

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

In the Matter of

FEDERICO TULARE COUNTY COLLEGE OF BEAUTY
Respondent.

Docket No. 95-20-SP

Student Financial Assistance Proceeding

Respondent.

PCRN: 94209026

Appearances: Steven J. Pope, Esq., Hesperia, California, for Federico Tulare County College of Beauty.

Denise Morelli, 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

Federico Tulare County College of Beauty (College), Visalia, California, was a proprietary vocational institution which offered clock-hour programs of study in cosmetology and related fields. It ceased operations and closed in 1994. The College was accredited by the National Accrediting Commission of Cosmetology Arts and Sciences and was eligible to participate in the Pell Grant and Supplementary Educational Opportunity Grant (SEOG) Programs, authorized under 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.*

Between February 15 - 17, 1994, program reviewers from Region IX, office of Student Financial Assistance Programs (SFAP) of the U.S. Department of Education (ED) conducted an on-site program review of College's Title IV compliance for award years 1992-93 and 1993-94. The program review report, dated July 1, 1994, contained five adverse findings. After responses from the College were considered, on November 14, 1994, SFAP issued a final program review determination (FPRD) which found that College had taken corrective action as to three findings leaving in issue only the allegations that the College failed to make certain enumerated fiscal records available for review, and failed to properly verify information as to one student. On

December 22, 1994, the College filed a timely appeal. [See footnote 1 /](#)

In its appeal, College claims that the records that were requested during the program review were in the possession of its servicer who refused to release them pending the payment of an outstanding bill. Subsequently, the College closed and it claims that the requested records were provided to SFAP. It argues, therefore, that since the failure to provide the records was unintentional and since the error has been cured, no liability should be imposed. Further, in its brief, the College claims that it never participated in the Perkins Loan Program, therefore it could not comply with SFAP's request that it produce records relative to the College's administration of that program. [See footnote 2 2](#). The College did not offer any defense to the allegation that verification was not accomplished as to one student.

SFAP, on the other hand, argues that the information submitted by the College did not satisfy the request made by the program reviewers. As reflected in the FPRD, SFAP asserts that on the date of the FPRD, the College still had not made available general and subsidiary account ledgers supporting Title IV expenditures for award years 1991-92 and 1992-93, and Final Pell Grant Student Payment Summaries for the same period. Maintenance of these records is required by 34 C.F.R. § 676.19 (SEOG) and 34 C.F.R. § 676.81 (Pell Grants).

In a Status Report dated March 24, 1995, SFAP's counsel requested additional time to pursue ongoing settlement negotiations -- SFAP acknowledges that College did submit some documentation regarding the issues before me, but that such information was not complete. Subsequently, on September 11, 1995, the parties notified me that they had narrowed the issues, but could not fully resolve them. To recap, the college maintains that it has provided all the documentation that is required and that no liability should be imposed; SFAP acknowledges that documentation was submitted but that it was insufficient, therefore, all Title IV funds for the periods in issue must be returned.

In an appeal of a finding in a FPRD, the institution has the burden of proving that the Title IV funds were lawfully disbursed. 34 C.F.R. § 668.116(d). I find that College failed to carry its burden of proof in showing that Pell Grant and SEOG funds for award years 1991-92 and 1992-93, were properly accounted for. My review of the evidence convinces me that College failed to provide the general and subsidiary ledgers, as requested by SFAP, and that this constituted a failure to account. Although College provided some of the records requested by SFAP, without the significant general and subsidiary ledgers as a reference, SFAP could not

determine whether federal funds were correctly applied to students' accounts. Therefore, SFAP's demand for the return of all Title IV funds expended during the period in issue is meritorious. In addition, I find that College failed to verify the information for one student; however, since the amount in issue for this finding is subsumed in the first finding, I will make no separate order relative thereto.

ORDER

On the basis of the foregoing, it is hereby ORDERED that Federico Tulare County College of

Beauty pay to the U. S. Department of Education the sum of \$77,217, broken down as follows: \$ 65,988 for improper Pell Grants, and \$11,229 for improper SEOG.

Ernest C. Canellos
Chief Judge

Dated: December 9, 1996

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 also proposed an informal fine of \$25,000. Since an informal fine is not an appropriate subject of a Subpart G proceeding, it will not be considered as part of this appeal.

Footnote: 2 2 Although a reference to the documents supporting the Perkins Loan Program is included in the FPRD (#2, page 4), no corresponding demand is made for the return of any federal funds; therefore, I will not consider it as part of this appellate proceeding.