

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

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In the Matter of

**Docket No. 98-52-SF**

**LEE COUNTY HIGH TECH CENTER CENTRAL,**

Student Financial Assistance Proceeding

Respondent.

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Appearances:

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

James E. Baker, Esq., School District of Lee County, Fort Myers, Florida, for Lee County High Tech Center Central.

Before:

Frank K. Krueger, Jr., Administrative Judge

**DECISION**

Respondent, Lee County High Tech Center Central, a vocational education center for students sixteen and older, participated in the student assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended. [See footnote 1](#)<sup>1</sup> The Student Financial Assistance Programs (SFAP) alleges that Respondent was late in submitting a Student Status Confirmation Report (SSCR) to the U.S. Department of Education, as required by law. Such reports provide the data base necessary for SFAP to effectively administer the student assistance programs. By letter dated March 3, 1998, SFAP notified Respondent of its intent to fine Respondent \$5,000 for this violation. Respondent appealed the proposed fine, and the parties agreed that the case should be decided on the written record.

SFAP alleges that on August 31, 1997, it sent Respondent an SSCR to complete within thirty days. When Respondent failed to return the SSCR, SFAP sent the school reminder letters on October 6, 1997, October 20, 1997, and October 30, 1997. SFAP alleges that Respondent ignored the letters and failed to submit the report. SFAP's contentions are not supported by any evidence, other than unsigned, undated, unverified form letters which it claims were sent to the Respondent. *See* ED Exhibits 1, 2, and 3. SFAP alleges that it repeated the process described above and on October 31, 1997, it sent Respondent a second SSCR to complete, followed by three additional reminder letters dated December 8, 1997, December 22, 1997, and December 29, 1997. Again, SFAP offers no evidence to support these contentions. Since SFAP allegedly heard nothing from Respondent, on March 3, 1998, it initiated this fine proceeding. On March 11, 1998, Respondent submitted the appropriate SSCR information.

Respondent contends that SFAP's exhibits should be given no weight since they are form letters addressed to "XYZ" college and submitted without any verification that any of the letters were sent to the Respondent. Although Respondent does not deny receiving warning letters from SFAP concerning its alleged failure to submit the SSCR, its Financial Aid Officer, Ms. Charlotte Rae Nicely, in a sworn affidavit, states that Respondent sent SSCRs electronically, as it was urged to do by SFAP, on October 27, 1997, December 15, 1997, January 15, 1998, February 17, 1998, March 5, 1998, March 6, 1998, March 9, 1998, and March 11, 1998. [See footnote 2](#)<sup>2</sup> In addition, Ms. Nicely states that she was in continuous contact with various Department officials whom she names in the affidavit and was assured, at least on one occasion, that Respondent was complying with the SFAP directives concerning the submission of SSCRs. Ms. Nicely states that she never intentionally ignored SFAP's warnings and that she believed the electronically submitted reports had been received. Respondent's Exhibit 2, ¶¶ 6-9.

Based on the evidence submitted by the parties, I conclude that the fine is not warranted. SFAP's allegations are sufficiently rebutted by the affidavits submitted by Respondent. Although SFAP had an opportunity to submit a reply brief, it never filed a reply brief or otherwise made any attempt to rebut Respondent's affidavits. It appears from the evidence that Respondent was urged to submit the SSRC electronically, and that it attempted to do so on several occasions before the information was actually received by the Department. Although Respondent does not deny receiving communication from SFAP that the SSCR data had not been received, it made a good faith attempt to transmit the data which was eventually received by the Department.

**ORDERED**, SFAP's proposed fine, contained in its notice of fine issued on March 3, 1998, is hereby vacated.

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Frank K. Krueger, Jr.  
Administrative Judge

Dated: September 2, 1998

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#### SERVICE

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

Jennifer L. Woodward, Esq.  
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U.S. Department of Education  
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Washington, D.C. 20202-2110

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The School District of Lee County  
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[Footnote: 1](#) <sup>1</sup> *It is not clear from the record whether Respondent currently participates in the Title IV programs, or in which programs it participates or participated.*

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[Footnote: 2](#) <sup>2</sup> *The affidavit also states that SSCRs were transmitted to the Department via Postal Service on November 29, 1996, January 16, 1997, January 31, 1997, April 1, 1997, and August 1, 1997. Respondent's Exhibit 2, ¶ 5. I assume that the SSCRs submitted by mail do not involve the same information which is contained in the SSRC which is the subject of this proceeding, since they were submitted prior to August 31, 1997, the date when SFAP alleges it first sent the SSCR to Respondent and which it failed to return completed to the Department. It appears that the affidavit only*

*mentions these earlier submissions to indicate that it never ignored SFAP's request for information.*

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