

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

In the Matter of

Docket No. 95-149-SA

BOISE BIBLE COLLEGE, INC.,
Respondent.

Student Financial Assistance Proceeding
ACN: 10-51016

Appearances: Robert L. Aldridge, Esq., Boise, Idaho, for Boise Bible College, Inc.

Alexandra Gil-Montero, Esq., Office of the General Counsel, United States Department of Education, Washington, D.C., for Student Financial Assistance Programs.

Before: Judge Richard F. O'Hair

DECISION

Boise Bible College, Inc. (Boise), is a four-year private college which participates in the various student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* These programs are administered by the office of Student Financial Assistance Programs (SFAP), United States Department of Education (ED). On August 23, 1995, SFAP issued a final audit determination to Boise which alleged that Boise had improperly disbursed Title IV funds to its students during the 1993-94 award year by failing to properly interpret its policy for the monitoring of satisfactory progress of its students. As a consequence, SFAP requests that Boise reimburse the outstanding balances on student loans totaling \$14,072 to the appropriate lenders and reimburse \$3,056 to ED for improper awards and related interest charges.

The final audit determination relies on an audit of Boise's Title IV Financial Aid Programs for the period July 1, 1992, through June 30, 1994, which was conducted by a firm of independent auditors employed by Boise. The auditors found that Boise's misinterpretation of its policy for monitoring satisfactory progress and determining eligibility for Federal student financial aid resulted in five Boise students improperly receiving student aid during the 1993-94

award year. The final audit determination adopted this finding and assessed a liability of \$17,128.

Federal regulations require an eligible institution, such as Boise, to establish, publish, and apply reasonable standards for measuring whether a student, who is otherwise eligible for Title IV aid, is maintaining satisfactory progress in his or her course of study. 34 C.F.R. § 668.14(e) (1993). ED considers an institution's standards to be reasonable if they are the same as, or stricter than, those applied to an institution's students who are not receiving assistance from a Title IV program, and if the standards are based upon grades, completed work projects, or comparable factors that are measurable against a norm. 34 C.F.R. § 668.14(e) (1993). Similarly, the regulations provide that a currently enrolled student is eligible for Title IV aid if, among other requirements, the student is maintaining satisfactory progress in his or her course of study, as measured against the institution's standards of satisfactory progress. 34 C.F.R. § 668.7(a)(5) (1993).

The standards Boise adopted for measuring whether a student is eligible for Title IV student financial aid are found in both the 1993-95 Boise Bible College Catalog and a 1989-1990 Student Financial Aid Consumer Information pamphlet. In the paragraphs addressing academic probation and suspension, the catalog informs the students as follows:

Academic Probation.

You will be placed on academic probation at the end of any semester in which your GPA [grade point average] falls below 1.75 (for freshmen) or 2.00 (for all others).

Academic Suspension.

Academic suspension will usually take place when either of the following conditions are present:

1. You fail all classes in a semester, including your first semester, unless extenuating circumstances are present that are acceptable to the Academic Council;
2. You have two successive semesters under minimum GPA.

Respondent's Exhibit R-1, at 76.

The Boise catalog explains that students who are placed in an academic suspension status lose their right to federal financial aid for at least one semester after the student returns to school. It also directs inquiries regarding federal and state financial assistance to the Student Financial Aid Consumer Information pamphlet. That pamphlet quite clearly prescribes as a qualitative

requirement for federal aid that the "[s]tudent must maintain a cumulative grade point average of 2.0, except that a freshman student must maintain CGPA of 1.75." Respondent's Exhibit R-3, at 19.

A later paragraph in that pamphlet informs the reader that a student will be placed on financial aid probation for one semester when he/she receives less than a 2.0 (1.75 for freshmen) cumulative grade point average (CGPA). It further states that if the CGPA is not raised to the appropriate level during the probationary semester, the student becomes ineligible for further federal, state, and/or institutional financial aid. The pamphlet explains that a student's financial aid eligibility may be reinstated when the student's CGPA is raised to a 2.0. It also authorizes a student who is placed on academic probation or suspension of financial aid to appeal for relief to the Faculty Committee. *Id.* at 20.

The audit submitted by Boise describes five students to whom Boise improperly applied its policy for monitoring satisfactory academic progress and, therefore, were improperly determined to be eligible for Title IV aid during the 1993-94 award year. Prior to that award year, Boise placed each of these five students on academic probation for failure to achieve the minimum CGPA. During the succeeding probationary semester, they again failed to raise their CGPA to the minimum level. Then during the 1993-94 award year, each of these students was awarded Title IV student financial aid. Boise concedes that one of the students was ineligible for financial aid, but it appears to defend its determination of eligibility for the remaining four students on the basis that each had successfully appealed a pending school suspension action. In each of these four cases, even though the students did not raise their CGPA's to the minimum level during their semester on academic probation, apparently they convinced the institution's Academic Council that they should not be suspended from school because of the existence of mitigating circumstances and that they had the potential to succeed. It appears that during this award year, the erroneous policy Boise followed was that if the student successfully challenged a pending suspension and was permitted to continue in a probationary status, then the student continued his/her eligibility for Title IV aid.

I agree with Boise's auditors and SFAP that Boise improperly interpreted its policy for monitoring the satisfactory progress of its students for purposes of determining eligibility for Title IV student financial aid. Boise disbursed Pell Grants, Supplemental Education Opportunity Grants (SEOG) and/or student loans to these five students who, because they earned below- minimum CGPA's during the probationary semester, were ineligible for Title IV student financial aid. Boise established and published appropriate standards for monitoring its students' satisfactory progress, but for some reason, the institution did not correctly apply those standards in this instance. Accordingly, Boise has a liability of \$15,862 for its Title IV disbursements for these five students. This amount is based upon \$14,072 in student loans, \$1,525 in Pell Grants, \$265 in SEOG funds, and \$1,266 in interest charges.

FINDINGS

1. Boise established and published reasonable standards for measuring whether its students were maintaining satisfactory progress, but it improperly applied those standards to five of its students during the 1993-94 award year.
2. Boise improperly disbursed Pell Grants, SEOG funds and student loans to these five students during the 1993-94 award year.

ORDER

On the basis of the foregoing, it is hereby ORDERED that Boise Bible College shall repay \$3,056 to the United States Department of Education in the manner prescribed by law and reimburse the appropriate lenders for the outstanding balances on loans totaling \$14,072 .

Judge Richard F. O'Hair

Dated: April 18, 1996

SERVICE

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

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