

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

In the Matter of

Docket No. 95-148-SP

SUNCOAST BEAUTY COLLEGE,
Respondent.

Student Financial Assistance Proceeding

Appearances: Victoria French, Director, Suncoast Beauty College, Columbus, GA,

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

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

DECISION

On August 11, 1995, the Student Financial Assistance Programs (SFAP) issued a Final Program Review Determination (FPRD) that found Suncoast Beauty College in violation of numerous provisions of Title IV of the Higher Education Act of 1965, as amended, and its implementing regulations. The total liability assessed in the FPRD was \$911,618.

This appeal proceeding is governed by 34 C.F.R. Part 668, Subpart H. Under that provision, Suncoast has the burden of proving that it complied with all program requirements and made proper expenditures. 34 C.F.R. § 668.116(d) (1995).

DISCUSSION

Of the twelve findings contained in the FPRD, Suncoast conceded to five findings. I will, therefore, examine only the liabilities relating to findings 3, 5, 8, 13, 16, and 20. [See footnote 17](#).

Finding 3: Refunds Not Made.

The Title IV regulations, 34 C.F.R. §§ 668.21, 668.22 (1992), explain how a school must refund Title IV funds to the student and/or the Department of Education when a student

withdraws from the institution's educational program. Section 668.21 applies to students who withdraw before the first day of classes; section 668.22 applies to students who withdraw on or after the first day of classes. The FPRD states that Suncoast failed to make refunds to thirty-seven students totaling \$35,667.08. Of the thirty-seven students' accounts in question, Suncoast only disputes the refunds of eight students. The FPRD states that Suncoast's total liability for the eight disputed refunds is \$9,385. Suncoast's brief merely lists the eight students and their respective disputed amounts; it does not provide any sort of explanation about the use, or misuse, of the disputed funds. Suncoast has not met its burden of proof with respect to this finding. I, therefore, find Suncoast liable to the Department for the refunds of all thirty-seven students, in the amount of \$35,667.08.

The funds involved in this finding, \$35,667, originate from four sources:

1. FFEL refunds \$24,038
2. PLUS loan refund 1,830
3. Federal Pell Grant refunds 8,774

4. Federal SEOG refunds	1,025
Total	\$35,667

Suncoast is liable to the current FFEL holders in the amount of \$24,038, and to the current holder of the PLUS loan in the amount of \$1,830. Suncoast is also liable to the Department for any excessive interest and special allowances paid on these loans as a result of its failure to pay the refunds in question; the interest and special allowances will be computed by SFAP upon receipt of evidence that the refunds have been paid.

The liability for the Federal Pell Grant refunds and Federal SEOG refunds in this finding is included in the total liability amount set forth in Finding 20 (Federal Pell and SEOG funds).

Finding 5: Misapplication of Funds/Unauthorized Charges to the Federal Pell Grant Account.

Federal Pell Grant funds may be used only to pay Federal Pell Grant students; these funds are held in trust by the institution for the intended student beneficiaries, and may not be used or hypothecated for any other purpose. 34 C.F.R. § 690.81 (1992). The FPRD found that a total of \$23,797 in Federal Pell Grant funds was withdrawn from the Pell Grant account, in the form of checks made payable to cash or to Suncoast, without any documentation to support these withdrawals. Suncoast attempts to explain this discrepancy with the documentation provided in the Suncoast Response, dated May 6, 1996. This submission lists check numbers, dates, dollar amounts, and various names. None of these names, however, are on the student lists provided by Suncoast, and are therefore unauthorized charges to the Federal Pell Grant accounts. Suncoast has failed to demonstrate that it did not misappropriate and misuse the Federal Pell Grant funds. Suncoast has not met its burden of proof to adequately explain this finding. Therefore, I find Suncoast liable to the Department for these Federal Pell Grant funds, in the amount of \$23,797.

The liability for the Federal Pell Grant funds in this finding is included in the total liability amount set forth in Finding 20 (Federal Pell and SEOG funds).

Finding 8: Missing Financial Aid Files.

The Title IV regulations, at 34 C.F.R. § 690.82(a) (1992), provide as follows:

Each institution shall maintain adequate records (including those related to verification) which include the fiscal and accounting records that are required under 34 C.F.R. § 690.81, ..., the Student Aid Report of each student applying for a Pell Grant, and records indicating (1) The eligibility of all enrolled students who have submitted valid SARs to the institution; ...; (3) The amount and date of each payment;

Also, for each recipient of Title IV program assistance, the institution shall establish and maintain records on a current basis regarding admissions and enrollment status, financial aid eligibility and transactions, and academic progress of students. 34 C.F.R. § 668.23(f) (1992). The FPRD states that the institution could not find the financial aid records of one of the students at the time of the review. SFAP asserts that without the financial aid record of a student, the eligibility of that student for Title IV program assistance cannot be determined. Suncoast explains that although the student's financial aid record was not available at the time of the review, the student's academic file was available. The availability of the student's academic records at the time of the review does not satisfy the requirement of the institution to have the financial aid records available at the time of the review. Suncoast has not provided the financial aid files requested by SFAP as required by the regulations. Suncoast has not met its burden of proof with respect to this finding. Therefore, I find Suncoast liable to the Department for all of the Title IV funds disbursed to this student.

This liability is distributed as follows:

1. Federal Pell Grant funds	\$1,200
2. Federal SEOG funds	300
3. Federal Stafford Loan	2,625
Total	\$4,125

Suncoast must purchase the Stafford Loan from its current holder, and reimburse the Department for interest and special allowances on this loan; the interest and special allowances will be computed by SFAP upon receipt of evidence

that this loan has been purchased.

The liability for the Federal Pell Grant funds and Federal SEOG funds in this finding is included in the total liability amount set forth in Finding 20 (Federal Pell and SEOG funds).

Finding 13: Payment of Title IV Funds in Absence of Correct Verification.

A participating institution requires an applicant, selected for verification, to submit acceptable documentation that will verify or update information used to determine the applicant's Estimated Family Contribution. 34 C.F.R. § 668.56(a) (1992). If the institution cannot complete the verification process of the student's records, the institution is not authorized to disburse Title IV funds, and the institution is liable for Title IV funds already disbursed. 34 C.F.R. § 668.60 (1992). Because the verification of five student files was incomplete, SFAP required Suncoast to conduct a complete file review of the student files selected for verification for the 1992-93 and 1993-94 award years to identify any more incidents of incomplete verification and to then attempt to resolve all exceptions.

The FPRD stated that Suncoast resolved verification of four of the five students. Suncoast, however, did not resolve the fifth student's verification problem. I find Suncoast liable to the Department for the Federal Pell Grant funds disbursed to that fifth student. This liability is \$1,200, and is included in the total liability amount set forth in Finding 20 (Federal Pell and SEOG funds).

The FPRD also stated that Suncoast failed to complete the required review of all the student files selected for verification for the 1992-93 and 1993-94 award years. Suncoast's failure to complete the required review of these specific files results in the liability of the institution for all Title IV funds disbursed to only those students selected for verification, and only for the 1992-93 and 1993-94 award years. 34 C.F.R. § 668.60 (1992). Suncoast is not liable for Title IV funds disbursed to students during the 1991-92 years, as SFAP asserts, because SFAP did not request the student files selected for verification for the 1991-92 award year to be reviewed. Suncoast is also not liable for Title IV funds disbursed to all students during the 1992-93 and 1993-94 award years, but is liable only for those students whose files were selected for verification. Suncoast asserted that the school was in the process of completing the verification; Suncoast, however, did not set forth any evidence showing completion of file verification. Suncoast has not met its burden of proof to show that it complied with Title IV fund requirements. Therefore, I find Suncoast liable to the Department for these funds. Due to SFAP's over inclusiveness of Suncoast's assessed liability with respect to this finding, this tribunal cannot state an exact dollar amount of liability. SFAP is ordered to recalculate Suncoast's liability on the issue of its failure to complete the file review of the student files selected for verification for the 1992-93 and 1993-94 award years only.

Finding 16: Credit Balances on Accounts.

The school may credit a registered student's account with only those loan proceeds covering costs of attendance owed to the school by the student for which substantially all of the school's students incurring those costs have been billed. 34 C.F.R. §§ 682.604(d)(ii) (1992), 682.604(d)(ii)(A) (1993).

The file reviewers found unexplained credit balances in the accounts of six students totaling \$2,956. The FPRD states that the institution is required to refund this amount to the students. Although Suncoast provided some explanation for the liabilities of three of the six students, the school provided no documentation to substantiate these explanations. Suncoast has not met its burden of proof with respect to these liabilities, and is liable to the Department in the amount of \$2,956. From SFAP's report, this tribunal is not able to determine how much of the liability came from which Federal Student Assistance programs, if any. SFAP is ordered to specify how much of the liability is included in Finding 20 (Federal Pell and SEOG funds), and how much of the liability is from the Federal Loan program; any Federal Loans must be purchased from their current holders, and the Department is to be reimbursed for any interest and special allowance payments.

Finding 20: Audit Trail Inadequate.

The Title IV regulations, at 34 C.F.R. § 690.81(a) (1992), provide as follows:

(1) An institution shall establish and maintain on a current basis financial records that reflect all program transactions. The institution shall establish and maintain general ledger control accounts and related subsidiary accounts that identify each program transaction and separate those transactions from all other institutional financial activity.

(2) The institution shall account for the receipt and expenditure of Pell Grant funds in accordance with generally accepted accounting principles.

The FPRD found that the institution did not establish and maintain the required financial records. The FPRD also found no general ledgers to support the Federal Pell Grant and Federal SEOG program expenditures. The program review required the institution to a) establish and maintain financial records reflecting all program transactions; b) reconstruct and reconcile its fiscal records for the 1991-92, 1992-93 and 1993-94 award years; and c) have a certified public accountant attest to the accuracy and completeness of the reconstruction and reconciliation. At the time the institution closed, SFAP had not been provided with the required reconstruction and reconciliation. SFAP states that because Suncoast did not conform with the requirements of the program review, Suncoast is liable for all Federal Pell Grant and Federal SEOG funds from July 1, 1991, through November 7, 1994.

Suncoast argues that there was an audit trail. Suncoast, however, does concede that there was a two month period where it improperly receipted funds, but represents that it later documented those transactions. Suncoast further states that it cannot go back at this time and reconstruct 1991-92 records. The submission Suncoast provided is incomplete and insufficient for Suncoast to show an adequate audit trail, and the records provided in the Suncoast Response only cover the 1993-94 years.

I find that Suncoast has not shown an adequate audit trail as required by 34 C.F.R. § 690.81 (1992), and I, therefore, find Suncoast liable to the Department for all Federal Pell Grant and Federal SEOG funds disbursed for the 1991-92, 1992-93, and 1993-94 award years. The total amount of this liability is \$585,407.

ORDER

1. SFAP is ordered to recalculate the liability amounts in Finding 13 with respect to Suncoast's failure to complete the file review of the student files selected for verification for the 1992-93 and 1993-94 award years only.
2. SFAP is ordered to specify how much of the \$2,956 liability in Finding 16 is to be refunded back to the Federal Pell and SEOG fund program and how much of the liability is represented by Federally guaranteed loans.
3. Suncoast Beauty College is ordered to repay the Department \$585,407 for the Federal Pell and SEOG funds it disbursed during the 1991-92, 1992-93, and 1993-94 award years.
4. Suncoast Beauty College is ordered to pay \$24,038 to the current holders of the FFEL loans covered by Finding 3, and \$1,830 to the current holder of the PLUS loan covered by Finding 3. Suncoast must also reimburse the Department for any excessive interest or special allowances paid on these loans as a result of Suncoast's failure to pay the refunds covered by this finding.
5. Suncoast Beauty College is ordered to purchase the Federally guaranteed loans covered by Findings 8, 13 (to be redetermined by SFAP in accordance with Order (1)), and 16 (to be redetermined by SFAP in accordance with Order (2)). Suncoast Beauty College is further ordered to reimburse the Department for interest and special allowances paid on the loans.

July 30, 1996

Frank K. Krueger, Jr.
Administrative Judge

SERVICE

A copy of the attached initial decision was sent by certified mail,
return receipt requested to the following:

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[Footnote: 1](#) 1 SFAP withdrew Finding 7 in its initial brief.

[Footnote: 2](#) 2 Suncoast's 1993-94 award year only goes through December 17, 1993.
