

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
FROM THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION**

In the Matter of	)	
	)	
F U.U	)	OAH No. 23-0610-PFE
_____	)	

DECISION

I. Introduction

The Alaska Commission on Postsecondary Education (“ACPE”) executed a claim on F.U’s Permanent Fund Dividend (“PFD”) for defaulting on several student loans. Ms. U appealed, claiming ACPE did not send her notices of default and that the amount owed by was less than the amount claimed from the PFD. Ms. U did not appear at the hearing, so this decision is based on the evidence in the record. Based on that evidence, it is more likely true than not true that ACPE sent Ms. U notices of default on her loans. Accordingly, ACPE’s garnishment of her PFD is affirmed.

II. Facts

Ms. U took out student loans payable to ACPE on July 30, 1996 and May 16, 1997.¹ The loan documents state that if the borrower defaults on the loan, ACPE may declare the entire unpaid amount due and may garnish the borrower’s PFD.² Ms. U defaulted on each of these loans in 2001.³ ACPE sent Ms. U a Notice of Default for these loans on January 29, 2001.⁴ These notices were all addressed to Ms. U at a City A, Alaska address.⁵ ACPE records indicate Ms. U provided this address effective January 5, 2001.⁶

ACPE sent Ms. U notice that it had filed a claim against her 2023 PFD.⁷ Ms. U appealed on September 22, 2023, claiming that ACPE did not send a notice of default or notice that the loan is 180 days past due.⁸ Ms. U also provided a letter from her physician, dated September 7, 2023, stating that Ms. U was physically and mentally unable to work.⁹

¹ Affidavit Regarding Account History and Status (“ACPE Aff.”), Appendices B and C.
² ACPE Aff., Appendices B and C.
³ ACPE Aff, Appendix D.
⁴ ACPE Aff., Appendices E and F.
⁵ ACPE Aff, Appendix G.
⁶ ACPE Aff., Appendix G.
⁷ ACPE Aff., Appendix H.
⁸ Notice dated September 22, 2023.
⁹ ACPE Aff., Appendix A.

The Administrative Law Judge called Ms. U at the time set for hearing on October 30, 2023. She did not answer. A voicemail message was left asking her to return the call immediately. She did not return the call. She was telephoned 15 minutes later and again did not answer her telephone.

III. Discussion

ACPE may take a student loan borrower's PFD when the loan is in default.¹⁰ Once ACPE provides proper notice of default and a claim against the borrower's PFD, the borrower has the burden of refuting the claim. The borrower may do this by showing one of only three things: (1) ACPE did not send a notice of default in compliance with the law; (2) the notice of default has been rescinded; or (3) the amount owed by the individual is less than the amount claimed from the PFD.¹¹ On her hearing request, Ms. U claimed ACPE did not send a notice of default and that the amount owed was less than that claimed from the PFD. She also, via her physician's letter of September 7, 2023, argued for forbearance due to hardship. This is not an allowable defense to an ACPE PFD garnishment and is not considered.

Ms. U could not be reached when telephoned at the scheduled hearing time. This was a failure to appear at the hearing. Because Ms. U did not appear, she is in default and this matter may be decided on the evidence in the record.¹²

The evidence shows that Ms. U was mailed a notice of default at the mailing address provided by Ms. U shortly before that mailing. The applicable statute requires ACPE to mail a notice of default to the borrower's most recent address. The evidence indicates ACPE did so.

Based on the record, given Ms. U's failure to appear for her hearing and her only submitted evidence being a letter from a physician, Ms. U did not meet her burden to show that ACPE failed to mail a notice of default, or that the amount owed was less than the amount claimed from the PFD.

IV. Conclusion

ACPE's garnishment of Ms. U's PFD is affirmed.

Dated: November 22, 2023

Signed

Lawrence A. Pederson
Administrative Law Judge

¹⁰ AS 14.43.145(a)(2); AS 43.23.160.

¹¹ AS 43.23.160(c).

¹² AS 44.62.530.

Adoption

The ALASKA COMMISSION ON POSTSECONDARY EDUCATION adopts this decision as final under the authority of AS 44.64.060(e)(1). Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of distribution of this decision.

DATED this 22nd day of December, 2023.

By: Signed
Sana Efird
Executive Director

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