

APPLICATION OF

Docket No. 97-35-R

THE ILLINOIS COUNCIL ON

Recovery of Funds Proceeding

VOCATIONAL EDUCATION,

ACN: 05-53011

Applicant.

INITIAL DECISION

Appearances: None by the applicant

Cathy L. Grimes-Miller, Esq. for the Office of the General Counsel, United States Department of Education

Before: Chief Judge Allan C. Lewis

This is a request for review of a preliminary departmental decision by the Illinois Council on Vocational Education (Illinois). Under the Order Governing Proceedings issued on April 28, 1997, and subsequently reinstated on June 24, 1997, a briefing schedule was established which required, *inter alia*, Illinois to submit its requested findings of fact, any additional documentation to support its requested findings, and a short brief, on or before July 18, 1997. The same order required a similar filing by the Department by August 12, 1997.

On July 1, 1997, counsel for Illinois filed a motion to withdraw as counsel on the basis that Illinois had ceased to exist. This motion was not opposed by the Department. Therefore, on July 21, 1997, the tribunal granted counsel's request. This order, relieving counsel of his duties, was issued some three days after July 18th, the due date for Illinois's submission. Accordingly, Illinois and/or its legal successor in interest failed to comply with the tribunal's Order Governing Proceedings.

The Department filed its submission on August 13, 1997, and argued therein, that Illinois' appeal should be dismissed for its failure to comply with the Order Governing Proceedings. Thereafter, the tribunal issued an Order to Show Cause which required Illinois to file its submission under paragraph 3 of the April 28, 1997 Order Governing Proceedings or else face such sanctions as the tribunal deemed appropriate including the dismissal of its request for review. Illinois' response was due on or before October 8, 1997.

Illinois has not complied with the Order to Show Cause. Accordingly, under the authority of 34 C.F.R. § 81.5(a) (1996), it is HEREBY ORDERED that--

1. The request for review filed by the Illinois Council on Vocational Education is dismissed with prejudice and,
2. Illinois Council on Vocational Education or its legal successor shall pay, in the manner provided by law, to the U.S. Department of Education, the amount of \$11,200.

Allan C. Lewis
Chief Administrative Law Judge

Issued: October 14, 1997

Washington, D.C.