



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

In the Matter of

CSC INSTITUTE,

Respondent.

Docket No. 05-02-EA

Student Financial
Assistance Proceeding

Appearances: Arthur R. Shuman, Esq., Gerald M. Ritzert, Esq., and Steven M. Gombos, Esq.,
for CSC Institute

Jennifer L. Woodward, Esq., and Russell B. Wolff, Office of the General
Counsel, United States Department of Education, Washington, D.C., for Office of
Federal Student Aid.

Before: Richard F. O'Hair, Administrative Judge

DECISION

CSC Institute (CSC) headquartered in Philadelphia, Pennsylvania, is a proprietary school that participates in various student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended Title IV, HEA). 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* By notice dated January 5, 2005, the office of Federal Student Aid (FSA), of the U.S. Department of Education (ED), imposed an emergency action against CSC in accordance with the provisions of 20 U.S.C. § 1094 (c)(1)(G) and 34 C.F.R. § 668.83. The emergency action served to inform CSC that, as of that date, ED was withholding funds from CSC and its students and withdrawing CSC's authority to obligate funds under Title IV. CSC requested an opportunity to show cause why the emergency action is unwarranted. Pursuant to the Delegation of Authority from the Secretary of Education to conduct a show cause proceeding, I conducted a hearing in Philadelphia from January 25 to January 27, 2005.

Mary Gust, the Director of FSA's Administrative Actions and Appeals Division in this

case signed the emergency action notice. It informed CSC that this emergency action was based on four separate allegations: CSC submitted false information to support refund calculations for students #1 to #25 students who had withdrawn from CSC prior to July 15, 2005, or not attended at all; it made disbursements to student #26 who was enrolled in an ineligible program; it submitted reimbursement requests supported with false information for students #27 to #31 who had withdrawn from their program at the school; and, for students # 32 and #33 it directed the students to submit false data to render them eligible for Title IV funds, or to increase their eligibility.

Pursuant to 34 C.F.R. § 668.83(c), an emergency action should be upheld if: 1) there is reliable information that the institution violated any provision of the HEA; 2) immediate action is necessary to prevent misuse of federal funds; and 3) the likelihood of financial loss from the misuse of funds outweighs the importance of awaiting completion of any proceeding to limit, suspend, or terminate the institution's eligibility to participate in the programs. Additionally, in a show cause proceeding the institution has the burden of persuading me that the emergency action is unwarranted because the grounds stated in the notice did not or no longer exist, or the grounds will not cause loss or misuse of Title IV funds, or that the institution will use procedures that will reliably eliminate the risk of loss from the misuse described in the notice. See 34 C.F.R. § 668.83(e)(4).

The initial evidence to support this emergency action was obtained on July 5, 2005, when, pursuant to a warrant, ED's Office of Inspector General (OIG) conducted a search of one of CSC's three locations and seized multiple school records, including all of its 5,318 student files. One of the hurdles CSC has faced in this proceeding was that all of its student files remain in the possession of government authorities and CSC did not receive even an index of the locations of its files in the respective 192 boxes until immediately prior to the hearing. In the absence of these records, CSC attempted to reconstruct its files to support reimbursement requests and refund calculations submitted to ED.

At the inception of the show cause hearing, FSA presented no evidence other than the emergency action notification signed by Ms. Gust, and an accompanying letter indicating FSA was withdrawing from my consideration, the allegations of misconduct for student #s 2, 9, 11, 14, 15, 17, 21, and 25. FSA had previously notified the tribunal it was not proceeding with student #s 1, 3, and 4, thus reducing the number of allegations of CSC misconduct from 33 to 22. Thereafter, CSC presented evidence from its third party servicer, a private investigator, and several of CSC's employees, administrators, and teachers to rebut the allegations in the letter of notification. FSA responded with declarations from some of the students it was able to contact, or from relatives of the students who were in a position to know about the students' contacts with CSC. It must be recognized that most of these declarations were obtained within the last couple weeks, anywhere from six to nine months after the students ceased attending CSC and, therefore, the declarants' memories may be somewhat vague or uncertain. Upon examination of these presentations, I have arrived at the following conclusions with respect to the above allegations:

Students #5 and #6 enrolled in CSC in May 2004, but never attended any classes. A

representative from CSC visited them in November and had them complete Withdrawal Forms. They did not indicate on the forms that they dropped out on 8/1/04; someone else wrote that date on the forms after they left the students' presence. CSC was not entitled to disbursements of Pell Grant funds for these students in June 2004.

Student #7 enrolled in CSC in February 2004, but only attended one class. She did not have a high school diploma, a GED certificate, and CSC did require her to take an ability to benefit test. A representative from CSC visited her in November and had her complete a Withdrawal Form. She did not indicate on the form that she withdrew on 8/15/04; someone else wrote that date on the form after they left the student's presence. The February and June 2004 disbursements were improper because the student was not eligible for federal student aid.

Student #8 enrolled in CSC in February 2004, but only attended one class. In November 2004 a representative from CSC visited her and had her complete a Withdrawal Form and directed her to list 7/15/04 as the withdrawal date, although she knew it was false. Therefore, CSC was eligible for only a portion of the first Pell Grant disbursement, but none of the second disbursement made on June 14, 2004.

Student #10 enrolled in CSC in February 2004, but only attended one-half of a class. In November 2004 a representative from CSC visited him and had him complete a Withdrawal Form and directed him to list 7/1/04 as the withdrawal date, although he knew it was false. Therefore, CSC was eligible for only a portion of the first Pell Grant disbursement, but none of the second disbursement made on June 14, 2004.

Students #12 and #13 enrolled in CSC in December 2003, but only attended a few classes in January 2004. A former classmate gave them Withdrawal Forms to sign and return to CSC. They did this, leaving the date of withdrawal blank. Someone at CSC included a withdrawal date of 7/16/04 and this is incorrect. CSC was eligible for a portion of the first Pell Grant disbursements, but none of the May disbursements.

Student #16 enrolled in CSC in January 2004, but dropped out of school in late March or early April. In late October or early November two people who said they worked for CSC came to her and asked her to sign a Withdrawal Form and date it 7/17/04. She did this although she knew that was not the correct withdrawal date. Therefore, it was improper for CSC to make a second disbursement of Pell Grant funds on 5/7/04, well after the student stopped attending classes.

Students #18 and #19 enrolled in CSC in March 2004, but only attended a couple of classes. On the students' last day they attended class they informed someone at CSC that they were withdrawing. CSC would have been eligible to receive a portion of the first Pell Grant disbursement it received, but not any of the second disbursement.

Student #20 attended classes at CSC in May 2004 for only three weeks. CSC is entitled to only a portion of the Pell Grant disbursement in July 2004.

Student #22 enrolled in CSC in April 2004 and continued to attend classes until July 12, 2004. CSC appropriately lists her withdrawal date as July 13, 2004. CSC is entitled to a portion of the Pell Grant disbursement and has submitted refund documentation to cover this.

Student #23's enrollment form with CSC indicates she was enrolled in the nine-month-long Medical Officer Assistant program, but she was enrolled only in the three month long Medical Billing and Coding program which has insufficient hours to qualify as an eligible program. She completed the program during the first week of June, therefore, the Withdrawal Form she signed, leaving the date blank, but which now shows 7/19/04, is false. Additionally documentation in the file showing she made five cash tuition payments, and the five cash receipt forms are all false. Additionally, the two Pell Grant disbursements in February and June 2004 were improper.

Student #24 enrolled in CSC in March 2004 and completed the program. He was not an eligible recipient of a Pell Grant because he already had a baccalaureate degree. He completed only a portion of the Free Application for Federal Student Aid (FAFSA); someone else must have completed and signed it, falsely indicating that he did not have a baccalaureate degree. Both Pell Grant disbursements were improper.

Student #26's enrollment form with CSC indicates she was enrolled in the nine-month-long Medical Officer Assistant program, but she was enrolled only in the three month long Medical Billing and Coding program which has insufficient hours to qualify as an eligible program. Both Pell Grant disbursements were improper. The student indicated she attended classes from June 14, 2004, until September 17, 2004, a fact that contradicts a form CSC submitted in a reimbursement request to ED showing she was in attendance in October 2004.

Students #27 to #31 all enrolled in CSC, but did not complete the full program. Despite this, CSC sought reimbursement for federal funds for dates they knew, or should have known, were after the students' enrollment had ceased.

Student #33 was directed by an employee of CSC to provide false data on two separate FAFSAs with respect to the number of dependents living with, and being supported by, her. She was also directed to falsely list the names of two nieces on the Verification Worksheet. These falsehoods improperly increased her eligibility for federal student aid.

Subsequent to the July 15 search and seizure, CSC submitted a number of packages of documents to FSA that supported their attempts to return refunds to ED for students who withdrew from CSC prior to completing their program of study. CSC admitted there might be errors in these computations because in many instances they were based on reconstructed school records which in turn relied upon sometimes faulty memories. However, this did not vindicate CSC because not only were many of them significantly late (should have been submitted within 30 days of the withdrawal of the student) but also they were based on false documentation. The relatively high number of these false submissions, and the significant nature of their falsity, cause them to exceed the boundaries of what one might reasonably label as innocent

administrative mistakes.

There is sufficient evidence before the tribunal in the form of the letter of notification to CSC and the testimony and exhibits presented during FSA's rebuttal to demonstrate a *prima facie* showing that as of January 5, 2005, CSC: 1) submitted false information and documentation to ED to support reimbursement requests and, 2) improperly retained federal student aid funds it received for enrolled students who either never attended CSC or attended for a much shorter period of time than CSC's submissions reflect. It also either directed students to submit false data on their student enrollment and federal student aid applications, or made false entries on behalf of the students. I find that these acts are clear violations of the Higher Education Act and implementing regulations. I further find that CSC has failed to meet its burden of persuasion to convince me that these acts of misconduct did not exist, that this conduct will not cause a loss or misuse of Title IV funds, or that there are any procedures in existence that will eliminate the risk of loss or misuse of these funds.

ORDER

On the basis of the foregoing, it is hereby **ORDERED** that the emergency action imposed against CSC Institute is **AFFIRMED**.

Judge Richard F. O'Hair

Dated: February 8, 2005

SERVICE

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

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