

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

In the Matter of

Docket No. 95-66-ST

SIMMONS SCHOOL,
Respondent.

Student Financial Assistance Proceeding

Appearances:

Mr. A.J. Squitieri, President, White Plains, New York, for Simmons School.

S. Dawn Robinson, 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 March 15, 1995, the Office of Student Financial Assistance Programs (SFAP) of the U.S. Department of Education (Department) issued a notice of intent to terminate the eligibility of Simmons School (Simmons) to participate in the 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.* This termination notification followed an emergency action which was initiated by the Department against Simmons on February 17, 1995. Simmons filed a request for hearing on March 24, 1995.

The basis for SFAP's action was the withdrawal of Simmons' accreditation by the Accrediting Council for Independent Colleges and Schools (ACICS), which became effective on August 18, 1994. Apparently such withdrawal was precipitated by a change of ownership of Simmons. On May 15, 1995, Simmons submitted a copy of a May 12, 1995 letter from ACICS which confirmed that Simmons was accredited through August 31, 1995. In its June 14, 1995 opening brief, SFAP withdrew its allegation regarding accreditation and amended its notice to include two additional allegations: failure to file compliance audits for the 1992-1994 award years, as required by 34 C.F.R. § 668.23(c); and failure to meet the standards of conduct required of a fiduciary. Simmons did not respond or file a brief or evidentiary material, and SFAP filed a

motion on September 5, 1995, requesting that I terminate the proceedings and enter judgement against Simmons. SFAP also noted that Simmons' accreditation apparently had expired and that it closed on June 20, 1995.

Pursuant to 34 C.F.R. § 668.89(c)(3), I have the authority and responsibility to terminate the hearing process and issue a decision against a party if that party has not met the time limits which I have established. Simmons failed to file anything after its initial appeal and, as a result, I hereby grant SFAP's motion and terminate the hearing process. In addition, I have examined the record and find that the evidence of Simmons' failure to file the audits as alleged is compelling. As a result, Simmons must be terminated. 34 C.F.R. § 668.90(a)(3)(v).

On the basis of the foregoing, it is hereby ORDERED that the eligibility of the Simmons School to participate in the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965 be terminated.

Judge Ernest C. Canellos

Dated: October 11, 1995

SERVICE

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

Mr. A.J. Squitieri, President/Director
Simmons School.
1900 East Post Road
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