



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

In the Matter of
SOUTHEASTERN UNIVERSITY,

Docket Number 93-61-SA
Student Financial Assistance
Proceeding

Respondent

DECISION OF THE SECRETARY

This matter comes before the Secretary on appeal by Southeastern University (Southeastern) of the Decision on Remand issued by the administrative judge (AJ) on October 6, 1995. Based upon a March 31, 1993, final audit determination (FAD) and submissions related thereto, the AJ concluded Southeastern, in certain instances, violated Title IV of the Higher Education Act of 1965, as amended, (Title IV) by, among other things, failing to establish the eligibility of various students. AJ's Decision on Remand (AJ's Dec.) at 6. Accordingly, the AJ ordered Southeastern to remit to the United States Department of Education (Department) \$49,074 in Pell Grants and \$51,143.19 in Stafford and Supplemental loans.¹ *Id.*

Southeastern timely filed an appeal and the Department's Office of Student Financial Assistance Programs (SFAP), a timely opposition to appeal, on November 9, 1995, and January 11, 1996,² respectively. Southeastern asks the Secretary to overturn the Decision on Remand, in part, and reject the aforementioned liability. Respondent Southeastern Appeal to the Secretary (Appeal) at 25. By contrast, SFAP asks that the Decision on Remand be affirmed. Response of SFAP (Response) at 8. For the reasons outlined below, I reverse the Decision on Remand, in part.

¹Initially, Southeastern was ordered to remit \$51,670 in disallowed grants and \$98,616 in disallowed loans. *In the Matter of Southeastern University*, Dkt. No. 93-61-SA, U.S. Dept. of Ed., (Initial Decision, June 22, 1994).

²The partial shutdown of the federal government on December 18, 1995, delayed the filing of SFAP's opposition.

DISCUSSION

The specific facts are set forth in my previous decision, dated May 15, 1995. In that decision, I affirmed certain findings of the tribunal below, while setting aside that portion of the tribunal's decision pertaining to the submission of alternative documents as they related to student eligibility and the cost of student attendance. In the Matter of Southeastern University, Dkt. No. 93-61-SA, U.S. Dept. of Ed., (Secretary's Decision, May 15, 1995) at 4. I then instructed the tribunal below to explain its reasons for rejecting Southeastern's submissions, or accept them as dispositive of student eligibility. *Id.* at 3. The AJ followed my instructions and rendered his rulings in the October 6, 1995, Decision on Remand.

In general, I agree with the AJ. However, I take issue with his ruling regarding the missing financial needs documentation of two students identified in Southeastern's appeal on pages sixteen and seventeen. Briefly, the AJ concluded that the lack of parental information in the files of these students rendered the documentation therein incomplete, thereby disqualifying the students from Title IV. AJ Dec. at 4; see also Appeal at 16-17.

In its appeal, Southeastern argues the above ruling is erroneous because the disputed students were classified as independent students and, as such, were not required to submit parental information.³ Appeal at 16-17. According to Southeastern, the students' independent status stems from one having dependents other than a spouse and the other being older than twenty-four years as of the award date. *Id.* Southeastern claims the students' Financial Aid Form Need Analysis Reports (FAFNARs) and Student Aid Reports (SARs) substantiate its argument. *Id.*

Although SFAP does not directly address Southeastern's contention, it insists that, generally, the accuracy of the documents found in the files of various students was "questionable" due to numerous informational omissions. Response at 7. SFAP reminds the Secretary that Southeastern carries the burden of persuasion in this proceeding and, given the aforementioned omissions, SFAP argues the school does not satisfy that burden. *Id.* I agree that Southeastern does carry the foregoing burden.

However, I conclude that Southeastern did satisfy its burden of persuasion for this particular issue. Students, who either have dependents other than a spouse or are twenty-four years old or older as of the award year, are considered independent and not required to provide parental information. 20 U.S.C. § 1087vv(d)(1)(A), (2)(E) (1991). Southeastern did submit into evidence the FAFNARs and SARs of the disputed students; both of which clearly

³Southeastern's attempt to apply the same argument to a third student identified on page twenty-one of its appeal is rejected.

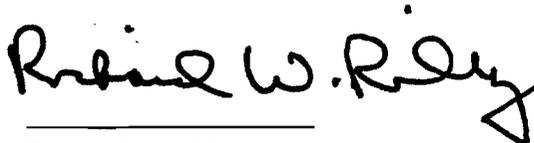
indicated that the students met the foregoing conditions. Thus, the students were not obligated to provide parental information to the school. I, therefore, reverse this portion of the Decision on Remand, and rule that the disputed students were eligible for Title IV assistance.

Accordingly, Southeastern is relieved of that amount of liability attributed to the aforementioned students. All other aspects of the Decision on Remand are hereby affirmed.

ORDER

I hereby order Southeastern to remit \$49,074 in ineligible grants and \$51,143.19 in ineligible loans, less the amounts attributable to the students mentioned herein.

So ordered this 8th day of February 1996.

A handwritten signature in black ink that reads "Richard W. Riley". The signature is written in a cursive style with a large, stylized "R" and "W".

Richard W. Riley

Washington, D.C.

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