

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

In the Matter of

American Samoa Community College,

Respondent.

Docket No. 96-102-SP

Student Financial Assistance Proceeding

PRCN: 199430900053

Appearances:

Papalii Dr. Failautusi Avegalio, President, American Samoa Community College, for Respondent.

Paul G. Freebome, Esq., Office of the General Counsel, United States Department of Education, Washington, D.C., for the Student Financial Assistance Programs.

Before:

Frank K. Krueger, Jr., Administrative Judge.

DECISION

On June 7, 1996, the Student Financial Assistance Programs (SFAP), U.S. Department of Education (ED), issued a final program review determination in this case. By letter dated July 25, 1996, Respondent appealed that determination. On August 23, 1996, I issued an Order Governing Proceeding wherein Respondent, as the party with the burden of proof, see 34 C.F.R. § 668.116(d) (1995), was ordered to file its initial brief and exhibits on or before September 24, 1996. This deadline was ignored. On October 8, 1996, SFAP, through counsel, filed a motion for default judgment, a copy of which was served on the Respondent. On October 10, 1996, I issued an order for Respondent to show cause by October 22, 1996, why SFAP's motion should not be granted. Respondent again ignored my order.

In accordance with my obligation to regulate the course of this proceeding and the conduct of the parties, I have the authority to terminate the hearing process and to issue a decision against a party if that party does not meet time limits established pursuant to my orders. 34 C.F.R. § 668.117(c)(3) (1995). As such, I find that Respondent's failure to file submissions in compliance with my orders warrants the termination of this proceeding. In addition, I have examined the final program review determination and conclude that the findings contained therein sufficiently state allegations that require Respondent to carry its burden of proof in this proceeding. See *In re Sinclair Community College*, 75 Educ. L. Rep. 1296, 1299 (U.S. Dept. of Educ., 1991). Respondent's failure to submit any evidence to rebut the SFAP findings leaves me with no choice but to find that Respondent has failed to carry its burden of proof establishing that the expenditures questioned by SFAP were proper and that it complied with all program requirements.

ORDER

Ordered, that the final program review determination issued by SFAP on June 7, 1996, is affirmed, and that, in accordance with that determination, Respondent is to pay ED \$1,424,693.

Frank K. Krueger, Jr.
Administrative Judge

Dated: November 19, 1996

SERVICE

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

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