



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

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In the Matter of

**Docket No. 09-63-SA**

**SNEAD STATE COMMUNITY COLLEGE,**

Federal Student Aid  
Proceeding

Respondent.

ACN: 04-2008-910217

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Appearances: Dr. Robert J. Exley, President, for Snead State Community College.

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

Before: Judge Ernest C. Canellos

**DECISION**

Snead State Community College (Snead State) is a public institution of higher education located in Boaz, Alabama. It participates in the various federal student aid programs governed by 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. 2751 *et seq.* Within the U.S. Department of Education (ED), the office of Federal Student Aid (FSA) is the organization that administers these programs.

Pursuant to 34 C.F.R. § 668.23, an institution that participates in Title IV programs, must submit annually to the Secretary a compliance audit and audited financial statements no later than six months after the last day of the institution's fiscal year. Snead State's annual audit report for the October 1, 2007 thru September 30, 2008, fiscal year was prepared by the State of Alabama Department of Examiners and Public Accountants and issued on June 12, 2009. This audit report included two adverse findings. First the audit determined that Snead State was not properly calculating students' satisfactory academic progress, in violation of 34 C.F.R § 668.16(e). As a consequence, some students were disbursed Title IV aid prior to the date on which they were entitled to that aid. Second, the audit determined that Snead State was inconsistent in how it established the dates of student withdrawals, thereby resulting in instances of an incorrect calculation of the return of Title IV funds to ED.

On July 7, 2009, FSA requested that Snead State provide spread sheets detailing the students involved in each of the findings and an itemization of the amount of Title IV aid each such student improperly received. The audit report and Snead State's inputs were reviewed by FSA and in a Final Audit Determination (FAD), issued on October 13, 2009, FSA demanded that \$134,797.00, be returned to ED. On December 3, 2009, Snead State's president requested a hearing to challenge the findings of the FAD and, once assigned the case, I issued an order to commence the hearing process.

After a number of extensions, the parties submitted their respective pleadings. Significantly, Snead State only offers as a defense that it has amended its program so as to prevent like errors from occurring in the future. While noteworthy, the correction of a problem that resulted in the erroneous payment of Title IV aid does not act as a defense to a demand for the return of such funds to ED. Snead State offered no probative evidence that tended to dispute the findings detailed in the audit report and, in fact, did not even mention the second finding in its submission.

It is well established that in Subpart H -- audit and program review -- proceedings, the Respondent has the burden of proving by a preponderance of the evidence, that Title IV funds it received were lawfully disbursed. 34 C.F.R. §668.116(d). If a respondent institution fails to establish the correctness of its expenditure of federal education funds, it must return all such funds to ED. The record is clear -- Snead State has not presented any evidence to rebut the findings in the FAD. In fact, after filing its appeal, it has provided absolutely no evidentiary matter to comply with its commitments in this case. In summary, I am convinced that the findings contained in the FAD sufficiently state allegations in a manner that demonstrate the existence of a *prima facie* showing that the institution failed to comply with Title IV program requirements. Consistent with the record before me, I find that Snead State has failed to meet its burden of establishing that its expenditures of Title IV funds, as enumerated in the FAD, were correct. Therefore, Snead State owes \$134,797.00 in Title IV liability.

### **ORDER**

On the basis of the foregoing findings of fact and conclusions of law, it is HEREBY ORDERED that Snead State Community College, pay to the United States Department of Education the sum of **\$134,797.00**, in the manner as required by law.

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Ernest C. Canellos  
Chief Judge

Dated: July 16, 2010

SERVICE

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

Dr. Robert J. Exley, President  
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