



August 5, 2014

Mr. Frank G. Barone
President
Barone Beauty Academy
501 E Third Street
Williamsport, PA 17701

Sent Via E-Mail and UPS
Tracking Number:
1ZA879640290541766

RE: Final Program Review Determination
OPE ID: 04164900
PRCN: 201310328129

Dear Mr. Barone:

The U.S. Department of Education's (Department's) School Participation Division - Philadelphia issued a program review report on May 9, 2013 covering Barone Beauty Academy's (Barone's) administration of programs authorized by Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs), for the 2010-2011 and 2011-2012. Barone's final response was received on December 27, 2013. A copy of the program review report (and related attachments) and Barone's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by Barone upon request. Additionally, this Final Program Review Determination (FPRD), related attachments, and any supporting documentation may be subject to release under the Freedom of Information Act (FOIA) and can be provided to other oversight entities after this FPRD is issued.

Purpose:

Final determinations have been made concerning all of the outstanding findings of the program review report. The purpose of this letter is to close the review and notify Barone of a possible adverse action. Due to the serious nature of one or more of the enclosed findings, this FPRD is being referred to the Department's Administrative Actions and Appeals Service Group (AAASG) for its consideration of possible adverse action. Such action may include a fine, or the limitation, suspension or termination of the eligibility of the institution. Such action may also include the revocation of the institution's program participation agreement (if provisional), or, if the institution has an application pending for renewal of its certification, denial of that application. If AAASG initiates any action, a separate notification will be provided which will include information on institutional appeal rights and procedures to file an appeal.

Federal Student Aid

AN OFFICE OF THE U.S. DEPARTMENT OF EDUCATION

School Participation Division - Philadelphia

The Wanamaker Building, 100 Penn Square East, Suite 511, Philadelphia, PA 19107

StudentAid.gov

This FPRD contains one or more findings regarding Barone's failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) in Section 485(f) of the HEA, 20 U.S.C. § 1092(f), and the Department's regulations at 34 C.F.R. §§ 668.41, 668.46, and 668.49. Because a Clery Act finding does not result in a financial liability, such a finding may not be appealed. If an adverse administrative action is initiated, additional information about Barone's appeal rights will be provided under separate cover.

Protection of Personally Identifiable Information (PII):

PII is any information about an individual which can be used to distinguish or trace an individual's identity (some examples are name, social security number, date and place of birth). The loss of PII can result in substantial harm, embarrassment, and inconvenience to individuals and may lead to identity theft or other fraudulent use of the information. To protect PII, the findings in the attached report do not contain any student PII.

Record Retention:

Program records relating to the period covered by the program review must be retained until the later of: resolution of the loans, claims or expenditures questioned in the program review; or the end of the retention period otherwise applicable to the record under 34 C.F.R. §§ 668.24(e)(1), (e)(2), and (e)(3).

If Barone has any questions regarding this letter, please contact Mr. Stephen Conger at (215) 656-5898 or email at Stephen.Conger@ed.gov.

Sincerely,

(b)(6)

Nancy Paula Gifford
Director
School Participation Division - Philadelphia

Enclosures: Appendix A: Program Review Report
Appendix B: Barone's Official Program Review Response

cc: Ms. Jamie Flock, Director of Financial Aid
Accrediting Council for Independent Colleges and Schools
Commonwealth of Pennsylvania State Board of Private Licensed Schools

Prepared for
Barone Beauty Academy

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION

PROUD SPONSOR of
the AMERICAN MIND™

OPE ID: 04164900
PRCN: 201310328129

Prepared by
U.S. Department of Education
Federal Student Aid
School Participation Division – Philadelphia

Final Program Review Determination
August 5, 2014

School Participation Division - Philadelphia
The Wanamaker Building, 100 Penn Square East, Suite 511, Philadelphia, PA 19107
StudentAid.gov

Table of Contents

	<u>Page</u>
A. Institutional Information	3
B. Scope of Review	4
C. Findings and Final Determinations	4
Resolved Finding	
Finding # 3: Federal Funds Not Identified in Bank Account	4
Resolved Findings with Comments	4
Finding # 1: Crime Awareness Requirements Not Met - Omission Inadequacy of Required Statistical Disclosures and Policy Statements	5
Finding # 2: Drug and Alcohol Abuse Prevention Program Requirements Not Met - Multiple Violations	9
D. Appendices	11
Appendix A: Program Review Report	12
Appendix B: Barone's Official Program Review Response	

A. Institutional Information

Barone Beauty Academy
501 East Third Street
Williamsport, PA 17701-5316

Type: Proprietary

Highest Level of Offering: Non-Degree (One Year)

Accrediting Agency: National Accrediting Commission of Cosmetology Arts and Sciences

Current Student Enrollment: 34 Students (as of November 2012)

Percentage of Students Receiving Title IV Program funds: 92% (as of November 2012)

Title IV Program Funds Disbursed:

2011-2012 Award Year

Federal Pell Grant Program	\$123,695
Federal Direct Loan Program	\$307,767
TOTAL	\$431,462

Federal Direct Loan Program Default Rate: 18.1% (2011)

B. Scope of Review

The U.S. Department of Education (the Department) conducted a program review at Barone Beauty Academy (Barone) from December 3, 2012 to December 5, 2012. Mr. Stephen Conger and Mr. Robert Gelfand conducted the review.

The focus of the review was to determine Barone's compliance with the statutes and regulations as they pertain to the institution's administration of the Title IV, HEA programs. The review consisted of, but was not limited to, an examination of Barone's policies and procedures regarding institutional and student eligibility, individual student financial aid and academic files, attendance records, student account ledgers, and fiscal records.

A sample of 30 files was identified for review from the 2011-2012 and 2012-2013 (year to date) award years. The files were selected randomly from a statistical sample of the total population receiving Title IV, HEA program funds for each award year. A program review report was issued on May 9, 2013.

Disclaimer:

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning Barone's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve Barone of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV programs.

C. Findings and Final Determinations

Resolved Finding

Barone has taken the corrective actions necessary to resolve Finding # 3 in the program review report. Therefore, this finding may be considered closed.

Findings with Final Determinations

The program review report findings requiring further action are summarized below. At the conclusion of each finding is a summary of Barone's response to the finding, and the Department's final determination for that finding. A copy of the May 9, 2013 program review report is attached as Appendix B.

Finding # 1: Crime Awareness Requirements Not Met – Omission/Inadequacy of Required Statistical Disclosures and Policy Statements

Citation Summary:

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) and the Department's regulations require that all institutions that receive Title IV, HEA funds must, by October 1 of each year, publish and distribute to its current students and employees through appropriate publications and mailing, a comprehensive Annual Security Report (ASR) that contains, at a minimum, all of the statistical and policy elements enumerated in 34 C.F.R. § 668.46(b).

The ASR must be prepared and actively distributed as a single document. Acceptable means of distribution include regular U.S. Mail, campus mail, hand delivery, or by posting the ASR on the institution's website. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all students and employees that includes a statement of the report's availability and a link to its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. 34 C.F.R. § 668.41(e)(1). These regulations also require institutions to provide a notice containing this information to all prospective students and employees. 34 C.F.R. § 668.41(e)(4).

The ASR also must include several mandated policy statements. These disclosures are intended to inform the campus community about the institution's campus crime and security policies, procedures, programs and resources as well as channels for victims of crime to seek recourse. An institution is also required to explain in its policies its standards of conduct regarding illicit drug use and alcohol abuse. In addition, an institution must describe the types and frequency of its crime prevention programs. Policies pertaining to sexual assault education, prevention, and adjudication must also be disclosed. Institutions also must provide detailed policies of the issuance of timely warnings, emergency notifications, and evacuation procedures. As noted above, the ASR must be published as a single comprehensive document. With the exception of the drug and alcohol abuse prevention program information required by 34 C.F.R. § 86.100, cross referencing to other publications is not sufficient to meet the publication and distribution requirements. § 485(f) of the HEA; 34 C.F.R. § 668.46(b).

Noncompliance Summary:

Barone failed to prepare, publish, and distribute an accurate and complete ASR to all current students and employees. Specifically, Barone's ASR did not contain all required statistical and policy disclosures.

Required Action Summary:

As a result of this violation, Barone was instructed to develop and implement policies and procedures to ensure that all future ASRs are prepared, published, and distributed in accordance with Federal regulations. The new policy was required to articulate how prospective students and employees would be notified of the report's availability. Barone's new policies also had to articulate how the institution would ensure compliance with the drug and alcohol abuse prevention program requirements set forth in 34 C.F.R. § 86.100. Using its new policies as a guide, Barone was required to modify its ASR so that it included all of the statistical disclosures and policy, procedure and programmatic information required by 34 C.F.R. § 668.46(b). A copy of the institution's new policies and procedures and its draft ASR was to accompany Barone's response to the program review report.

Barone Beauty Academy's Response:

In its response, Barone concurred with the finding and stated that its ASR was revised in conformity with Federal requirements. Institutional officials also claimed that the report is now posted on its website and is included in its Student Catalog (although it is not clear that the catalog is distributed annually to all required recipients). In addition, Barone claimed that new students are advised about the availability of the ASR during the "orientation" for each class start. Finally, Barone management asserted that the ASR is also provided to all applicants for enrollment and employment.

Final Determination:

Finding # 1 of the program review report cited Barone for multiple violations of the Clery Act related to the institution's failure to prepare and publish an accurate and complete 2012 ASR as well as its failure to actively distribute such a report to all enrolled students and current employees. 34 C.F.R. § 668.41(e)(1). Specifically, the following errors and omissions were identified in Barone's 2012 ASR.

- 1) Inaccurate crime statistics disclosures: Clery-reportable crime statistics (including hate crimes) were not organized by crime classification and calendar year, as required. In addition, crime statistical disclosures were not broken out separately for the Williamsport and Sunbury locations. Moreover, no crime statistics were reported for the public property that is immediately adjacent to and accessible from each location. Furthermore, no arrest or disciplinary referral statistics for liquor, drug, and weapons violations were disclosed in the ASR. Because Barone began participating in the Title IV, HEA programs in March 2010, the ASR was required to include campus crime statistics for all Clery-reportable geographical categories for calendar year 2011 (1st full year after initial approval to participate). Barone is reminded that if there were no reported incidents in a particular

category in a calendar year, the number "0" should have been entered in that field in the statistical grid.

2) Inadequate/omitted policies and procedures: The Department has determined that the following required disclosures were not included in Barone's 2012 ASR:

- Policies and procedures for reporting campus crimes
- Type and frequency of programs regarding crime prevention
- Sexual assault programs designed to prevent sex offenses and procedures to follow when an offense occurs and an explanation of how the institution will respond to sex offenses that are reported to its officials
- A statement of policy regarding the possession and use of illicit drugs and alcoholic beverages on-campus and an explanation of the Federal, and state statutes and local ordinances that are applicable to such offenses
- A description of the health risks associated with the use of illicit drugs and alcohol
- A statement of policy requirements regarding the institution's emergency response and evacuation procedures
- Plans for the conduct of annual tests of the institution's emergency response and evacuation procedures and the processes for documenting the results of these tests

As a result of these violations, Barone was required to take all necessary corrective action to ensure that its 2012 ASR was revised and enhanced and was actively distributed in the required manner. In its official response, Barone concurred with the finding and stated that adequate remedial action was taken. In support of its claims, the institution submitted a copy of its revised 2012 ASR, its new and revised policies and procedures, and other supporting documents.

The Department carefully examined Barone's narrative response and supporting documentation. The review team's examination showed that the identified violations were, for the most part, satisfactorily addressed in the revised 2012 ASR. Based on that review and the institution's admission of noncompliance, the violations identified in the finding are sustained. The Department has also determined that Barone's corrective action plan meets minimum requirements. For these reasons, the Department has

accepted Barone's response and considers this finding to be closed. Nevertheless, the officials and directors of Barone are put on notice that they must take all necessary action to address the deficiencies and weaknesses identified by the Department as well as those that were detected during the preparation of the responses to the program review report and as may otherwise be needed to ensure that these violations do not recur.

To that end, the institution must submit a copy of its 2013 ASR with proof of active distribution to all required recipients within 10 days of receipt of this FPRD letter. This documentation must be submitted via electronic mail to Mr. Stephen Conger at stephen.conger@ed.gov and to the Department's Clery Act Compliance Division at clery@ed.gov. In addition, Barone must submit a copy of its 2014 ASR with proof of active distribution to all required recipients on or before October 10, 2014. If any of the requested reports were not produced, Barone officials must clearly communicate that fact to the review team. In this context, these officials are advised that no new documents are to be created for the purpose of demonstrating compliance with the ASR requirement for past periods.

Although the finding is now closed, Barone is reminded that the exceptions identified above constitute serious violations of the Clery Act that by their nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. The institution was required to take remedial action and in doing so, has begun to address the conditions that led to these violations. Barone has stated that it has brought its overall campus safety program into compliance with the Clery Act as required by its Program Participation Agreement (PPA). Nevertheless, Barone officials must understand that any failure to publish and distribute an accurate and complete ASR deprives students and employees of important campus safety information to which they are entitled. For these reasons, the institution is advised that its remedial actions, whether already completed or planned for the future, cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Because of the serious consequences of such violations, the Department strongly recommends that Barone officials re-examine its campus safety and general Title IV policies and procedures on an annual basis to ensure that they continue to reflect current institutional practices and are compliant with Federal requirements. To that end, Barone officials are encouraged to consult the Department's "Handbook for Campus Safety and Security Reporting" (2011) as a reference guide on Clery Act compliance. The Handbook is online at: www2.ed.gov/admins/lead/safety/handbook.pdf. The Department also provides a number of other Clery Act training resources. The institution can access these materials at: www2.ed.gov/admins/lead/safety/campus.html. The regulations governing the Clery Act can be found at 34 C.F.R. §§ 668.14, 668.41, 668.46, and 668.49.

**Finding # 2: Drug and Alcohol Abuse Prevention Program Requirements Not Met
Multiple Violations**

Citation Summary:

The Drug-Free Schools and Communities Act (DFSCA) and Part 86 of the Department's General Administrative Regulations requires each participating institution of higher education (IHE) to certify that it has developed and implemented a drug and alcohol abuse education and prevention program. The program must be designed to prevent the unlawful possession, use, and distribution of drugs and alcohol on campus and at recognized events and activities.

On an annual basis, the IHE must distribute written information about its drug and alcohol abuse prevention program (DAAPP) to all students, faculty, and staff. The distribution plan must make provisions for providing the material to students who enroll at a date after the initial distribution, and for employees who are hired at different times throughout the year.

In addition, each IHE must conduct a biennial review in order to measure the effectiveness of its drug prevention program, and to ensure consistent treatment in its enforcement of its disciplinary sanctions. The IHE must prepare a report of findings and maintain its biennial review report and supporting materials and make them available to the Department and interested parties upon request. 34 C.F.R. §§ 86.3 and 86.100.

Noncompliance Summary:

Barone failed multiple requirements of the DFSCA. Specifically, at the time of the Department's visit, Barone was unable to produce documentation that it had developed and implemented a DAAPP. By definition then, the institution also failed to distribute an accurate and complete DAAPP disclosure, as required. Furthermore, Barone failed to conduct a Biennial Review (BR) and also failed to prepare a BR report of findings.

Required Action Summary:

As a result of this violation, Barone was instructed to take all necessary corrective actions to address the violations outlined above. Barone was required to revise its DAAPP policy to meet the requirements within the DFSCA and to submit these changes to the Department with the institution's response to the program review report. In addition, Barone was instructed to develop a policy that meets the requirements of the annual distribution. This policy was required to be included with the institution's response to the program review report.

Furthermore, Barone was directed to conduct a BR to measure the effectiveness of its drug and alcohol abuse education and prevention programs. Barone was to describe the

research methods and data analysis tools that were used to determine the effectiveness of the program as well as identify the responsible official(s) who conducted the review. The BR report also had to address how the institution would ensure consistent enforcement of its disciplinary standards and codes of conduct regarding illegal drug use and alcohol abuse. Finally, the BR report must have been approved by the institution's chief executive.

Barone Beauty Academy Response:

In its response, Barone concurred with the finding and stated that the institution now provides assistance to employees and students with drug and/or alcohol issues and also makes referrals to outside agencies and programs, as needed. In addition, management asserted that the content of the Barone Beauty Academy Handbook is reviewed during every orientation event. Per the response, the Handbook now contains all required information about the institution's drug and alcohol policies and that this information is also discussed thoroughly on the first day of classes. In addition, the institution stated that all students and employees receive a detailed list of drug and alcohol hotlines, websites, and counseling facilities and that this list is also posted on the bulletin boards in the common areas of the schools.

Final Determination:

Finding # 2 of the program review report cited Barone for multiple violations of the DFSCA. Specifically, Barone failed to develop and implement a compliant DAAPP. During the review, Department officials determined that the only reference to a drug and alcohol policy appeared in a section of the school catalog entitled "Drug Abuse Prevention." This statement merely indicated that Barone was a drug-free institution and workplace. More importantly, the statement did not contain any of the required information disclosures required by the DFSCA. In addition, Barone officials conceded that the existing policy information was only provided "when necessary." As such, there was no annual distribution of program materials to enrolled students and current employees, as required. Because the institution did not have a compliant DAAPP, it was not possible for Barone to conduct a biennial review and produce the required report and supporting documentation.

In its official response, Barone concurred with the finding and provided to the Department new DAAPP policies and procedures and an initial biennial review report. The Department carefully examined Barone's response and supporting documentation. Based on that review and the institution's admission of noncompliance, the violations identified in the finding are sustained. The Department has also determined that the institution's action plan meets minimum requirements. For these reasons, the Department has accepted Barone's response and considers this finding to be closed.

Although the finding is now closed, Barone is reminded that the exceptions identified above constitute serious violations of the DFSCA that by their nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. The institution was required to take remedial action and in doing so, has begun to address the conditions that led to these violations. Barone has stated that it has brought its overall drug and alcohol abuse program into compliance with the DFSCA as required by its PPA.

While this is an important first step, Barone officials must understand that compliance with the DFSCA and the Clery Act are essential to maintaining a safe and healthy learning environment, especially in light of the fact that more than 90% of all violent campus crimes are drug and/or alcohol-related. The compliance failures documented by the Department deprived students and employees of important information regarding the educational, financial, health, and legal consequences of alcohol abuse and illicit drug use. Barone's failure to conduct a comprehensive biennial review also deprived the institution of important information about the effectiveness of any drug and alcohol programs that were in place during the review period. For these reasons, the institution is advised that its remedial actions, whether already taken or planned for the future, cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

In light of the serious consequences associated with compliance failures of this type, the Department strongly recommends that Barone re-examine its drug and alcohol policies, procedures, and programs on at least an annual basis and revise them as needed to ensure that they continue to reflect current institutional policy and are in full compliance with the DFSCA. In this regard, the Department notes that Barone's first biennial review report did not contain any data analysis or fact-based conclusions. This condition was attributed to the fact that the DAAPP was only in place for a short time before the review was conducted. The next report must include evidence of a full evaluation of the DAAPP's effectiveness. Please be advised that the Department may request information on a periodic basis to independently test the effectiveness of the institution's new policies and procedures.

D. Appendices

Appendix A: Program Review Report

Appendix B: Barone's Official Program Review Response

Prepared for

Barone Beauty Academy

Federal Student
An OFFICE OF THE U.S. DEPARTMENT OF EDUCATION

PROUD SPONSOR of
the AMERICAN MIND™

OPE ID: 04164900
PRCN: 201310328129

Prepared by
U.S. Department of Education
Federal Student Aid
School Participation Division - Philadelphia

Program Review Report
May 9, 2013

The Wanamaker Building, 100 Penn Square East, Suite 511, Philadelphia, PA 19107
StudentAid.gov

Table of Contents

	<u>Page</u>
A. Institutional Information	3
B. Scope of Review	4
C. Findings	4
Finding # 1: Crime Awareness Requirements Not Met - Omission/Inadequacy of Required Statistical Disclosures and Policy Statements	5
Finding # 2: Failure to Comply with Drug and Alcohol Abuse Education and Prevention Program Requirements	8
Finding # 3: Federal Funds Not Identified in Bank Account	10
D. Appendices	10
Appendix A (Program Review Student Sample)	11

A. Institutional Information

Barone Beauty Academy
501 East Third Street
Williamsport, PA 17701-5316

Type: Proprietary

Highest Level of Offering: Non-Degree (One Year)

Accrediting Agency: National Accrediting Commission of Cosmetology Arts and Sciences

Current Enrollment: 34 Students (as of November 2012)

Percentage of Students Receiving Title IV Program Funds: 92% (as of November 2012)

Title IV Program Funds Disbursed (per G5 as of May 8, 2013):

2011-2012 Award Year

Federal Pell Grant Program	\$123,695
<u>William D. Ford Federal Direct Loan Program</u>	<u>\$307,767</u>
TOTAL	\$431,462

B. Scope of Review

The U.S. Department of Education (the Department) conducted a program review at Barone Beauty Academy (Barone) from December 3, 2012 to December 5, 2012. The review was conducted by Mr. Stephen Conger and Mr. Robert Gelfand.

The focus of the review was to determine Barone's compliance with the statutes and federal regulations as they pertain to the institution's administration of Title IV programs. The review consisted of, but was not limited to, an examination of Barone's policies and procedures regarding institutional and student eligibility, individual student financial aid and academic files, attendance records, student account ledgers, and fiscal records.

A sample of 30 files was identified for review from the 2011-2012 and 2012-2013 (year to date) award years. The files were selected randomly from a statistical sample of the total population receiving Title IV, HEA program funds for each award year. Appendix A lists the names and social security numbers of the students whose files were examined during the program review.

Disclaimer:

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning Barone's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve Barone of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

This report reflects initial findings. These findings are not final. The Department will issue its final findings in a subsequent Final Program Review Determination (FPRD) letter.

C. Findings

During the review, several areas of noncompliance were noted. Findings of noncompliance are referenced to the applicable statutes and regulations and specify the actions to be taken by Barone to bring operations of the financial aid programs into compliance with the statutes and regulations.

Finding # 1: Crime Awareness Requirements Not Met-Omission/Inadequacy of Required Statistical Disclosures and Policy Statements

Citation:

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*) and the Department's regulations require that all institutions that receive Title IV, HEA funds must, by October 1 of each year, publish and distribute to its current students and employees through appropriate publications and mailing, a comprehensive Annual Security Report (ASR) that contains, at a minimum, all of the statistical and policy elements enumerated in 34 C.F.R. § 668.46(b).

The ASR must be prepared and actively distributed as a single document. Acceptable means of distribution include regular U.S. Mail, campus mail, hand delivery, or by posting the ASR on the institution's website. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all students and employees that includes a statement of the report's availability and a link to its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. 34 C.F.R. § 668.41 (e)(1). These regulations also require institutions to provide a notice containing this information to all prospective students and employees. All such notices must be conspicuous and inform interested parties about how to obtain a paper copy of the ASR. 34 C.F.R. § 668.41 (e)(4)

An institution's ASR must include statistics for incidents of crimes reported during the three most recent calendar years. The covered categories include criminal homicide (murder and non-negligent manslaughter), forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. Statistics for certain hate crimes as well as arrest and disciplinary referral statistics for violations of certain laws pertaining to illegal drugs, illegal usage of controlled substances, liquor, and weapons also must be disclosed in the ASR. These crime statistics must be published for the following geographical categories: 1) on campus; 2) on-campus student residential facilities (as a subset of category # 1); 3) certain non-campus buildings and property; and, 4) certain adjacent and accessible public property. 34 C.F.R. § 668.46 (c)(1).

The ASR also must include several mandated policy statements. These disclosures are intended to inform the campus community about the institution's campus crime and security policies, procedures, programs and resources as well as channels for victims of crime to seek recourse. In general, these policies cover topics such as the law enforcement authority and practices of campus police and security forces, incident reporting procedures for students and employees, and the policies that govern the preparation of the ASR itself. An institution is also required to explain in its policies its standards of conduct regarding illicit drug use and alcohol abuse. In addition, an institution must describe the types and frequency of its crime prevention programs. Policies pertaining to sexual assault education, prevention, and adjudication must also be disclosed. Institutions also must provide detailed policies of the issuance of timely warnings,

emergency notifications, and evacuation procedures. As noted above, the ASR must be published as a single comprehensive document. With the exception of the drug and alcohol abuse prevention program information required by 34 C.F.R. § 86.100, cross referencing to other publications is not sufficient to meet the publication and distribution requirements. § 485(f) of the HEA; 34 C.F.R. § 668.46 (b).

Finally, each institution must also submit its crime statistics to the Department for inclusion in the Office of Postsecondary Education's "Campus Safety and Security Data Analysis Cutting Tool." 34 C.F.R. § 668.41 (e)(5).

Noncompliance:

Barone failed to prepare, publish, and distribute an accurate and complete ASR to all current students and employees. Specifically, Barone's ASR did not contain all required statistical and policy disclosures. During its analysis, the Department identified the following errors and omissions in the institution's 2012 ASR:

- 1) Inaccurate crime statistics disclosures: Clery-reportable crime statistics (including hate crimes) are not organized by crime classification and calendar year, as required. In addition, crime statistical disclosures are not broken out separately for the Williamsport and Sunbury locations. Moreover, no crime statistics were reported for the public property that is immediately adjacent to and accessible from each location. Furthermore, no arrest or disciplinary referral statistics for liquor, drug, and weapons violations were disclosed in the ASR. Because Barone began participating in the Title IV, HEA programs in March 2010, the ASR was required to include campus crime statistics for all Clery-reportable geographical categories for calendar year 2011 (1st full year after initial approval to participate). Barone is reminded that if there were no reported incidents in a particular category in a calendar year, the number "0" should be entered in that field in the statistical grid.
- 2) Inadequate/omitted policies and procedures: The Department could not locate the following required disclosures in Barone's ASR:
 - Policies and procedures for reporting campus crimes
 - Type and frequency of programs regarding crime prevention
 - Sexual assault programs designed to prevent sex offenses and procedures to follow when an offense occurs and an explanation of how the institution will respond to sex offenses that are reported to its officials
 - A statement of policy regarding the possession and use of illicit drugs and alcoholic beverages on-campus and an explanation of the Federal, and state statutes and local ordinances that are applicable to such offenses

- A description of the health risks associated with the use of illicit drugs and alcohol
- A statement of policy requirements regarding the institution's emergency response and evacuation procedures
- Plans for the conduct of annual tests of the institution's emergency response and evacuation procedures and the processes for documenting the results of these tests

Failure to publish an accurate and complete ASR and to actively distribute it to current students and employees in accordance with Federal regulations deprives the campus community of important campus crime information.

Required Action:

As a result of this violation, Barone must develop and implement policies and procedures to ensure that all future ASRs are prepared, published, and distributed in accordance with Federal regulations. The new policy also must articulate how prospective students and employees will be notified of the report's availability. Barone's new policies must also articulate how the institution will ensure compliance with the drug and alcohol abuse prevention program requirements set forth in 34 C.F.R. § 86.100. Using its new policies as a guide, Barone must modify its ASR so that it includes all of the statistical disclosures and policy, procedure and programmatic information required by 34 C.F.R. § 668.46 (b). A copy of the institution's new policies and procedures and its draft ASR must accompany its response to this program review report. Once the new ASR is evaluated by the Department for accuracy and completeness, Barone will be required to distribute it to all current students and employees.

As noted above, the exceptions identified in this finding constitute serious violations of the *Clery Act* that by their nature cannot be cured. Barone will be given an opportunity to make the necessary modifications to its ASR and to address the conditions that led to the violations identified above and in so doing, begin to bring its overall campus security program into compliance with the *Clery Act* as required by its Program Participation Agreement (PPA). However, Barone is advised that these remedial measures cannot and do not diminish the seriousness of these violations, nor do they eliminate the possibility that the Department will impose additional corrective or administrative actions.

Based on an evaluation of all available information including Barone's response, the Department will determine if additional actions will be required and will advise the institution accordingly in its FPRD. Barone officials are reminded that the Department has prepared "The Handbook for Campus Safety and Security Reporting" (2011) to assist institutions in complying with the requirements of the *Clery Act*. The Handbook may be accessed online at: <http://www2.ed.gov/admins/lead/safety/handbook-2.pdf>. The implementing regulations for the *Clery Act* are located 34 C.F.R. §§ 668.14, 668.41, 668.46, and 668.49.

Finding # 2: Failure to Comply with Drug and Alcohol Abuse Education and Prevention Program Requirements

Citation:

The Drug-Free Schools and Communities Act (DFSCA) and Part 86 of the Department's General Administrative Regulations requires each participating institution of higher education (IHE) to certify that it has developed and implemented a drug and alcohol abuse education and prevention program. The program must be designed to prevent the unlawful possession, use, and distribution of drugs and alcohol on campus and at recognized events and activities.

On an annual basis, the IHE must distribute written information about its drug and alcohol abuse prevention program (DAAPP) to all students, faculty, and staff. The distribution plan must make provisions for providing the material to students who enroll at a date after the initial distribution, and for employees who are hired at different times throughout the year. The information must include:

- 1) A written statement about its standards of conduct that prohibits the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees;
- 2) A written description of legal sanctions imposed under Federal, state and local laws for unlawful possession or distribution of illicit drugs and alcohol;
- 3) A description of the health risks associated with the use of illicit drugs and the abuse of alcohol;
- 4) A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to students and employees; and,
- 5) A statement that the IHE will impose disciplinary sanctions on students and employees for violations of the institution's codes of conduct and a description of such sanctions.

In addition, each IHE must conduct a biennial review in order to measure the effectiveness of its drug prevention program, and to ensure consistent treatment in its enforcement of its disciplinary sanctions. The IHE must prepare a report of findings and maintain its biennial review report and supporting materials and make them available to the Department and interested parties upon request. 34 C.F.R. §§ 86.3 and 86.100.

Noncompliance:

Barone failed multiple requirements of the DFSCA. Specifically, at the time of the Department's visit, Barone was unable to produce documentation that it had developed and implemented a DAAPP. For example, the existing materials did not include any information about the health effects and risk associated with the use of illicit drugs and alcohol abuse. By definition then, the institution also failed to distribute an accurate and complete DAAPP disclosure, as required. The Department determined that the only DAAPP documentation maintained by Barone was a "Drug Abuse Prevention" program that is described within the college catalog. Barone's Drug Abuse Prevention program is a statement from the institution that the institution certifies to the

Department that a drug free campus is being operated by Barone. The description of the Drug Abuse program in the college catalog is incomplete and does not meet the requirements of the DAAPP. Similarly, Barone provides the Drug Abuse information "when necessary" as stated in the college catalog. The DFSCA requires an annual distribution of a compliant DAAPP disclosure to all employees and all students enrolled for academic credit.

Furthermore, Barone failed to conduct a Biennial Review (BR) and also failed to prepare a BR report of findings. The BR is intended to periodically assess the effectiveness of the institution's DAAPP and in so doing, identify any necessary modifications or improvements and to evaluate the consistency of disciplinary sanctions imposed for any violations of the institution's drug and alcohol-related policies or codes of conduct.

Failure to comply with the DFSCA requirements deprives students and employees of important information regarding the educational, health, legal, disciplinary, and financial consequences of illicit drug use and alcohol abuse. Such failures may contribute to increased drug and alcohol abuse on-campus as well as an increase in drug and alcohol-related violent crime.

Required Action:

As a result of this violation, Barone is required to take all necessary corrective actions to address the violations outlined above. Barone must revise its DAAPP policy to meet the requirements within the DFSCA and submit these changes to the Department with the institution's response to this program review report. In addition, Barone must develop a policy that meets the requirements of the annual distribution. This policy must be included with the institution's response to this report.

Furthermore, Barone must now conduct an actual BR to measure the effectiveness of its drug and alcohol abuse education and prevention programs. Barone must describe the research methods and data analysis tools that will be used to determine the effectiveness of the program as well as identify the responsible official(s) who will conduct the review. The BR report must also address how the institution will ensure consistent enforcement of its disciplinary standards and codes of conduct regarding illegal drug use and alcohol abuse. Finally, the BR report must be approved by the institution's chief executive. The new biennial review and report must be completed by June 7, 2013 and submitted to the Department by June 14, 2013.

As noted above, violations of the DFSCA are very serious and by their nature, cannot be cured. Barone will be given an opportunity to bring its drug and alcohol program into compliance with the DFSCA as required by its PPA. However, the institution is advised that these remedial measures cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose additional corrective or administrative actions.

Based on an evaluation of all available information, including Barone's response, the Department will determine if additional action will be required and will advise the institution accordingly in its FPRD letter.

Finding # 3: Federal Funds Not Identified in Bank Account

Citation:

34 C.F.R. § 668.163 (a)(2) states that for each bank or investment account that includes Title IV, HEA program funds, an institution must clearly identify that Title IV, HEA program funds are maintained in that account by:

- Including in the name of each account the phrase "Federal Funds;" or notifying the bank or investment company of the accounts that contain Title IV, HEA program funds and retaining a record of that notice; and
- Except for a public institution, filing with the appropriate State or municipal government entity a UCC-1 statement disclosing that the account contains Federal funds and maintaining a copy of that statement.

Noncompliance:

The bank account in which Barone deposits Federal Pell Grant Program and Federal Direct Loan Program funds was not properly identified as an account containing Federal funds, nor did the institution have a record of a notice informing the bank that the account contained Federal funds. Further, a UCC-1 statement was not filed.

Failure to properly label an institution's bank account as an account containing "Federal Funds" may lead to improper management of the funds and is a violation of Federal regulations.

Required Action:

Barone informed the Department that the name of the institution's bank account was changed on December 12, 2012. The institution also provided documentation to substantiate the change. The name of the account is now "Barone Beauty Academy LLC Federal Financial Aid Funds."

Barone is not required to provide a reply to this finding with the institution's response to this program review report.

D. Appendices

Appendix A (Program Review Student Sample) contains personally identifiable information. As a result, the program review report will be e-mailed to Barone as an encrypted WinZip file using Advanced Encryption Standard, 256-bit. The password needed to open the encrypted WinZip file will be sent in a separate email. **The mailed hardcopy report does not contain Appendix A.**