

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

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In the Matter of

**Docket No. 96-79-SP**

**CENTRO de ESTUDIOS  
MULTIDISCIPLINARIOS,**  
PRCN:199430200055

Student Financial  
Assistance Proceeding  
Respondent.

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Appearances: J. Andrew Usera, Esq., of Vienna, Virginia for Centro de Estudios Multidisciplinarios.

Alexandra Gil-Montero, 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 April 23, 1996, the Office of Student Financial Assistance Programs (SFAP) of the United States Department of Education (ED) issued a final program review determination (FPRD) on the results of a program review at Centro de Estudios Multidisciplinarios (CEM), which analyzed the institution's administration of student financial assistance programs authorized under 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.* The FPRD contained two findings: (1) that CEM improperly maintained excess cash balances from funds received from the Federal government, and (2) that CEM failed to make timely refunds of unearned tuition and fees to lenders participating in Title IV loan programs. According to SFAP, CEM paid the liabilities imposed by the FPRD.

On June 26, 1996, CEM filed a request for review challenging the findings of the FPRD. According to CEM, although it does not dispute either finding contained in the FPRD, it maintains that ED owes the institution \$310,910.98 because the institution earned that amount in tuition and fees during the award years at issue, but never has been paid those funds by ED.

Ostensibly, CEM discovered, after completing an audit of its participation in Title IV programs during the award years covered by the FPRD, that it may have disbursed more Title IV funds than it drew down from ED during the 1991/92 through 1994/95 award years. In support of its position, CEM filed voluminous documentation purporting to show that the funds were disbursed to eligible Title IV students.

Since the institution's appeal appeared to raise an issue not covered by the FPRD, I issued an order governing proceedings on July 10, 1996, requiring the parties to address whether the tribunal maintained jurisdiction to decide the question raised by CEM. On the same date, SFAP filed a motion to dismiss CEM's appeal on the basis that it raised an issue for which the tribunal lacked jurisdiction to decide. SFAP's motion was held in abeyance pending my review of the submissions required by my order.

According to CEM, although the challenge it raises is not in direct response to the findings contained in the FPRD, it is still proper for me to maintain jurisdiction over CEM's appeal. In the institution's view, since the FPRD is the result of SFAP's review of the institution's administration of Title IV programs, I should take jurisdiction over the institution's appeal concerning any aspect of the institution's participation in Title IV programs covered during the award years at

issue in the FPRD. According to CEM, my jurisdiction in a Subpart H proceeding is limited only by 34 C.F.R. § 668.111, which restricts the tribunal, from taking jurisdiction over disputes concerning termination and fine actions.

I find the law in this area abundantly clear. It is uncontrovertible that I have limited jurisdiction to adjudicate an institution's appeal of the FPRD. My jurisdiction is circumscribed by the allegations raised in the FPRD. In this respect, I have consistently recognized that my power and authority to conduct a hearing on the merits of the FPRD does not persist beyond the clear and specific allegations presented in the FPRD. An institution's request for a review of the FPRD, without an existing underlying adverse action, is insufficient, by itself, to confer jurisdiction. Consequently, I find that I am without jurisdiction to adjudicate the question presented by CEM's challenge of the FPRD. By this determination, I make no ruling on the merits of CEM's arguments. [See footnote 1](#) \* My task is necessarily limited to deciding whether this action may go forward, and my finding is that it cannot. Accordingly, SFAP's motion to dismiss this action is GRANTED.

## **ORDER**

On the basis of the aforementioned, the above-captioned proceeding is DISMISSED.

SO ORDERED:

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Ernest C. Canellos  
Chief Judge

Dated: August 15, 1996

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## SERVICE

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

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[Footnote: 1](#) \* *Although a Subpart H proceeding is not the proper forum to review CEM ' s position, I am confident that should the institution direct its concerns to the proper SFAP official, those concerns will be given due consideration.*

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