



UNITED STATES DEPARTMENT OF EDUCATION  
WASHINGTON, D.C. 202027

---

In the Matter of

**Docket No. 16-17-SA**

**ANN MARIE'S WORLD OF BEAUTY  
SCHOOL (NY)**

Federal Student Aid Proceeding

ACN: 02-2015-51370

Respondent

---

**DECISION**

By letter dated April 1, 2016, AnnMarie DiOrio, owner of Ann Marie's World of Beauty School (NY) (AMWBS) filed a written Request for Review in the above-styled proceeding. AMWBS did not submit a close-out audit for the period from July 1, 2013 to January 14, 2015. As a result, the Department issued a liability for Federal Pell Grant proceeds of \$12,167.00 (including interest). AMWBS challenged the findings presented in a Final Audit Determination, dated February 9, 2016, issued by the U.S. Department of Education, Federal Student Aid (FSA) office. The Determination imposes a liability on AMWBS to repay \$12,167.00 to the U.S. Department of Education in obligations for Pell Grant awards and interest. AMWBS's review request was filed pursuant to 34 C.F.R. § 668.113 (a). The appeal procedures for these proceedings are set forth in 34 C.F.R. Part 668, Subpart H.

AMWBS has the burden of proof in this proceeding. *See* 34 C.F.R. § 668.116 (d). On April 27, 2016, an Order Governing Proceedings was issued directing AMWBS to file its brief and supporting evidence by May 31, 2016. AMWBS requested an extension of time. The request, which was unopposed, was granted in an order dated June 3, 2016. The order gave AMWBS until August 1, 2016 to file its initial brief.

AMWBS failed to file its brief by the August 1, 2016 deadline, and on August 31, 2016, the Department filed a motion for a default judgment based on AMWBS's failure to comply with the order's deadline. To be certain AMWBS was given every opportunity to file, the motion was ordered passed and AMWBS was given until September 20, 2016 to file its initial brief. That deadline also passed without AMWBS filing its brief.

The Department then renewed its motion for a default judgment, and an order was entered both directing AMWBS to show cause why the proceedings should not be terminated and the record submitted for a decision, and giving AMWBS one final opportunity to respond by

November 2, 2016. The show cause order was served by certified mail to the address provided by AMWBS. Because AMWBS has not provided any filing, the administrative record in this appeal is ordered closed. The Respondent has abandoned its appeal.

34 C.F.R. §668.117(c)(3) provides in relevant part that:

The hearing official shall take whatever measures are appropriate to expedite the proceedings. These measures may include terminating the hearing process and issuing a decision against a party if that party does not meet time limits established by the hearing official.

Because AMWBS failed to provide its brief and supporting evidence, this decision must be based on a review of the administrative record as it exists. The record shows the liability for this appeal is based on AMWBS's failure to provide a close-out audit, which has resulted in a \$12,167.00 liability.

34 C.F.R. § 668.82 imposes a fiduciary obligation on a participating institution for administration of Title IV, HEA programs. That obligation requires the highest standard of care and diligence administering the program and accounting to the Department for funds it receives under the program. The Final Audit Determination notes that AMWBS ceased participating in Title IV programs on January 14, 2015. Under 34 C.F.R. § 668.26(b)(ii), AMWBS was required to have a close-out audit performed and the resulting report filed with the Department within 90 days after it ceased participating in the program. As of the date of this decision, this Tribunal has been provided no evidence indicating that the Department has received the close-out audit. AMWBS has not shown it provided a close-out audit, and, therefore, AMWBS has failed to account for the Title IV, HEA funds it received during the unaudited period from July 1, 2013 to January 14, 2015. Because no close-out audit was submitted, the Department has identified as liabilities all the Title IV funds AMWBS received during the period. The amount due to the Department is \$12,167.00, including interest.

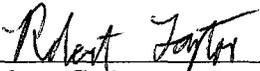
AMWBS indicated that it needed more time to hire an attorney to represent it in this appeal, repeatedly indicated more time was needed, alleged (without any substantiating evidence) that the Department's figures were incorrect, and argued that this liability should be covered by an unidentified insurance source. All of these indications and arguments were not part of any filing, but were included in emails sent to individuals at OHA.

The record above reflects that AMWBS has been given a more than reasonable period of time to comply with the Order Governing Proceedings and to submit evidence in support of its appeal. AMWBS has failed to submit any evidence. Under 34 C.F.R. § 668.116(d), AMWBS has the burden of proof, but has not filed its brief or evidence in this proceeding. AMWBS has failed to meet its burden of proof.

### **ORDER**

On the basis of the above findings, it is ordered that AMWBS pay to the U.S. Department

of Education the sum of \$12,167.00, including interest, as demanded in the Final Audit Determination.

  
\_\_\_\_\_  
Robert G. Layton  
Judge

**Dated: December 29, 2016**

**SERVICE**

This order has been sent to:

Ms. Ann Marie I. Diorio, President  
Ann Marie's World of Beauty School  
243 Park Avenue  
Binghamton, NY 13903

(sent via USPS certified mail and via email scan with delivery receipt to:  
[myapartment123@aol.com](mailto:myapartment123@aol.com))

And to:

Angela Sierra, Esq.  
Attorney  
Office of the General Counsel  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, DC 20202

(sent via email scan with delivery receipt to: [angela.sierra@ed.gov](mailto:angela.sierra@ed.gov) )