

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

In the Matter of

ART OF BEAUTY COLLEGE, (New Orleans, LA)
Respondent.

Docket No. 95-72-ST
Student Financial Assistance Proceeding

Appearances: Jack L. Simms, Esq., Leesville, Louisiana, for Art of Beauty College.

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

On March 24, 1995, the Office of Student Financial Assistance Programs (SFAP) of the U.S. Department of Education (ED) issued a notice of intent to terminate the eligibility of the Art of Beauty College (College), New Orleans, Louisiana, to participate in the student financial assistance programs authorized under the provisions of Title IV of the Higher Education Act of 1965, as amended (Title IV). 20 U.S.C. § 1070 *et seq.* SFAP also imposed a fine of \$7,250. College filed a request for hearing and the case was assigned to me for resolution. This termination and fine action followed an emergency action which was initiated by SFAP against College on March 2, 1995, pursuant to 20 U.S.C. § 1094(c)(1)(G).

The pertinent facts are not in dispute in this case. On April 21, 1994, Patricia Dianne Ford, the majority owner of Art of Beauty College, New Orleans, Louisiana, filed a Voluntary Petition under Chapter 13 of the Bankruptcy Act, with the United States Bankruptcy Court for

the Western District of Louisiana. [See footnote 1 /](#) In addition, the College had not submitted the financial and compliance audits for award years 1990 - 1992, as required by 34 C.F.R. § 668.23. The New Orleans campus of College has since closed.

The applicable law in this case is abundantly clear -- if a previously designated eligible institution files for bankruptcy, the institution is no longer eligible to participate in the federal student financial assistance programs and, on that basis, ED may terminate its eligibility. 20 U.S.C. § 1088(a)(4)(A), 34 C.F.R. § 600.7(a)(2). *See also, In the Matter of Wheeling College of Hair Design*, Docket No. 95-68-ST, U.S. Dep't of Educ. (Initial Decision, July 31, 1995). It is likewise clear that an institution which fails to timely file its required audits is subject to a termination action and, in such a case, the hearing official must find that termination is warranted. 34 C.F.R. § 668.90(a)(3)(iv). *See also, In the Matter of Putnam Technical Center*, Docket No. 94-155-ST, U.S. Dep't of Educ. (Initial Decision, August 28, 1995).

Consistent with the above, I find that College has filed for bankruptcy and failed to file required audits. As a consequence, I find that SFAP has met its burden of persuading me that the eligibility of College to participate in the Title IV programs should be terminated. In addition to termination of eligibility, SFAP seeks a fine of \$7,250 for the failure to file audits violation. The College is characterized as a small school by SFAP. This is considered a mitigating circumstance when determining whether, and to what extent, a fine should be imposed. *See generally, In re Puerto Rico Technology and Beauty College, and Lemec, Inc.*, Docket No. 90- 34-ST, U.S. Dep't of Educ. (June 11, 1993). In view of the fact that I have simultaneously ordered termination of eligibility, and in the absence of any aggravating circumstances, I find that no fine is appropriate.

On the basis of the foregoing, it is hereby ORDERED that the eligibility of the Art of Beauty College, New Orleans, to participate in the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended, be terminated.

Judge Ernest C. Canellos

Dated: August 31, 1995

SERVICE

On August 31, 1995, a copy of the attached initial decision was sent by certified mail, return receipt requested, to the following:

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Footnote: 1 In a separate case, In the Matter of Art of Beauty College, Docket No. 94-151-ST, U.S. Dep't of Educ. (August 25, 1995), Art of Beauty College, Leesville, Louisiana, also owned by Ms. Ford, was terminated from participating in the Title IV programs based upon the same bankruptcy filing.
