

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

In the Matter of

Docket No. 98-90-SP

NORTHLAND PIONEER COLLEGE,

Student Financial Assistance Proceedings

Respondent. PRCN:199810914664

Appearances:

Gary Passer, President, Northland Pioneer College, Holbrook, Arizona, for Respondent.

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

Before:

Richard F. O'Hair, Administrative Judge

DECISION

On April 17, 1998, the office of Student Financial Assistance Programs (SFAP) of the U.S. Department of Education (Department), through the director of the Case Management Division for the San Francisco Regional Office, issued a final program review determination (FPRD) to the Northland Pioneer College (College). SFAP prepared this FPRD after it concluded that the College was using an ineligible location and an ineligible source of instruction for students to whom it disbursed student financial aid under programs authorized by Title IV of the Higher Education Act of 1965, as amended (Title IV). 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* SFAP sought the recovery of \$149,812 from the College and on May 25, 1998, the institution exercised its appeal rights found in 34 C.F.R., Part 668, Subpart H.

I issued an Order Governing Proceedings on June 24, 1998, in which I ordered the College, as the party with the burden of proof¹, to file its initial brief and exhibits on or before July 22, 1998, and SFAP was to file its initial brief and exhibits on or before August 19, 1998. The College did not file any documents in response to that order, but SFAP filed its brief on August 7, 1998, and simultaneously sent a copy to the College. Pursuant to my obligation to regulate the course of this proceeding, I have the authority to terminate the hearing process and to issue a decision against a party if that party does not meet the time limits established by my orders. 34 C.F.R. § 117(c) (1997). Accordingly, I find that the College's failure to file a brief by the time required warrants the termination of this hearing process and the issuance of a decision.

SFAP presented evidence in its FPRD that the College, which has a district headquarters located at Holbrook, Arizona, and a number of campuses, was providing an educational program to some of its students at an extension unit of the College located at Sanders, Arizona, that was not an eligible location for Title IV program purposes. [See footnote 2²](#) Additionally, there is evidence that the entire educational program offered at Sanders was provided by another organization, Vocational Building Skills (VBS), which was not an eligible institution under Title IV. [See footnote 3³](#) Based on these findings, SFAP required the College to supply it with a list of students who received Title IV program funds for attending the educational program provided at the Sanders location and the amount of those funds received for school years 1994-95, 1995-96, 1996-97, and 1997-98. This listing discloses that the College disbursed \$149,812 in Title IV program funds to these students, and the FPRD required the College to repay this amount to the respective Title IV fund accounts.

Although the College did not respond to my Order Governing Proceedings, I have considered matters it brought to the attention of SFAP in its May 25, 1998, request for a review by the Secretary of Education of the FPRD findings. In that correspondence the College describes a number of factors which mitigate, but do not refute, the FPRD. Included in these are affirmations by the College that the content and structure of the programs offered at the Sanders location have been approved, through delegation, by the Arizona Community College Board, and all instructors are certified by the state. Additionally, the College explains that its accrediting body is aware of, and has accredited, the academic programs at Sanders; the College also highlights the very favorable course completion and job placement rates for its graduates at this location. The College boasts it has been rewarded for its compliance with Title IV requirements by the fact that in its three most recent Title IV compliance audits there has been only one finding of a violation for each year, and none of these were material findings. The College concludes by recognizing it erred in this matter, but in consideration of the fact that these funds were distributed to some very needy students who were enrolled in a high quality program, it requests a voluntary fine be substituted for SFAP's present demand for repayment.

I am convinced that the findings contained in the FPRD sufficiently state allegations in a manner that demonstrate a *prima facie* showing that the College failed to comply with Title IV requirements. The College's submission contemporaneous with its May 25, 1998, appeal of the FPRD, while describing the value of training provided at the questioned extension unit, fails to meet its burden of persuasion that the Title IV funds which were disbursed at Sanders were given to students enrolled at an eligible location and that the educational program was provided by an eligible organization.

ORDER

On the basis of the foregoing, it is hereby ORDERED that the final program review determination issued by the Department on April 17, 1998, is affirmed and Northland Pioneer College is further ORDERED to remit \$149,812 to the United States Department of Education.

Judge Richard F. O'Hair

Dated: September 15, 1998

SERVICE

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

Gary L. Passer

President
Northland Pioneer College
103 First Avenue at Hopi Drive
Holbrook, AZ 86025-2996

Stephen M. Kraut, Esq.
Office of the General Counsel
U.S. Department of Education
600 Independence Avenue, S.W.
Washington, D.C. 20202-2110

[Footnote: 1](#) ¹ 34 C.F.R. § 668.116(d) (1997)

[Footnote: 2](#) ² 34 C.F.R. § 668.7(a) (1994); 34 C.F.R. § 668.32(a)(1)(i) (1996); 34 C.F.R. § 600.10(b)(1) (1994).

[Footnote: 3](#) ³ 34 C.F.R. § 600.9(b)(3) (1994).
