



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

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In the Matter of

**Docket No. 12-32-SA**

**CENTRAL STATE UNIVERSITY,**  
Respondent.

Federal Student Aid  
Proceeding

ACN: 05-2010-112359

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Appearances: Leigh Manasevit, Esq., Bonnie Little, Esq., and Erin Auerbach, Esq. of Brustein & Manasevit, PLLC, Washington, D.C. for Central State University.

Jennifer L. Woodward, 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**

Central State University (CSU) was a participant in the 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 March 26, 2012, FSA issued a Final Audit Determination (FAD) assessing a liability of \$1,369,917.64 against CSU. This assessment was based upon a finding of a number of violations of the governing regulations as a result of FSA's review of CSU's single audit report of its expenditure of Title IV funds for the period covering July 1, 2009, through June 30, 2010. FSA has reduced the amount of the liability to \$591,597.97 because of evidence CSU submitted after the FAD was issued. This final liability consists of \$64,993.41 for uncontested Finding 10-3, and \$526,604.56 for contested Finding 10-1. CSU has appealed the factual conclusions in Finding 10-1, but not the actual liability conclusion.

Institutions participating in the Title IV programs must demonstrate they are capable of properly administering the Title IV programs. 34 C.F.R. § 668.16. In their capacity as a fiduciary of these federal funds, they owe the Department the highest standard of care and diligence to ensure the proper and efficient administration of these programs. 34 C.F.R. § 668.82(b). The institution also must comply with all Title IV statutory and regulatory requirements. 34 C.F.R. § 668.16(a). As this applies to the eligibility to receive Title IV funds, an institution must accurately compute a student's expected family contribution (EFC). 34 C.F.R. § 690.2. During this process, when an institution receives conflicting information for a student, or has any reason to believe the information is incorrect, the institution must resolve the discrepant information prior to disbursing this Title IV aid. 34 C.F.R. §§ 668.16(f) and 668.54(a)(3).

Of the several audit violations in this FAD, CSU is challenging only Finding 10-1, a finding in which the reviewers discovered inconsistencies among information included on the Institutional Student Information Report (ISIR), supporting documentation, and the verification worksheet. The audit report noted these violations because CSU's auditors identified verification errors for eight students out of a sample of 60. FSA labeled this a high error rate and required CSU to complete a file review of all Title IV recipients selected for verification for the 2009-2010 fiscal year. FSA selected 313 students for CSU to verify out of a student population of 1703. FSA gave CSU the opportunity to conduct the verification and collect and submit any additional, required documentation that was missing and perform any additional need analysis calculations. At the conclusion of the verification of this sample file review, FSA concluded that 36 of those student samples were ineligible to receive funds for that award year. CSU subsequently supplied additional exhibits to corroborate the propriety of student EFC calculations, and the final number of students for which FSA maintains CSU has failed to properly eliminate verification errors is 14. Consequently, CSU has the burden of proving by a preponderance of the evidence in this proceeding that those 14 students were eligible recipients. 34 C.F.R. § 668.11(d).

The computation of an EFC requires the institution to examine and verify information such as the student's household size, number of household family members in college, adjusted gross income, U.S. taxes paid, certain types of untaxed income and benefits, and other untaxed income included on their tax return. 34 C.F.R. § 668.56. CSU asserts that it has verified the documentation submitted in all 14 files in dispute here and has eliminated all discrepancies. In its presentation here, CSU has combined the challenged FAD findings into four categories: 1) Unsigned Tax Documents, 2) Incorrect Verification Worksheet, 3) Unsigned Verification Worksheet, and 4) Unresolved Conflicting Information.

Unsigned Tax Documents. Students applying for Title IV aid must submit a signed copy of the student's or parent's tax return, 34 C.F.R. § 668.57(a)(1), to verify their adjusted gross income for the year. If a signed tax return is not available the student may submit an alternative IRS form. However, this alternative must be signed unless the IRS sent it directly to the school. 34 C.F.R. § 668.57(a); Federal Student Aid Handbook, pg. AVG-89. The files for students #117, #142, #186, and #287 contain unsigned tax returns and no signed alternative IRS forms. CSU offered no evidence for # 142; however, for #117 and #186, CSU admits its verification procedures could have been more stringent, but argues there is sufficient evidence in the file to

establish the students' eligibility. For #287, CSU submits that there is a signed tax return in the file. FSA points out that this signed tax return indicates the student was "married filing separately" and CSU failed to submit a copy of the spouse's return. For this group of students, I find CSU has failed to present the required signed tax documents. Therefore, CSU has failed to properly perform verification for these four students.

Incorrect Verification Worksheet. At the time of its application for Title IV aid, student #53 provided EFC data on a 2008-2009 verification worksheet, rather than using a 2009-2010 award year version of the form. CSU argues the student and parents provided information for the correct years, including 2008 tax returns and household size for 2009-2010. It says the information on the worksheet is consistent with the ISIR and 2008 tax return and that even though the wrong worksheet was used, the data on it is correct. FSA counters by pointing out that there were three discrepancies between the worksheet and other documents in the file which address the Earned Income Credit, Additional Child Tax Credit, and Education Tax Credit. CSU did not submit any explanations from the student regarding these items, thus these inconsistencies have not been satisfactorily resolved. I find CSU has not properly performed verification for this student.

Unsigned Verification Worksheets. For student # 248, CSU challenges this violation by pointing out that it has submitted a worksheet signed by the student and in that document the student is identified as independent, thus obviating the need for a worksheet signed by a parent. FSA responds that the worksheet was based on the first of six ISIR's this student submitted, which listed him as an independent student, but that the last three identify the student as being a dependent student. An institution must recompute the EFC each time there is a change in a student's application information. 34 C.F.R. § 668.59(a)(1). The final ISIR, which lists him as being a dependent student, contained several items which needed to be verified and the worksheet needed to be signed by the parent. 34 C.F.R. §§ 668.57(b) and (c). CSU did not submit any relevant, credible evidence to support its conclusion.

For students #160 and #251, CSU suggests that, although the parents' signatures were not included, the worksheets are consistent with information provided in the ISIRs and tax forms. CSU admits its verification procedures could have been more stringent, but argues there is sufficient evidence in the file to establish student eligibility. There is no question that a parent's signature is required by 34 C.F.R. §§ 668.57(b), (c), and (d)(3)(1). I find verification was not properly performed for these three students.

Unresolved Conflicting Information. For student #29 the FAD found there was an unresolved issue of the amount of the parent's income. The ambiguity arises because the amounts of income attributable to the parents. It could be interpreted as being either \$2900 for the year, or \$34,700. If it were the latter amount, then the parent would have been required to file a tax return, but the file did not contain such a return. Additionally, the student failed to complete the verification worksheet, and there was no evidence in the file to explain this discrepancy. If the correct income level was \$2900, CSU should have verified how this family of four with two in college could have subsisted on that amount. *See In the Matter of Ednet Career Institute*, Dkt. No. 07-41-SP, U.S. Dep't of Educ. (Nov. 12, 2010) (Decision of the Secretary). This conflict should have been resolved; since it was not, I find verification was not

properly performed for this student.

For student #70, the FAD found the student failed to check a box on the verification worksheet indicating it would not, and was not required to, file an income tax return. Even though the student was listed as a dependent on her mother's return, and a copy of that return was submitted, the question remains whether the student had income at a level which required the student to file a return. This absence of information should have been resolved by CSU; therefore, I find verification was not properly performed for this student.

For student #88, the conflict for this student was a statement from the father indicating he received unemployment insurance payments in 2008, but the ISIR does not indicate the receipt of this or any other income; and the father filed no tax return for 2008. The relatively low amount of unemployment benefits (the maximum in the student's home state of Ohio for 2012 for this family of two would have been \$485 per week, or \$5820 per year), and the inference that the father earned less than \$11,500 for the year (the minimum amount of income requiring the filing of a federal tax return), raises the issue of how this family of two, with one in college, could survive. CSU did not resolve this issue, saying it was unsure what further verification it should have conducted. I find that CSU had an obligation to further pursue this. It did not, thus I find verification was not properly performed for this student.

For student #159, the FAD found unresolved conflicting information in that the ISIR reported no income for the student or parents, there are five members in her family, and two of them are in college. For student #252, the FAD found a similar conflict in that the student was dependent, there were five members in the household, her parents had no reportable income other than \$3400 in social security benefits, and the student reported income of \$6531. These scenarios oblige an institution to resolve how such families with apparently no or minimal income can survive. It is quite possible other sources of income are present, but they need to be identified. CSU asserts it is not impossible to survive on little or no reportable income, and it also argues it is not required to verify untaxed income and benefits, citing the FSA Handbook at page AVG 90. Despite this position, I adhere to my earlier conclusions that CSU has an obligation to explore how a family can subsist on such a low level of income. Accordingly, I find verification was not performed for these two students.

For student #245, the FAD found conflicting information in the verification worksheet where the student said he supported a child, but listed no income. CSU says he later corrected the worksheet and indicated he received assistance from his family to support the child. Now CSU asserts that the student is independent because the student was in legal guardianship; and it argues it has no obligation to document a claim of independence. As CSU has not submitted any evidence to support this position, CSU has not resolved this discrepancy. I find verification was not properly performed for this student.

After reviewing the submissions, I endorse the findings of the FAD as they apply to the above 14 students. CSU has failed to satisfy its burden of proving it properly verified information submitted by these students on their ISIR's and other documentation. Accordingly, I find CSU liable for the amounts sought by the Department.

**ORDER**

On the basis of the foregoing, it is hereby **ORDERED** that Central State University pay \$591,597.97 to the U.S. Department of Education.

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Judge Richard F. O'Hair

Dated: April 15, 2013

**SERVICE**

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

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