgess, Owner of Cinderella Beauty School of Bremerton,  
Washington, for Cinderella Beauty School.

Edmund J. Trepacz, Esq., Office of the General Counsel, United States Department of  
Education, Washington, D.C., for Student Financial Assistance Programs.

Before: Judge Ernest C. Canellos

**DECISION**

On August 11, 1994, the Office of Student Financial Assistance Programs (SFAP) of the United States Department of Education (ED) issued a notice of intent to terminate the eligibility of Cinderella Beauty School (Cinderella) from participation in Federal student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended (Title IV). 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* The notice also proposed to fine Cinderella \$10,500. SFAP initiated the termination and fine action as a result of the institution's failure to submit biennial audits covering the 1991-92 and 1992-93 award years by June 30, 1994, in compliance with 34 C.F.R. § 668.23 (1994). Thereafter, Cinderella filed a request for a hearing challenging the findings of the notice. [See footnote 1 /](#) Pursuant to the parties request, I granted a stay of proceedings to allow for settlement negotiations.

On January 24, 1996, SFAP submitted a letter stating that the parties were no longer pursuing settlement discussions. On January 25, 1996, I issued an Order Governing Further Proceedings reinstating the briefing schedule and requiring the parties to file their respective

submissions within 30 days of the date of my order. [See footnote 2 2](#) On March 5, 1996, SFAP filed a Motion For Termination of Proceedings and Entry of Judgment against Respondent on the ground that Cinderella had failed to comply with my order. On March 6, 1996, in response to SFAP's motion, I ordered Cinderella to file a submission by March 21, 1996, and in that submission show cause why I should not issue a decision and enter judgment against it for failure to prosecute its appeal. To date, Cinderella has not filed any submissions in compliance with my orders.

In accordance with my obligation to regulate the course of this proceeding and the conduct of the parties, I have the authority and the discretion to terminate the hearing process and issue a decision against a party if that party does not meet time limits established pursuant to my orders. *See*, 34 C.F.R. § 668.117(c)(3) . As such, I find that the institution's failure to file a submission in compliance with my orders warrants the termination of this proceeding. More important, after a review of the notice to terminate and fine, I am convinced that the findings contained therein sufficiently state allegations in a manner that demonstrate that SFAP has made a *prima facie* showing that the institution failed to file its biennial audit. Notably, the institution in its request for review conceded that it had not filed a biennial audit covering the award years at issue. Accordingly, Cinderella's failure to prosecute its appeal of the notice to terminate and fine compels me to find that SFAP's determination, that the institution's eligibility to participate in programs authorized under Title IV should be terminated, is proper. Under the circumstances, I also find that the proposed fine is appropriate.

#### ORDER

On the basis of the foregoing findings of fact and conclusions of law, it is HEREBY ORDERED that the hearing process initiated pursuant to the institution's request for a hearing is TERMINATED. It is FURTHER ORDERED that Cinderella Beauty School's eligibility to participate in programs authorized under Title IV of the Higher Education Act of 1965, as amended, is terminated and that the institution pay a fine in the amount of \$10,500 to the United States Department of Education.

SO ORDERED:

Ernest C. Canellos  
Chief Judge

Dated: April 9, 1996  
Washington, D.C.

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*Footnote: 1 1 In its request for a hearing, Cinderella conceded that the institution had not filed the proper audits as required by Title IV. According to the institution, it had recently hired a new C.P.A. to prepare the biennial audit.*

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*Footnote: 2 2 SFAP filed its submission on December 7, 1994 in accordance with my original order governing proceedings.*