



THE SECRETARY OF EDUCATION
WASHINGTON, D.C. 20202

In the Matter of

**AMBASSADOR BEAUTY
COLLEGE**

Respondent.

Docket No. 97-22-ST
Student Financial
Assistance Proceeding

DECISION OF THE SECRETARY

Ambassador Beauty College (Ambassador), is a proprietary, postsecondary vocational school located in Burbank, California. This school originated as a result of a partnership Eugene Milew and Mark Schwind formed on September 10, 1982. On January 31, 1997, the office of Student Financial Assistance Programs (SFAP) of the U.S. Department of Education (Department) issued a notice of intent to terminate Ambassador's eligibility to participate in the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA). 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.* An emergency action followed the termination notification on January 3, 1997. Following a hearing, on April 15, 1997, the emergency action was revoked. Respondent appealed the termination action and oral argument was held on December 16, 1997.

SFAP presented two grounds for the initiation of this termination action against Ambassador. First, SFAP contended that Ambassador lost its eligibility to participate in the Title IV, HEA programs when it changed its legal status from a partnership to a sole proprietor, without notifying the Department of such a change. 34 C.F.R. §§ 600.30, 600.31 (1991). Secondly, SFAP contends that Ambassador lost its Title IV eligibility when its legal authorization to operate within the state of California lapsed. 34 C.F.R. § 600.5(a)(4).

In his initial decision, Judge Richard O'Hair found that SFAP established that Respondent violated 34 C.F.R. §§ 600.30, 600.31 (1991) when it changed its ownership status without ample notice to the Department. In addition, Judge O'Hair held that Ambassador lost its eligibility to participate in the Title IV programs between June 30, 1994 and February 16, 1996, when it allowed its state license to lapse during these dates. In his decision, Judge O'Hair further held the following, stating:

SFAP argues that Ambassador's change of ownership, resulting in a change of control, combined with its lapse of

its state license, constitutes sufficient grounds to warrant the institution's termination from further participation in the Title IV, HEA programs. I agree that both of these are technical violations of the regulations; however, based on the facts before me, I decline to afford either of them, separately or combined, sufficient magnitude to require that Ambassador be disqualified from disbursing federal student aid.

In the Matter of Ambassador Beauty College, Docket No. 97-22-ST, p. 6-7. (January 15, 1998)

Accordingly, Judge O'Hair ordered that Respondent be fined \$10,000.00 (\$5,000.00 per violation) and refused to terminate Ambassador's eligibility to participate in the student financial assistance programs.

SFAP argues that "[g]iven these two substantive findings, there is no legal basis for the Hearing Official to conclude that the institution may continue to participate in the HEA programs." SFAP's Appeal Brief at 10. I disagree. Regulation 34 C.F.R. § 668.90(a)(2) (1997) provides that:

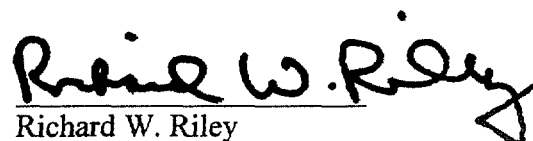
The hearing official's initial decision states whether the imposition of the fine, limitation, suspension, or termination sought by the designated department official is warranted in whole or in part. If the designated department official brought a termination action against the institution or servicer, the hearing official may, if appropriate, issue an initial decision to fine the institution or servicer as applicable, or, rather than terminating the institution's participation or servicer's eligibility, as applicable, impose one or more limitations on the institution's participation or servicer's eligibility.

This regulation permits the discretion exercised by Judge O'Hair in the instant case.¹ The initial decision in this case recognizes the importance of vigilant compliance with all applicable regulations and imposes a meaningful fine for each of Respondent's violations. Therefore, I agree that termination is not appropriate in this case.

¹ It is important to note, however, that neither "bad faith" nor "intentional wrongdoing" is required to justify the imposition of termination.

Accordingly, Respondent is hereby ordered to pay a fine in the amount of \$10,000.00, without termination of its eligibility to participate in the student financial assistance programs authorized under Title IV of the Higher Education Act.

Washington, DC
February 17, 1999


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Richard F. O'Hair
Administrative Judge
Office of Hearings and Appeals