

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

In the Matter of

Docket No. 95-99-SA

IADE AMERICAN SCHOOLS,

Student Financial Assistance Proceeding

Respondent.

ACN: 09-20014

Appearances: Abraham Stofenmacher, President of IADE American Schools of Tarzana, CA, for IADE American Schools.

Stephen M. Kraut, 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 May 19, 1995, the Office of Student Financial Assistance Programs (SFAP) of the United States Department of Education (ED) issued a final audit determination (FAD) finding that from July 1, 1989, through June 30, 1991, IADE American Schools (IADE) disbursed federal student financial assistance funds to students who enrolled in the institution's programs even though the students failed to obtain the minimum cut-off score on the institution's ability- to-benefit test. In addition, SFAP determined that for the period January 1, 1990, to May 31, 1992, IADE's cash management system did not ensure that requests for Pell Grant Program funds were limited to the institution's immediate cash needs. According to the FAD, IADE's conduct was in violation of various program requirements governed by 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.*

P ursuant to 34 C.F.R. Part 668, Subpart H , IADE submitted a request for a hearing challenging the findings of the FAD. On July 26, 1995, I issued an Order Governing Proceedings requiring IADE to file a submission in support of its position within four weeks of its receipt of my order. On December 13, 1995, SFAP filed a Motion For Default Judgment on the ground that IADE failed to comply with my order. On December 14, 1995, in response to SFAP's motion, I ordered IADE to show cause why I should not issue a decision

dismissing its appeal of the FAD and entering judgment against it for failure to prosecute the appeal. I required IADE to respond to my order on or before January 2, 1996. Although most of the offices of the United States Department of Education were closed on January 2, 1996, due to a partial Federal Government shutdown, IADE neither filed a submission responding to my order nor requested an extension of time for filing a submission. Notwithstanding six months have

passed since IADE requested a hearing to challenge the FAD, IADE has not filed any subsequent submission in this proceeding in compliance with my orders.

In accordance with my obligation to regulate the course of this proceeding and the conduct of the parties, I have the authority and the discretion to terminate the hearing process and issue a decision against a party if that party does not meet time limits established pursuant to my orders. *See*, 34 C.F.R. § 668.117(c)(3) . As such, I find that IADE's failure to file submissions in compliance with my orders warrants the termination of this proceeding. More important, after a review of the FAD, I am convinced that the findings contained therein sufficiently state allegations in a manner that would require IADE to carry its burden of proof in this proceeding .[See footnote 1 /](#) IADE's failure to submit evidence supporting its position compels me to find that IADE failed to carry its burden of proof in establishing that the institution's expenditure of Title IV funds during the period at issue was proper.

ORDER

On the basis of the foregoing findings of fact and conclusions of law, it is HEREBY ORDERED that the hearing process initiated pursuant to the institution's request for a hearing is TERMINATED. It is FURTHER ORDERED that in accordance with the Final Audit Determination IADE American Schools pay to the United States Department of Education the sum of \$1,022,981 and reimburse \$435,000 to the appropriate Title IV lenders .

Ernest C. Canellos
Chief Judge

Dated: January 24, 1996
Washington, D.C.

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 In this proceeding, the institution has the burden of proving that the questioned expenditures were proper. 34 C.F.R. § 668.116(d); see also In the Matter of Sinclair Community College, Dkt. No. 89-21-S, U.S. Dep't of Education (September 26, 1991) (Decision of the Secretary).
