

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

In the Matter of

Docket No. 99-65-SP

COLLEGE of HAIR DESIGN,

Student Financial
Assistance Proceeding
PRCN: 199920716184

Respondent.

Appearances: Alyce M. Howard, President, Lincoln, Nebraska, for College of Hair Design.

Renée S. Orleans, Esq., Office of the General Counsel, United States Department of Education,
Washington, D.C., for Office of Student Financial Assistance Programs.

Before: Judge Richard F. O'Hair

DECISION

College of Hair Design (Respondent) is a participant in the student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. ' 1070 *et seq.* (Title IV). In this proceeding, Respondent is challenging the findings of a review of its administration of the Title IV programs for the period covering July 1, 1996, to June 30, 1998, which was conducted by the Office of Student Financial Assistance Programs (OSFAP), U.S. Department of Education. The findings of this program review are contained in a Final Program Review Determination (FPRD) which OSFAP issued on August 17, 1999. Respondent is appealing Finding Nos. 4 and 5 and the accompanying demand for repayment of \$11,029 in Title IV funds OSFAP alleges it improperly approved for disbursement. Respondent and OSFAP have submitted evidence relevant to the issues before me and after reviewing same I find Respondent has failed to meet its burden of proving that the questioned disbursements were correct.

In Finding No. 4, OSFAP determined that Respondent was unable to verify the correctness of documentary information submitted by student #11 which Respondent used to calculate the student=s Expected Family Contribution. For this finding, OSFAP made a demand for repayment of \$2470 in Pell Grant Funds and \$4809 for Federal Stafford Loan Program* funds which were provided to this student. Through the verification process, ED can request participating institutions to verify that documentation submitted by students to support applications for Title IV aid is correct. 34 C.F.R. ' 668, Subpart E. If an applicant fails to provide the requested documentation, the applicant forfeits the Pell Grant for that year, and the institution may not continue to disburse Title IV funds to that student and must return to the lender any loan proceeds that would otherwise be payable. 34 C.F.R. ' 668.60. The institution has the ultimate responsibility for ensuring reimbursement to the appropriate program account or student lender for any Title IV funds improperly disbursed because of a failure to verify. 34 C.F.R. ' 668.61. Respondent acknowledged it was unable

to obtain the necessary verification for student #11, despite its efforts to do so. Respondent was unable to meet its burden of proving that its disbursements to this student were proper. Therefore, Respondent must return \$2470 to the Pell Grant account and must repay \$4809 to the Stafford loan lender.

Finding No. 5 addresses Unsubsidized Stafford Loan Program funds which Respondent certified for students in excess of the maximum annual limits set out by regulation. For loans disbursed after July 1, 1994, a student who has successfully completed his first undergraduate year of study, but has not completed the second year of an undergraduate program, may obtain an Subsidized Stafford loan of up to \$3500 for a program that is at least an academic year in length. If the program is less than a full academic year, the maximum amount that can be borrowed during the second year is prorated against \$3500. 34 C.F.R. ' 682.204(a). If a student needs to borrow funds in excess of either of these maximums, the student may borrow additional amounts under the Unsubsidized Stafford Loan Program. A student who has not completed the first and second year of a program may not borrow more than \$4000 for a program that is a full academic year in length and \$2500 for a program that is at least two-thirds, but less than a full, academic year in length. There is no prorating under this section. 34 C.F.R. ' 682.204(d).

In this case, Respondent enrolled its students in a 2100 clock hour program of study which was spread out over two years; Respondent defined its academic year as one consisting of 1200 clock hours. The first academic year for this program consisted of 1200 clock hours, leaving the student with only 900 clock hours to complete during the second academic year. This 900 clock hour block program's length is at least two-thirds but less than a full academic year in length, so Respondent could certify Unsubsidized Stafford loans for these student up to a maximum of \$2500. 34 C.F.R. ' 682.204(d)(1)(ii). OSFAP identified eight students for whom excess Stafford loans were certified by Respondent. Respondent conceded two of the loans were excessive and has paid the liabilities for those two students. Further, Respondent has conceded partial liability for students, Jill B. and Stacey W., but has not paid these amounts. Five of the six students in dispute here, including Jill B. and Stacey W., were enrolled in a 2100 clock hour program of study and had completed the first academic year of 1200 clock hours. During their second academic year they completed the balance of 900 clock hours and it is the loans Respondent certified for this partial academic year that are contested. Rather than limit the Unsubsidized Stafford loan certifications to \$2500 as required by regulation, Respondent mistakenly determined that since this 900 clock year program represented 75% of an academic year, the students were eligible for 75% of a full academic year's worth of Unsubsidized Stafford loan funds, thus certifying a maximum loan amount of \$3000 (75% x \$4000). As is noted above, prorating is appropriate for only the Subsidized Stafford loans, not the unsubsidized loans. Therefore, Respondent certified excess figures for these five students totaling \$2875 as OSFAP calculated in its FPRD.

For the sixth student, William S., Respondent claims that during his second year he was enrolled in the last 1050 clock hours of a 2100 clock hour course and that 1050 clock hours comprises an academic year. Additionally, Respondent maintains that during the period of this program review, the Ainstitution changed the policy regarding hours in an academic year. @ Apparently this remark is intended to mean it reduced the number of clock hours in a full academic year from 1200 to 1050. Based upon this reasoning, Respondent awarded the student a \$3500 Unsubsidized Stafford loan for his second year of the program. Respondent submitted no evidence to support the proposition that the length of its academic year had been reduced to 1050 clock hours. Accordingly, OSFAP rightfully assumed that Respondent's academic year continued to be 1200 clock hours and that as a second year student, William S. was actually enrolled in the 900 clock hour program, similar to the one the students mentioned above completed. Citing 34 C.F.R. ' 682.204 (a)(2)(ii), which refers to Subsidized, not Unsubsidized, Stafford loans, OSFAP determined that the maximum amount of William S.'s Unsubsidized Stafford loan should have been 75% of \$3500, or \$2625, and that this resulted in an \$875 liability for Respondent. The tribunal questions whether OSFAP's conclusion as to the amount of the Unsubsidized Stafford loan is correct and whether the loan maximum should have been determined by applying 34 C.F.R. ' 682.204 (d)(1)(ii). This would have resulted in a maximum loan of \$2500, yielding a \$1000 liability to Respondent. In either case, Respondent certified an excessive Unsubsidized Stafford loan for William S. Assuming I am correct that the loan should have been no more than \$2500, the maximum amount of Respondent's liability for this finding is limited by the amount set out in the FPRD. Accordingly, I find that Respondent certified a loan for this student in excess of the amount authorized by regulation and concur with OSFAP's demand for \$875. This amount, combined with the excess loans discussed above, raises Respondent's liability for excess Unsubsidized Stafford Loan Program loans to \$3750.

ORDER

On the basis of the foregoing, it is hereby ORDERED that Respondent must return \$2470 to the Pell Grant account and must repay \$8559 to the Stafford Loan Program lenders.

Judge Richard F. O'Hair

Dated: March 1, 2000

SERVICE

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

Alyce M. Howard
President
College of Hair Design
304 South 11th
Lincoln, NE 68508

Renée S. Orleans, Esq.
Office of the General Counsel
U.S. Department of Education
400 Maryland Avenue, S.W.
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*Original liability for this student's Stafford loan funds was \$5625, but this amount has been reduced to \$4809 by previous payments from Respondent.