

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

In the Matter of

Docket No. 98-68-SP

Mr. D Town and County Beauty College,
Respondent.

Student Financial Assistance Proceeding

PRCN: 199820814924

Appearances: David Kalstrom, Owner, and Betty Lorenz, Administrator, Mr. D Town and Country School, Jamestown, North Dakota, for Respondent.

Lee S. Harris, Esq., Office of the General Counsel, U.S. Department of Education, Washington, D.C., for the Office of Student Financial Assistance Programs.

Before: Frank K. Krueger, Jr., Administrative Judge.

DECISION

The final program review determination in this case was issued by the Office of Student Financial Assistance Programs (SFAP), U.S. Department of Education, on April 13, 1998. SFAP determined that Respondent lost its eligibility to participate in the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended, on April 30, 1997, but failed to submit the required close-out audit. SFAP also determined that Respondent failed to submit required compliance audits for award years 1990/91 through 1997/98. Accordingly, SFAP assessed to Respondent a liability of \$218,704 representing Title IV assistance awarded by Respondent for the years in question. By letter dated April 21, 1998, signed by Ms. Betty Lorenz, Respondent appealed this determination. Between June 1998, and January 2000, the case was stayed, on and off, based on representations made by the Respondent that it was having the required audits prepared. When the required audits were not submitted, SFAP moved to have the briefing schedule reinstated. By order dated February 11, 2000, the briefing schedule was reinstated, and Respondent was ordered to submit its initial brief and exhibits by March 13, 2000. Respondent failed to comply with this order and, on March 21, 2000, SFAP moved for default judgement. Respondent has not filed the required brief or otherwise communicated with this tribunal since the briefing schedule was reinstated.

In accordance with my obligation to regulate the course of this proceeding and the conduct of the parties, I have the authority to terminate the hearing process and to issue a decision against the party if that party does not meet time limits established pursuant to my orders. 34 C.F.R. ' 668.117(c)(3) (1999). As such, I find that Respondent=s failure to file its brief or otherwise respond to my order warrants the termination of this proceeding. In addition, I have examined the final program review determination and conclude that the findings contained therein sufficiently state allegations that require Respondent to prove that the expenditures questioned or disallowed by SFAP were proper and that the Respondent was in compliance with applicable program requirements. 34 C.F.R. ' 668.116(d) (1999); *see Sinclair Community College*, 75 Educ. L. Rep. 1296, 1298-1300 (U.S. Dept. of Educ., 1991). Respondent=s failure to submit any evidence to rebut SFAP=s findings leaves me with no alternative but to find that Respondent has failed to carry its burden of proof.

ORDER

ORDERED, that the final program review determination issued by SFAP on April 13, 1998, is affirmed, and that, in accordance with that determination, Respondent is to pay the U.S. Department of Education \$218,704.

Date: July 14, 2000

Frank K. Krueger, Jr.
Administrative Judge

SERVICE

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

Mr. D Town and Country Beauty College
Attention: Mr. David Kalstrom
P.O. Box 350
Buffalo Mall
Jamestown, N.D. 58402

Lee S. Harris, Esq.
Office of the General Counsel

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