



THE SECRETARY OF EDUCATION  
WASHINGTON, D.C. 20202

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In the Matter of

**Docket No. 00-56-SP**

**WRIGHT BUSINESS SCHOOL,**

Federal Student  
Aid Proceeding

Respondent.

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**DECISION OF THE SECRETARY**

This matter comes before the Secretary on appeal, by the U.S. Department of Education (Education), Office of Federal Student Aid (FSA), of the Initial Decision issued by Chief Judge Ernest C. Canellos on February 7, 2002.<sup>1</sup> In his Initial Decision, Judge Canellos determined that Wright Business School (WBS) properly treated its books as non-institutional charges and, consequently, was allowed to exclude the book costs from its pro-rata refund calculations.

**DISCUSSION**

This case involves the treatment of the purchase of books from federal student aid funds when calculating refunds for students who withdrew from WBS. This case is controlled by 34 C.F.R. Section 668.22(c) (1995) and the prior decision of the Secretary in, In the Matter of Cannella Schools of Hair Design, Docket Nos. 98-72-SA and 98-73-SA, U.S. Dep't of Educ. (December 12, 2000) (Cannella).

The regulation (34 C.F.R. Section 668.22(c)) defines a pro rata refund to include other charges assessed the student by the institution. Other charges assessed the student by the institution include charges for books issued by an institution if the institution specifies in its enrollment agreement a separate charge for these books.<sup>2</sup> In Cannella, the

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<sup>1</sup> See In the Matter of Wright Business School, Docket No. 00-56-SP, U.S. Dep't of Educ. (February 7, 2002) (Wright).

<sup>2</sup> See 34 C.F.R. 668.22(c) (1995).

Secretary stated that not labeling a document an enrollment agreement could not be used to circumvent the plain language of the regulation. The key factor for determining whether book charges should be included in a pro rata refund calculation is whether the institution identified and assessed a separate charge for its books.

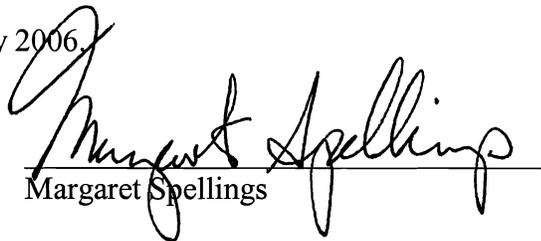
In Wright, Judge Canellos indicated that the regulatory requirement regarding whether to include book charges as institutional charges in pro rata refund calculations has been evolving. It has not. The real and reasonable opportunity standard was not meant to subvert or otherwise usurp the standard contained in the 34 C.F.R. § 668.22(c); instead, it provides guidance in circumstances where it is not readily apparent from an enrollment agreement or other document that an institution assessed a separate charge for its books.

In the instant case, WBS clearly identified and assessed a separate charge for its books in its enrollment agreements. Consequently, I find that the book charges assessed by WBS in this case constitute charges assessed the student by the institution within the meaning of the regulation and thus must be taken into account in calculating a refund.

ORDER

Accordingly, I HEREBY REVERSE the Initial Decision of Chief Administrative Judge Ernest C. Canellos and enter JUDGMENT in favor of Federal Student Aid in the amount of \$146,882.00.<sup>3</sup>

So ordered this 11<sup>th</sup> day of January 2006.

  
Margaret Spellings

Washington, D.C.

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<sup>3</sup> In their appeal brief, the Office of Federal Student Aid clarified the amount of liability at issue from the \$151,950 listed in the Initial Decision to \$146,882.

SERVICE

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