

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

In the Matter of

Docket No. 00-34-SP

Otsego Area School of Practical Nursing,

Student Financial
Assistance Proceeding

Respondent.

Appearances: Brian D. Burns, School Attorney, Otsego Northern Catskills Board of Cooperative Education, Oneonta, New York, for Respondent.

Alexandra Sweeney, 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

On April 3, 2000, the Office of Student Financial Assistance Programs (SFAP), U.S. Department of Education, issued a final program review determination in this case. By letter dated May 16, 2000, Respondent, through counsel, appealed SFAP=s determinations regarding students # 16 and # 22.

On June 22, 2000, I issued an Order Governing Proceeding wherein Respondent, as the party with the burden of proof, *see* 34 C.F.R. ' 668.116(d) (1999), was ordered to file its initial brief and exhibits by July 24, 2000. No documents were filed by the Respondent in response to that order. On August 7, 2000, SFAP filed a Motion for Termination of Proceedings and Entry of Judgement Against Respondent. On August 8, 2000, I issued an order for Respondent to show cause by September 7, 2000, as to why SFAP=s motion should not be granted. The Order to Show Cause was sent to Respondent by certified mail, return receipt requested. The return receipt indicates that Respondent received the Order to Show Cause on August 11, 2000. Respondent has filed no documents or otherwise responded to the Order to Show Cause.

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 frames established pursuant to my orders. 34 C.F.R. ' 668.117(c)(3) (1999). As such, I find that Respondent=s failure to file submissions in compliance with my orders warrants termination of this proceeding. In addition, I have examined SFAP=s findings concerning students # 16 and # 22 of the final program review determination and conclude that the findings sufficiently state allegations that require Respondent to carry its burden of proof. *See Sinclair Community College*, 75 Ed. Law Rep. 1296 (U.S. Dept. of Educ., 1991). Respondent=s failure to submit any evidence to rebut the SFAP findings leaves me with no alternative but to find that Respondent has failed to carry its burden of proof

establishing that the expenditures questioned by SFAP were proper and that it complied with all program requirements.

ORDERED, that SFAP=s findings concerning students # 16 and # 22, contained in the final program review determination issued on April 3, 2000, is affirmed.

Dated: September 14, 2000

Frank K. Krueger, Jr.
Administrative Judge

SERVICE

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

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