



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

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*In the Matter of*  
Payne-Pulliam School  
of Trade and Commerce

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Docket No. 91-33-ST  
Student Financial  
Assistance Proceeding

**Order Affirming Decision of the ALJ**

On November 17, 1992, Payne-Pulliam School of Trade and Commerce (Payne-Pulliam) filed its notice of appeal of the decision of Administrative Law Judge Allan C. Lewis (ALJ) dated October 23, 1992. On November 17, 1992, the Secretary issued an Order Establishing Briefing Schedule, which directed Payne-Pulliam to file its appeal brief on or before December 18, 1992. Payne-Pulliam failed to comply. On January 6, 1993, Payne-Pulliam filed a request for extension of time to file its appeal brief stating that the Secretary's order had been "misplaced."

On January 12, 1993, the Office of Student Financial Assistance, U.S. Department of Education (OSFA) filed its pleading for Affirmance of Administrative Law Judge Decision and Opposition to Extension Request in opposition to Payne-Pulliam's motion. In its pleading, OSFA argues that Payne-Pulliam filed its motion for an extension three weeks after the filing deadline had expired and administrative error is insufficient grounds to warrant an extension of time; therefore, the Secretary should deny Payne-Pulliam's motion and affirm the decision of the ALJ.

The Secretary is reluctant to allow minor procedural deficiencies to prevent any issue to be heard on its merits. However, the failure of Payne-Pulliam to comply with the order of the Secretary establishing briefing deadlines is not minor and cannot be ignored. Filing deadlines are necessary to provide for the orderly disposition of issues appealed to the Secretary. Allowing Payne-Pulliam to ignore the filing deadline based upon simple administrative error would establish a precedent which would undermine the effectiveness of the administrative appeals process and the finality of future orders of the Secretary.

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Payne-Pulliam's position is further weakened by the fact that the decision of the ALJ fined Payne-Pulliam for failure to submit, when due, a biennial non-Federal audit for the years 1988 and 1989 as required by regulation. At this juncture, Payne-Pulliam should clearly have been on notice of the importance of time limitations.

Therefore, Payne-Pulliam's request for an extension of time is denied; and, OSFA motion for affirmance of the ALJ's decision is granted. The ALJ's decision issued October 23, 1992, is the final decision of the Department.

So ordered this 15th day of January , 1993.

Lamar Alexander  
Lamar Alexander

Washington, DC

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Service List

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