



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

In the Matter of

Docket No. 07-63-SA

HARRISON CAREER INSTITUTE,

Federal Student Aid
Proceeding

Respondent.

ACN: 02-2007-71806

Appearances: Fred Fitchett, of Cherry Hill, New Jersey, for Harrison Career Institute.

Denise Morelli, Esq., 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

Harrison Career Institute (Harrison) participated in the various federal student aid programs authorized under Title IV of the Higher Education Act of 1965 (Title IV), 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* The Office of Federal Student Aid (FSA) of the United States Department of Education (Department) administers these programs. On October 5, 2007, FSA issued a Final Audit Determination assessing a liability of \$984,162 on Harrison for allegedly failing to submit a closeout audit for its Vineland campus. The liability includes all Title IV funds Harrison received from the date of its last audit on January 1, 2006, until the date the Vineland campus closed. On November 15, 2007, Harrison timely appealed FSA's determination.

According to FSA, an institutional review specialist visited the Vineland location on May 31, 2007, and discovered that the school was closed. On June 4, 2007, FSA sent a letter to Harrison reminding it of its responsibility to complete a closeout audit in accordance with its program participation agreement. Harrison responded on June 27, 2007, stating that the school had not closed. FSA sent a letter on July 12, 2007, requesting that Harrison provide documentation on all current students to prove that Harrison's Vineland location remained open.

Harrison did not respond to the July 12th letter and FSA considers the Vineland location closed effective May 31, 2007.

Harrison presents arguments that are largely identical to those it raised in a recent case before this tribunal dealing with Harrison's failure to submit closeout audits for three other Harrison locations. See *In the Matter of Harrison Career Institute*, Dkt. No. 07-55-SA, U.S. Dep't of Educ. (May 18, 2008). First, it asserts that it is financially unable to conduct the closeout audit because the Department is withholding funds owed to it under the Heightened Cash Monitoring 2 (HCM2) program. Harrison next maintains that it does not have access to its financial aid records that are needed to conduct the audit because these records have been "intentionally and maliciously withheld" by the Department. It explained that in 2005, the Department executed a search warrant and seized all of its financial aid records. Harrison argues that these documents are necessary to conduct the closeout audit. Harrison further contends that this proceeding should be temporarily set aside until a decision is made on a pending appeal of an earlier adverse ruling in a termination case before another tribunal in the Office of Hearings and Appeals. Harrison also presents a number of discovery requests.

As in the earlier closeout audit case before this tribunal, FSA describes Harrison's arguments as "frivolous excuses" that do not relieve Harrison of its legal obligations under its program participation agreement. FSA also asserts that this tribunal does not have jurisdiction to address whether the Department owes Harrison money under the HCM2 program because it is outside the scope of these proceedings. Similarly, FSA points out that under 34 C.F.R. § 668.117(b) this tribunal is specifically prohibited from ordering discovery. FSA rejects Harrison's argument to hold this case in abeyance until a ruling is made on Harrison's appeal of the termination case because the cases involve distinct issues and laws. FSA also points out that the Department's seizure of financial aid records in 2005 should not affect the preparation of Harrison's closeout audit, since the period of the closeout audit runs from January 1, 2006, to the date of the school's closure. FSA argues that Harrison has possession of all files that are necessary to complete the closeout audit.

The only new issue raised by Harrison in this proceeding is its argument that the Vineland campus was still open when it received the June 4, 2007, closeout audit reminder from FSA. Harrison asserts that rulings made by the judge in the pending termination case involving Harrison are contrary to FSA's determination that the school was closed by May 31, 2007. Harrison also submitted letters of correspondence with a certified public accountant that discuss a planned closeout audit of the Vineland location that list a closeout date of October 5, 2007.

FSA refutes this argument, citing visits to the Vineland campus made by an institutional review specialist from the Philadelphia regional office and an agent from the Department's Office of the Inspector General, on May 31, 2007, August 30, 2007, October 19, 2007, and November 2, 2007. Affidavits and notes from these officials indicate that on each of these occasions they found the school closed, as evidenced by locked doors, no lights on in the building, and overgrown and neglected grounds. FSA also provides evidence that the utilities at the Vineland location were shut off in April 2007. FSA points out that Harrison did not respond

to its July 12th letter requesting proof that the school remained operational, and that Harrison has not provided any affirmative evidence that the school was, in fact, open beyond May 31, 2007. Finally, FSA demonstrates that the two motions previously ruled upon by the judge in the termination case held that there is a factual dispute between the parties regarding the date of closure. The rulings did not make a determination on the issue of whether the school was open.

Both 34 C.F.R. § 668.26(b)(2)(ii) and the program participation agreement that Harrison entered into with the Department require that it submit to the Secretary of Education a letter of engagement for an independent audit of all Title IV funds received since the most recent compliance audit. This letter is required within 45 days of the school's closure, followed by a completed closeout audit within 45 days of the letter of engagement. If a school does not complete a closeout audit, or otherwise account for the funds, it is liable for all federal student aid funds received since its most recent compliance audit. *See In the Matter of Stenotopia Business School*, Dkt. No. 01-26-SP, U.S. Dep't of Educ. (July 31, 2002).

Harrison has not met its burden of proving, by means of a closeout audit, that it properly expended the Title IV funds the Vineland campus received between January 1, 2006, and the date the school ceased to provide educational services. 34 C.F.R. § 668.116(d). Harrison has also failed to provide evidence that the school was open beyond the date alleged by the Department. Even assuming, for the sake of argument, that Harrison was open until its argued date of closure in October 2007, a closeout audit was still required within 90 days. To date, there is no evidence that a closeout audit has been performed or submitted to FSA. Harrison's other arguments are identical to those presented in the recent case regarding the failure to provide a closeout audit for Harrison's other main locations, and, as in the earlier action, these arguments are unable to provide Harrison with relief in this case. *See In the Matter of Harrison Career Institute*, Dkt. No. 07-55-SA, U.S. Dep't of Educ. (May 15, 2008).

ORDER

On the basis of the foregoing, it is hereby **ORDERED** that Harrison Career Institute pay \$984,162 to the U.S. Department of Education.

Judge Richard F. O'Hair

Dated: July 9, 2008

SERVICE

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

Fred Fitchett
800 N. Kings Highway
Suite 100
Cherry Hill, NJ 08043

Denise Morelli, Esq.
Office of the General Counsel
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202-2110