

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

In the Matter of **Docket No. 98-15-ST**

CC'S COSMETOLOGY COLLEGE,

Student Financial Assistance Proceeding

Respondent.

Appearances:

Chiquita Carter, Owner, CC's Cosmetology College, Tulsa, Oklahoma, for Respondent.

Paul G. Freeborne, 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

On November 4, 1997, the Student Financial Assistance Programs (SFAP), U.S. Department of Education, notified Respondent of its intent to terminate Respondent's eligibility to participate in student assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended. [See footnote 1¹](#) The basis for the termination action is SFAP's final determination that Respondent's cohort default rate under the Federal Family Education Loan (FFEL) program for the 1994 fiscal year is 49.3 percent.

By letter dated November 21, 1997, Respondent requested a hearing. As discussed below, the focus of this proceeding is narrow and my discretion is very limited. Thus, the oral presentation of evidence was not necessary and I decided to reach my decision based on the written record as submitted by the parties. SFAP's brief and exhibits were due on March 23, 1998, and were submitted on time. Respondent's brief and exhibits were due on April 13, 1998; this date was extended at Respondent's request to May 11, 1998. When Respondent failed to submit its brief and exhibits as required, SFAP moved for default judgement. On May 19, 1998, Respondent was ordered to show cause by June 2, 1998, as to why SFAP's motion should not be granted. On June 2, 1998, Respondent submitted a letter wherein it is stated that it "must withdraw [its] request for an oral hearing." As noted above, it was never my intention to conduct an oral hearing, but to decide the case on the written record. Respondent's June 2, 1998, letter makes no attempt to show cause as to why SFAP's motion for default judgment should not be granted, but raises several arguments as to why it should not be terminated from the Title IV programs. Accordingly, I treated the June 2, 1998, letter as Respondent's brief. SFAP's motion for default judgment is denied.

Respondent notes that it no longer participates in the FFEL program since it lost its eligibility for that program in

1995; that its actual cohort default rate for 1994 was 40.9 percent but, since it has less than 30 borrowers, its official rate is a three-year average of 49.3 percent; that it serves a large number of economically disadvantaged students; that it provides an essential service to its community; and that it is being held “liable for the sins of others [its defaulting students].” Unfortunately, I have no discretion in this matter. Since SFAP has determined that Respondent's final FFEL cohort default rate for fiscal year 1994 exceeds 40 percent, I am compelled to find that the proposed termination is warranted. *See* 34 C.F.R. §§ 668.17(a)(2) and 668.90(a)(3)(iv)(1997); *see also Palm Beach Beauty & Barber School*, Dkt. No. 97-102-ST, U.S. Dept. of Educ. (Oct. 23, 1997); *Aladdin Beauty College #32*, [See footnote 2²](#) Dkt. No. 97-108-ST, U.S. Dept. of Educ.(Dec. 15, 1997)(on appeal to the Secretary); *Academy for Career Education*, Dkt. No. 97- 124-ST, U.S. Dept. Of Educ. (Feb. 20, 1998)(on appeal to the Secretary); *Delaware County Institute of Training*, Dkt. No. 97-175-ST, U.S. Dept. of Educ. (March 13, 1998); *Jon Louis Schools of Beauty*, Dkt. Nos. 96-108-ST and 97-19-ST, U.S. Dept. of Educ. (April 3, 1998)(on appeal to the Secretary) pp. 15-16; *Trend Beauty College*, Dkt. No. 97-173-ST, U.S. Dept. of Educ. (April 28, 1998); *Michigan Barber School*, Dkt. No. 97-172-ST, U.S. Dept. of Educ. (May 5, 1998); *Avanti Hair Tech*, Dkt. No. 97-179-ST, U.S. Dept. of Educ. (May 21, 1998); and *Interactive Learning Systems*, Dkt. No. 97-169-ST, U.S. Dept. of Educ. (May 21, 1998). Under Section 668.90(a)(3)(iv), Respondent can prevail only if it demonstrates by “clear and convincing evidence” that the cohort default rate is not the final rate, and that the correct rate would result in the institution having a rate of 40 percent or below. Respondent admits that its official FFEL cohort default rate for fiscal year 1994 is 49.3 percent.

FINDING

SFAP made a final determination that Respondent's FFEL cohort default rate for fiscal year 1994 exceeded 40 percent and seeks an order terminating Respondent's eligibility to participate in all programs authorized under Title IV of the Higher Education Act of 1965, as amended.

ORDER

Respondent is terminated from participation in all programs authorized under Title IV of the Higher Education Act, as amended, 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.*

Frank K. Krueger, Jr.
Administrative Judge

Dated: June 4, 1998

SERVICE

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

Paul G. Freeborne, Esq.
Office of the General Counsel
U.S. Department of Education
600 Independence Avenue, S.W.
Washington, D.C. 20202-2110

Ms. Chiquita Carter, Owner
CC's Cosmetology College
11630 E. Twenty-first Street
Tulsa, OK 74129

[Footnote: 1](#) ¹ *The notice incorrectly identified the school as being located at 11630 E. Twenty-first Street, Tulsa, Oklahoma, when in fact the school is located at 206 East Duke, Hugo, Oklahoma. The school was notified of this error by letter dated March 6, 1998.*

[Footnote: 2](#) ² *Misspelled in caption of initial decision as “Alladdin.”*
