

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

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In the Matter of

**Docket No. 96-62-SP**

**AL COLLINS GRAPHIC DESIGN SCHOOL,**  
Respondent.

Student Financial Assistance Proceeding

PRCN: 199510900006

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Appearances:

Ralph H. Vieau, President, Al Collins Graphic Design School, Tempe, Arizona, for Respondent.

S. Dawn Scaniffe, Esq., Office of the General Counsel, United States Department of Education, Washington, D.C., for Student Financial Assistance Programs.

Before:

Frank K. Krueger, Jr., Administrative Judge.

### **DECISION**

The Respondent appealed Finding # 8 of the Final Program Review Determination (FPRD) issued by the Student Financial Assistance Programs (SFAP), U.S. Department of Education (ED), on March 27, 1996. The finding concerns the alleged failure of the Respondent to collect the necessary documentation to verify that Student # 6 was registered with the Selective Service System. SFAP contends that Respondent must return to ED \$1,200.00 in Pell Grant funds disbursed to this student. For the reasons provided below, I agree with SFAP.

### **Discussion and Findings**

Respondent makes no effort to contest the facts as put forth in the FPRD. Student # 6 was required by Federal law to register with the Selective Service System. Student # 6 began his program of study at the Al Collins Graphic Design School on June 8, 1992. On June 20, 1992, Respondent received an Electronic Student Aid Report indicating that the Selective Service System was unable to verify that Student # 6 was registered with the Selective Service System. On August 3, 1992, Student # 6 withdrew from the institution. Sometime in August 1992, Student # 6 signed a statement in the Electronic Student Aid Report certifying that he was registered with the Selective Service System. [See footnote 1<sup>1</sup>](#) Again, sometime between June 8, 1992, when Student # 6 began his program of study, and August 3, 1992, when he withdrew, Respondent awarded \$1,200.00 in Pell funds to Student # 6. [See footnote 2<sup>2</sup>](#)

Under 34 C.F.R. § 668.7(a)(8) (1992), a student is not eligible to receive student financial assistance under Title IV of the Higher Education Act of 1965, as amended, unless the student has filed a Statement of Selective Service Registration Status in accordance with 34 C.F.R. § 668.33 (1992). Under § 668.33 (a)(1), a participating institution may not disburse Title IV funds to any student until such a Statement is filed. The Statement shall certify either that the student is registered with the Selective Service System or that, for a specified reason, the student is not required to register. An institution may waive the requirement that a student file a Statement of Selective Service Registration Status if the institution determines, based on "clear and unambiguous evidence," that the student is not required to register. *Id.* at § 668.33(b). However, any waiver is at the institution's peril since it may be liable for any funds disbursed

if it is ultimately determined that its waiver was “not reasonable in light of all available information.” *Id.* at 668.33(f). Similarly, an institution may disburse assistance to a student who has submitted the required Registration Statement from a student who is required to register with the Selective Service System, but who has not registered, if the institution had information which conflicts with the student's Statement, and acceptance of the Statement “was not reasonable in light of all available information.” *Id.* at 66.33(g).

In the case at hand, Respondent may have disbursed the Pell Grant funds before it received Student # 6's Registration Statement, which would be a clear violation of 34 C.F.R. §§ 668.7(a)(8) and 668.33(a)(1). However, since it is unclear as to when the Pell Funds were actually distributed, and it is unclear as to the exact day in August when Student #6 signed the Registration Statement on the Electronic Student Aid Report, there is the possibility that the Pell funds were distributed after Respondent's receipt of the Statement and before the student withdrew from the institution on August 3, 1992 -- *i.e.* August 2, 1992. Notwithstanding this possibility, Respondent would still be in violation of 34 C.F.R. § 668.33 since, as noted above, § 668.33(g) provides that an institution is liable for any Title IV aid awarded to a student who has submitted a Registration Statement indicating that the student was registered with the Selective Service when the student was not registered and acceptance of the student's Statement was not reasonable in light of the conflicting information in the institution's possession.

Although the Respondent acknowledged that the Selective Service could not confirm the student's registration, its defense is that “data match problems were not unusual during 1992- 93,” and reliance on the student's certification was reasonable. Respondent makes no effort to discuss or define the so-called “data match” problems which are cryptically mentioned in its submission or otherwise offer any evidence in support of its position. In light of the evidence in the record, I find that Respondent's Pell Grant award to Student #6 was unreasonable and in violation of 34 C.F.R. § 66.33 (1992).

### **Order**

ORDERED, that Respondent pay ED \$1,200.00.

July 29, 1996

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Frank K. Krueger, Jr.  
Administrative Judge

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### **S E R V I C E**

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

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*[Footnote: 1](#)<sup>1</sup> The day of Student # 6's signature is unclear (it could be August 2, 3, 21, or 31), but the month and year are clear. See ED Exhibit 2-1.*

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*[Footnote: 2](#)<sup>2</sup> As with the date of the signature on the Electronic Student Aid Report, the record does not reveal the precise date that the Pell funds at issue were disbursed.*