



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

In the Matter of

SAINT LOUIS UNIVERSITY,

Docket No. 99-29-SA

**Student Financial
Assistance Proceeding**

Respondent.

ORDER OF REMAND

This matter comes before the Secretary on appeal by the United States Department of Education, Federal Student Aid office (FSA) of the Initial Decision issued by Chief Administrative Judge Ernest C. Canellos on May 25, 2000. FSA requests that I reverse Judge Canellos' decision.

This case arises as a result of FSA's issuance of a final audit determination (FAD) concerning the expenditure of federal financial student aid funds by Saint Louis University (Saint Louis).¹ On the basis of section 479A of Title IV, FSA determined that Saint Louis had improperly awarded federal Pell grants to students for the award years 1994-95 and 1995-96. As a result, FSA required Saint Louis to return \$2,816,029.00 in Title IV funds to the Department. Saint Louis challenged FSA's findings in an administrative proceeding before Judge Canellos, wherein the judge reviewed the evidence and rejected FSA's findings. The judge determined that the Pell grant awards were proper and that Saint Louis had met its burden of proof. For the reasons outlined below, I remand this case to the tribunal for further proceedings.

In enacting section 479A of Title IV, Congress enacted a statutory provision that expresses congressional intent in unambiguous, straightforward language. The mandatory language of section 479A creates conditions precedent to the proper use of "professional

¹ The expenditure of federal student financial assistance funds is governed by Title IV of the Higher Education Act of 1965, as amended (Title IV). *See* 20 U.S.C. § 1070 *et seq.* and 42 U.S.C. § 2751 *et seq.*

judgment” by a financial aid administrator; assessing compliance with these conditions is part of the core responsibility of FSA to ensure accountability for the expenditure of Title IV funds.

Congress enacted a comprehensive scheme specifying the details of the need analysis methodology. The institution’s view that the financial aid administrator has unbridled discretion to exercise professional judgment would render meaningless the mandatory conditions in section 479A expressed by Congress’ use of the words: “this authority shall not be construed to permit aid administrators to deviate from the contributions expected in the absence of special circumstances;” “[s]pecial circumstances shall be conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students;” and “[a]dequate documentation for such adjustments shall substantiate such special circumstances of individual students.”

Section 479A sets out two (2) key requirements that govern the exercise of a financial aid administrator’s professional judgment in making adjustments to a student’s cost of attendance: [1] that professional judgment be exercised on the basis of “adequate documentation” and [2] that the professional judgment be exercised only under “special circumstances” as determined by the financial aid administrator on a “case-by-case basis.” Consequently, financial aid administrators are not permitted to deviate from the statutory formula in the absence of special circumstances, and the special circumstances must be substantiated by adequate documentation on a case-by-case basis. As such, FSA must effectuate the intent of Congress by ensuring that these two conditions are met.

In this regard, I find that FSA raises a pertinent challenge under section 479A because the statute does not allow Saint Louis to define expenditures for elementary or secondary education, medical or dental expenses not covered by insurance and most importantly “living expenses” as per se special circumstances. Rather, a financial aid administrator may make adjustments to a student’s cost of attendance only after determining on a case-by-case basis that special circumstances exist and that there is adequate documentation.

In the present case, the record reflects that the financial aid administrator at Saint Louis considered any living and other expenses that exceeded the amount set forth in any income protection allowance statutory table or provision to constitute per se special circumstances. Simply, section 479A does not permit a financial aid administrator under the guise of professional judgment to ignore the statutory needs analysis formula set forth by Congress and forego the case-by-case analysis mandated by Congress.

In ruling in favor of Saint Louis, Judge Canellos determined that Saint Louis did not abuse its discretion. In light of my determination herein that section 479A prohibits a financial aid administrator from determining that there are automatic per se special circumstances, this case is hereby remanded to the judge for further proceedings consistent herewith. In particular, the judge must determine from the evidence before him whether special circumstances existed in each case and whether adequate documentation existed in each case to support the financial aid administrator’s determinations that special circumstances warranted departing from the congressionally mandated formula for calculating student aid eligibility.

ORDER

ACCORDINGLY, the Initial Decision issued by Chief Administrative Judge Ernest C. Canellos on May 25, 2000, is HEREBY REMANDED to the tribunal for further proceedings consistent herewith.

So ordered this 23 day of February 2007.


Margaret Spellings

Washington, D.C.

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