

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

In the Matter of **Docket No. 98-21-SP**

TEXAS COLLEGE, Student Financial
Assistance Proceeding
Respondent. PRCN: 199610612279

Appearances: William A. Blakey, Esq., Dean, Blakey & Moskowitz, Washington, D.C., for Texas College.

Stephen M. Kraut, 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

Texas College participates in the various 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.* These programs are administered by the office of Student Financial Assistance Programs (SFAP) of the United States Department of Education. In December 1995, SFAP conducted a program review of Texas College's administration of the Title IV, HEA program funding for the 1992-93 and 1993-94 award years. On January 14, 1998, SFAP issued a Final Program Review Determination (FPRD) alleging that Texas College was liable for three violations. In its brief, SFAP withdrew liability for two of the three findings because Texas College submitted documentation refuting one of the findings and SFAP subsequently discovered that the other finding was not warranted.

SFAP's remaining finding found Texas College liable for failing to verify application information submitted by students who applied for assistance under Title IV, HEA programs during the 1992-93 and 1993-94 award years. After program reviewers discovered errors in eight out of 30 sample student files, Texas College was ordered to perform a full file review to determine which student files should have been verified. The institution did not conduct a full file review; therefore, the FPRD assessed a liability of \$1,169,819. Texas College appealed the FPRD, arguing that although it conceded it had failed to verify student applications at the time of SFAP's site visit, the subsequent Student Aid Reports (SARs) which it submitted to the Department and which it used to reconstruct the students' files were sufficient to establish proper verification of all student applications. Additionally, it claims that the adoption of new internal management procedures and practices will ensure proper verification of Title IV, HEA funding in the future.

Pursuant to 34 C.F.R. § 668.54 (1997), an institution must establish written policies and procedures for verifying information contained in a student aid application. This verification must be conducted at either the prerogative of the Secretary of Education, or because a student application contains "incorrect, missing, illogical, or inconsistent information." 34 C.F.R. §§ 668.54, 668.56 (1997); *Fisk University*, Dkt. No. 94-216-SP, U.S. Dept. of Educ. (Oct. 5, 1995). Documents that include information on adjusted gross income, income tax paid, number of family members, and untaxed income and benefits can satisfy the verification requirement. [See footnote 1](#)* 34 C.F.R. § 668.56 (1997); *Monmouth County Vocational School*, Dkt. No. 94-144-SP, U.S. Dept. of Educ. (April 21, 1995). Additionally, SFAP cannot require an institution to verify more than 30 percent of its applicants for any award year. 20 U.S.C. § 1091(f); *Leonard's Hollywood Beauty School*, Dkt. No. 95-131-SA, U.S. Dept. of Educ. (March 19, 1996).

Texas College has the burden of proving that it complied with the regulation's verification requirement. 34 C.F.R. §

668.116(d) (1997). To satisfy its burden, Texas College submitted Student Aid Reports (SARs) for the students in question for the 1992-93 and 1993-94 award years. However, SFAP is correct in pointing out that the SARs contain the information that needs to be verified, and cannot satisfy the verification requirement by itself. *See The Verification Guide for the Federal Student Financial Aid Programs 1995-96* at 2-1. Consequently, I find that Texas College has failed to meet its burden of proving that its questioned disbursements were proper and that it complied with program requirements. Furthermore, while its commitment to perform all required verifications in the future is commendable, that is not sufficient to absolve the institution for past impropriety. In as much as Texas College could not have been required to verify more than 30 percent of its Title IV applicants for the award years in question, the college's liability is limited to a figure which represents 30 percent of the grants disbursed and 30 percent of the Department's estimated loss under the loan program for the 1992-93 and 1993-94 award years. SFAP has correctly assessed a liability of \$1,169,819 against Texas College.

ORDER

Based on the foregoing, it is hereby ORDERED that Texas College must refund to the U.S. Department of Education the \$1,169,819 requested in the Final Program Review Determination.

Judge Richard F. O'Hair

Dated: July 30, 1998

SERVICE

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

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*Footnote: 1 * Additional examples of acceptable documentation include signed statements, official agency documentation, and IRS letter 1722, Form W-2 or Form 4868. See The Verification Guide for the Federal Student Financial Aid Programs 1995-96 at 2-13.*