

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

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In the Matter of **Docket No. 98-149-SP**

**CLARK ATLANTA UNIVERSITY,**

Student Financial Assistance Proceeding

Respondent. PRCN: 1997140414104

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Appearances:

Dr. Charles C. Teamer, Vice President for Finance and Administration, Atlanta, Georgia, for Clark Atlanta University

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

Before:

Judge Richard F. O'Hair

**DECISION**

The U.S. Department of Education (Department), Student Financial Assistance Programs (SFAP) performed a program compliance review of Clark Atlanta University's administration of the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA). 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* [See footnote 1\\*](#) On September 21, 1998, SFAP issued a final program review determination (FPRD) for all findings in the program review report, along with the correlating assessments of liability. On November 12, 1998, Clark Atlanta submitted an appeal of the monetary liabilities established in the FPRD. In this correspondence, Clark Atlanta simultaneously conceded the total financial liability as identified in the FPRD, and requested the establishment of a payment plan to repay the balance due the Department and others over a five year period, in semi-annual payments.

In its January 4, 1999, written submission to this tribunal, Clark Atlanta reiterated that while it does not appeal the nature and substance of the findings in the FPRD, "it appeals the amount owed as a result of the findings." Clark Atlanta does not further clarify or elaborate upon this statement, except to describe a number of individual payments it alleges it has made to various groups of students, holders of loans, and the Department, all of which relate to the five principal findings of the program review described in the FPRD. Of these five findings, SFAP agrees that Clark Atlanta has satisfied Findings 2 and 22 by making full payments as directed, and that it has made partial payments on behalf of Findings 4, 6, and 8. For each of these three with remaining liabilities, Clark Atlanta now asks that the FPRD be

amended to provide the institution with an additional twelve months to locate students, identify lenders and make the remaining outstanding payments. Since Clark Atlanta has not contested any of the findings or the specific dollar amounts associated with these three findings when it says it appeals the "amount owed," I assume this means it is appealing SFAP's demand for an immediate full payment, as opposed to Clark Atlanta's request it be given twelve additional months to make the payment.

This administrative proceeding is governed by 34 C.F.R. Part 668, Subpart H, titled "Appeal Procedures for Audit Determinations and Program Review Determinations," and the respondent, Clark Atlanta, has the burden of establishing through the submission of written briefs that the institution complied with program requirements. 34 C.F.R. § 668.116. (1998). Clark Atlanta's written brief does not challenge or otherwise raise any factual or legal objections to the findings of the FPRD; therefore, I must affirm the conclusions and financial liabilities contained in Findings 2, 4, 6, 8, and 22 of the FPRD. 34 C.F.R. § 668.118.

With regard to the payment of these liabilities, Clark Atlanta has described partial payments it has made on behalf of Findings 4, 6, and 8 and asks for a deferment of the remaining liability. SFAP, however, challenges the correctness of some of those payments, stating that it has evaluated Clark Atlanta's payment documentation and finds the institution has overpaid some beneficiaries while underpaying others. In this instance, the burden rests with Clark Atlanta to provide SFAP with documentation to support its position that it has made payments to appropriate persons or institutions. On the issue of a deferment of the payments, SFAP has already made allowances for such a contingency. The standard language found at the conclusion of the FPRD explains that an institution may contact the Department's Accounts Receivable Management Group and apply for a payment plan if it is unable to make full payment on its obligation. Clark Atlanta should avail itself of this opportunity.

#### ORDER

On the basis of the foregoing, it is hereby ORDERED that Findings 2, 4, 6, 8, and 22 of the September 21, 1998, Final Program Review Determination are affirmed and Clark Atlanta University is ordered to pay the liabilities set out therein.

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Judge Richard F. O'Hair

Dated: May 11, 1999

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#### SERVICE

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

Dr. Charles C. Teamer  
Vice President for Finance and Administration &  
Chief Financial Officer  
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[Footnote: 1](#) \* *This review addressed the 1994-95, 1995-96, and 1996-97 award years.*

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