

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

In the Matter of

Docket No. 03-16-SP

**ROSWELL BEAUTY COLLEGE OF
COSMETOLOGY ARTS & SCIENCES,**

Student Financial
Assistance Proceeding

Respondent.

PRCN: 2000140618836

Appearances: Dorris Coppinger, First Advisors & Associates, Midlothian, TX, for Respondent.

Steven Z. Finley, 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

Roswell Beauty College of Cosmetology Arts & Sciences (Roswell) operates as a proprietary institution of higher education in Roswell, New Mexico. The school participates in the federal student financial assistance programs authorized under 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. § 2752 *et seq.* On December 24, 2002, the U.S. Department of Education, office of Federal Student Aid (FSA), issued a final program review determination (FPRD) covering the 1998-1999, 1999-2000, and 2000-2001, award years. The FPRD contained numerous allegations, not all of which alleged liability.

The only findings at issue in this proceeding are the ones to which liability is attached. Namely, these are the following findings: failure to adequately develop a satisfactory academic progress policy (Finding # 4), failure to correct income information on its fiscal operations report (FISAP) (Finding # 7), failure to meet Federal Work Study community service jobs requirement (Finding # 11), incorrect cost of attendance used to calculate students' loan eligibility (Finding # 12), failure to publish and apply a return of Title IV funds policy (Finding # 15), failure to verify students who were selected for verification (Finding # 17), improper disbursement of Pell Grant funds (Finding # 20), incorrect Pell Grant calculation (Finding # 21), inaccurate recordkeeping (Finding # 22), inconsistent information in student files (Finding # 24), refund calculations not performed (Finding # 25), inadequate method used for calculating refunds (Finding # 26), incorrect refund calculations (Finding # 27), untimely refunds made to Title IV account (Finding # 28), missing federal Direct Loan applications (Finding # 32), improper Direct Loan certifications (Finding # 33), Direct Loan disbursements attributed to incorrect or unattended payment period (Finding # 34), Direct Loan

disbursements after student withdrawals (Finding # 35), failure to meet ability- to-benefit testing requirements (Finding # 38), and failure to document independent student status (Finding # 40). Liability for all Title IV funds received during the program review period was attached to several findings.^[1] The FPRD states that Roswell had not completed file reviews as required for these findings. Total liability assessed in the FPRD was \$580,489.

The procedural history of the above-captioned proceeding is convoluted. On March 14, 2003, I issued my original Order Governing Proceedings setting forth a briefing schedule. During the next few months, Roswell requested and was granted eight extensions. On April 7, 2003, Roswell said it was in the process of reconstructing data specific to the FPRD. On April 23, 2003, Roswell's representative requested an extension for personal reasons. On May 13, 2003, Roswell's representative again requested an extension for personal reasons. On May 28, 2003, Roswell's representative requested another extension for person reasons. On June 17, 2003, Roswell filed a letter stating that the appeal documents had been completed, but that it had difficulty finding a source for duplicating the large number of documents and the documents were in the process of being duplicated. On June 25, 2993, Roswell requested an extension while the documents were being duplicated. On July 7, 2003, Roswell requested an extension because a computer failure created "a dilemma in accessing the data for printing purposes." On July 24, 2003, Roswell requested an extension for the same reasons articulated in its July 7, 2003, motion.

On July 25, 2003, FSA filed a motion opposing any additional extensions and for entry of a default judgment. On August 5, 2003, I issued an Order Re Further Proceedings granting Roswell one final extension and setting forth a new briefing schedule. FSA's Motion for Default Judgment was tabled with the proviso that I would reconsider the motion if Roswell failed to meet its filing deadline. In my August 5, 2003, order, Roswell's brief and exhibits were due on August 19, 2003. Roswell did not file a brief. On August 27, 2003, I issued a show cause order as to why I should not issue a default judgment in this proceeding. Roswell had until September 3, 2003, to respond. Roswell did not respond. On August 27, 2003, a FedEx shipment was received from Roswell. The box contained some volumes of documents with no explanation as to what these documents were or why they were being submitted. Most importantly, Roswell did not submit either a brief or an explanation as to why it failed to comply with my previous orders.^[2]

In a Subpart H proceeding, the tribunal must determine whether the institution has met its burden of proof showing that the Title IV expenditures questioned in the FPRD were disbursed properly. 34 C.F.R. § 668.116(d). Roswell has failed to submit a brief and exhibits regarding its expenditure of Title IV funds. Accordingly, I find that Roswell failed to meet its burden in demonstrating that it properly expended Title IV funds for the award years at issue. Further, after a review of the FPRD, I am convinced that the findings contained therein sufficiently state allegations in a manner that would require Roswell to carry its burden of proof in this proceeding. 34 C.F.R. § 668.116(d).

In accordance with my obligation to regulate the course of this proceeding and the conduct of the parties, I have the authority and the discretion to terminate the hearing process and issue a decision against the institution if it fails to pursue its administrative appeal. *See* 34 C.F.R. § 668.117(c)(3); *In re Page Antelope Valley School*, Docket No. 01-12-SA, U.S. Dep't of Educ. (October 5, 2001). As such, I find that Roswell's failure to file a brief as well as its failure to show cause as to why it did not file a brief warrants the termination of this proceeding. Therefore, the FPRD is affirmed and the liability upheld

ORDER

On the basis of the foregoing, it is hereby ORDERED that Roswell Beauty Academy of Cosmetology Arts and Sciences pay to U.S. Department of Education the sum of \$580,489.

Dated: September 15, 2003

SERVICE

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

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[\[1\]](#) These are findings 4, 15, 24, 25, 26, 27, 28, and 38. Liability for all Direct loan funds received was assessed for findings 32 through 35.

[\[2\]](#) Roswell's representative was informed by telephone that this box of documents was rejected.