

UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202

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In the Matter of

**Docket No. 01-21-SA**

**ARMSTRONG ATLANTIC**

**STATE UNIVERSITY,**

Student Financial

Assistance Proceeding  
ACN: 04-1999-08478

Respondent.

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Appearances: Dr. William L. Megathlin, Armstrong Atlantic State University, Savannah, GA, 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 I. Slippen, Administrative Judge

**DECISION**

On May 4, 2001, Armstrong Atlantic State University (AASU) appealed the U.S. Department of Education's

(Department) Office of Student Financial Assistance's (SFAP) Final Audit Determination (FAD) dated March 29, 2001. The FAD charged that AASU violated the institutional eligibility requirements of Title IV of the Higher Education Act of 1965, as amended (Title IV), 20 U.S.C. § 1070 *et seq.*<sup>[1]</sup>

Finding No. 2 of the FAD alleges that AASU failed to conduct refund calculations for students who unofficially withdrew from the institution. Finding No. 2 notes that AASU lacked a system to identify students who unofficially withdrew from all of his or her classes or who did not attend any classes for a term. AASU was required to review the files of all Title IV recipients for the 1998-1999 academic year and identify student recipients who could not be confirmed as attending a term for which Title IV aid was disbursed, or who unofficially dropped from the school but did not receive a refund. According to the requested file review, AASU identified 41 students for whom Title IV funds should have been returned.

In its submission, AASU acknowledged owing \$14,009, for its failure to make refunds or its retention of overpayments. However, AASU argued that the Department was asking for information that went back three years and involved off-campus classes. AASU asserts that for some of the students at issue, the institution could not contact the instructors because they were no longer on AASU's staff. AASU states that it consequently could not confirm or deny if these students had or had not attended class. Since AASU could not establish the students' attendance or lack thereof, it asks that the liability for these students be excluded.

SFAP argues that AASU's failure to have a system in place to identify unofficial withdrawals resulted in the institution's failure to identify those students who were owed a refund, and for those students whose Title IV payments constituted overpayments. For the 41 students identified in the file review, SFAP calculated that \$27,274 in liability was owed to the Department. For the portion owed to lenders from Federal subsidized and unsubsidized Loans, the FAD instructed that AASU pay \$10,430.00 in subsidized loan liabilities and \$6,268.00 in unsubsidized loan liabilities. For the Federal Pell Grant and Federal Supplemental Educational Opportunity Grant (SEOG) liabilities, AASU was instructed to pay the Department \$10,276.00 and \$300.00, respectively.

An institution may pay Title IV funds to a student up to 10 days before the first day of class for an academic term. 34 C.F.R. § 668.164(f).<sup>[2]</sup> However, if an institution cannot document that a student attended one day of classes in that term, any Title IV disbursement is considered to be an overpayment. 34 C.F.R. §§ 668.21, 668.22(f), and 682.604(d)(4). An institution must return the entire disbursement if the funding sources are the Pell Grant and/or the SEOG programs. 34 C.F.R. § 668.21. An institution is required to refund federal student loan disbursements if these disbursements were used to pay institutional charges. 34 C.F.R. §§ 668.21 and 682.604(d)(4). If a Title IV recipient drops out of an institution and is owed a refund, the institution must credit that refund, or a portion of it, to the Title IV programs. 34 C.F.R. § 668.22(g) (1998). I find that AASU violated Title IV requirements by failing to make refunds and/or retaining overpayments for the 41 students at issue.

AASU admittedly did not refund Title IV money owed and retained overpayments for the 41 students it identified in its file review. In fact, AASU conceded \$14,009.00 of the liability assessed in the FAD. AASU's only argument to defray the remaining liability is its inability to confirm the status of some of the students at issue. AASU offers several excuses for its failure. AASU asserts that because the information on these students goes back three years, involved off-campus classes, and that these students' instructors could not be contacted, the liability should be excluded.

Under 34 C.F.R. § 668.116(d), AASU bears the burden of proving that the questioned expenditures were properly disbursed. AASU has not presented any evidence demonstrating that the remaining \$13,265.00 of liability assessed in the FAD should be withdrawn. AASU has an obligation to establish and maintain Title IV program records in its disbursement of federal funds. 34 C.F.R. §§ 668.24(a), (b), and (c). In fact, AASU is required to retain records relating to its administration of the Title IV programs for three years after the end of the award year at issue. 34 C.F.R. § 668.24(e). Therefore, AASU should have had the records relating to the remaining students at issue. AASU's excuses for not being able to confirm or refute the withdrawal of its students do not absolve it from liability. Therefore, AASU's request for a reduction in the resulting liability is rejected and the total \$27,274 in liability assessed in the FAD is upheld.

### **ORDER**

On the basis of the foregoing, it is hereby ORDERED that Armstrong Atlantic State University pay to the U.S. Department of Education the sum of \$10,576.00 and return to the lender(s) or current loan holders the sum of \$16,698.00.

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Judge Richard I. Slippen

Dated: January 9, 2002

### **SERVICE**

A copy of the attached document was sent by facsimile to the following:

Dr. William L. Megathlin,

Dean

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[\[1\]](#) There is only one finding at issue in AASU's appeal of the FAD (Finding No. 2).

[\[2\]](#) All regulatory citations are to the 1998 Code of Federal Regulations.