



July 9, 2015

Irene Zakon  
Business Industrial Resources  
3601 West Devon, suite 210  
Chicago, IL 60659-1298

Certified Mail  
Return Receipt Requested  
7012 1640 0000 0215 8177

RE: **Final Program Review Determination**  
OPE ID: 03448300  
PRCN: 201320528236

Dear President Zakon:

The U.S. Department of Education's (Department's) Chicago/Denver School Participation Team issued a program review report on December 23, 2013 covering Business Industrial Resource's (BIR) 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 2011-2012 and 2012-2013 award years. BIR's final response was received on September 19, 2014. A copy of the program review report (and related attachments) and BIR's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by BIR 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: (1) identify liabilities resulting from the findings of this program review report, (2) provide instructions for payment of liabilities to the Department, (3) notify the institution of its right to appeal, and (4) notify BIR of a possible adverse action. Due to the serious nature of one or more of the enclosed findings, in the normal course, this FPRD would have been referred to the Department's Administrative Actions and Appeals Service Group (AAASG) for its consideration of possible adverse action (e.g. fine). Since BIR is no longer participating in the Title IV programs, this FPRD will not be referred at this time; however, should BIR apply for reinstatement in the future, in addition to meeting all other requirements, this matter will need to be addressed. Please note that the appeal instructions contained herein apply only to the appeal of the financial liabilities established in this final program review determination.

This FPRD contains one or more findings regarding BIR's failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime

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Chicago/Denver School Participation Division  
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Statistics Act (the Clery Act) in Section 485(f) of the HEA, 20 U.S.C. § 1092(f), and the Department's regulations in 34 C.F.R. §§ 668.41 and 668.46. Since a Clery Act finding does not result in a financial liability, such a finding may not be appealed.

The total liabilities due from the institution from this program review are \$21,815.00.

This final program review determination contains detailed information about the liability determination for all findings.

**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. Instead, each finding references students only by a student number created by Federal Student Aid. The student numbers were assigned in Appendix A, Student Sample. In addition, Appendices B and C also contain PII. These appendices were encrypted and sent separately to the institution via e-mail.

**Appeal Procedures:**

This constitutes the Department's FPRD with respect to the liabilities identified from the December 23, 2013 program review report. If BIR wishes to appeal to the Secretary for a review of financial liabilities established by the FPRD, the institution must file a written request for an administrative hearing. Please note that institutions may appeal financial liabilities only. The Department must receive the request no later than 45 days from the date BIR receives this FPRD. An original and four copies of the information BIR submits must be attached to the request. The request for an appeal must be sent to:

Director  
Administrative Actions and Appeals Service Group  
U.S. Department of Education  
Federal Student Aid/PC  
830 First Street, NE - UCP3, Room 84F2  
Washington, DC 20002-8019

BIR's appeal request must:

- (1) indicate the findings, issues and facts being disputed;
- (2) state the institution's position, together with pertinent facts and reasons supporting its position;
- (3) include all documentation it believes the Department should consider in support of the appeal. An institution may provide detailed liability information from a complete file

review to appeal a projected liability amount. Any documents relative to the appeal that include PII data must be redacted except the student's name and last four digits of his / her social security number (please see the attached document, "Protection of Personally Identifiable Information," for instructions on how to mail "hard copy" records containing PII); and

(4) include a copy of the FPRD. The program review control number (PRCN) must also accompany the request for review.

If the appeal request is complete and timely, the Department will schedule an administrative hearing in accordance with § 487(b)(2) of the HEA, 20 U.S.C. § 1094(b)(2). The procedures followed with respect to BIR's appeal will be those provided in 34 C.F.R. Part 668, Subpart H. **Interest on the appealed liabilities shall continue to accrue at the applicable value of funds rate, as established by the United States Department of Treasury, or if the liabilities are for refunds, at the interest rate set forth in the loan promissory note(s).**

**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 the institution has any questions regarding this letter, please contact Jason Charlton at (312) 730-1695. Questions relating to any appeal of the FPRD should be directed to the address noted in the Appeal Procedures section of this letter.

Sincerely,

(b)(6)

Douglas Parrott  
Division Director

Enclosure:

Protection of Personally Identifiable Information

Program Review Report (and appendices)

Final Program Review Determination Report (and appendices)

cc: Alexis Brown, Financial Aid Administrator  
Illinois Board of Higher Education  
Accrediting Council for Independent Colleges and Schools  
Department of Defense  
Department of Veterans Affairs  
Consumer Financial Protection Bureau

Prepared for  
Business Industrial Resources

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OPE ID 03448300  
PRCN 201320528236

Prepared by  
U.S. Department of Education  
Federal Student Aid  
Chicago/Denver School Participation Division

# Final Program Review Determination July 9, 2015

500 W Madison Street, suite 1576. Chicago, IL 60661  
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**A. Institutional Information**

Business Industrial Resources  
3601 West Devon, Suite #210  
Chicago, IL 60659-1298

Type: Proprietary

Highest Level of Offering: Non-Degree/ Vocational Programs

Accrediting Agency: North Central Association on Accreditation and School Improvement

Current Student Enrollment: 637 (2012)

% of Students Receiving Title IV, HEA funds: 91% (2011-2012)

Title IV, HEA Program Participation Postsecondary Education Participants System (PEPS):

	<u>2012-2013</u>
Federal Pell Grant (Pell)	\$5,333,012.00
William D. Ford Federal Direct Loan Program (Direct Loan)	\$10,010,100.00
Federal Supplemental Education Opportunity Grant (FSEOG)	\$53,640.00
Federal Work Study (FWS)	\$93,939.00

Default Rate FFEL/DL:	2011	20.9%
	2010	12.3%
	2009	13.9%

## **B. Scope of Review**

The U.S. Department of Education (the Department) conducted a program review at Business Industrial Resources (BIR) from February 25, 2013 to March 1, 2013. The review was conducted by Jason Charlton and Nicholas Koulermos.

The focus of the review was to determine BIR'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 BIR'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. A program review report was issued on December 23, 2013. Please note, the program review report's Appendix A had numbered the students incorrectly and was not in alphabetical order. A revised student list with the appropriate student number was delivered to the institution after the original program review report was issued.

### **Disclaimer:**

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning BIR'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 BIR of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

## **C. Findings and Final Determinations**

### **Resolved Findings**

Findings 6 and 7

BIR has taken the corrective actions necessary to resolve findings **6 and 7** of the program review report. Findings requiring further action by BIR are discussed below.

### **Findings with Final Determinations**

The program review report finding(s) requiring further action are summarized below. At the conclusion of each finding is a summary of BIR's response to the finding, and the Department's final determination

for that finding. A copy of the program review report issued on December 23, 2013 is attached as Appendix B.

**Finding 1: Crime Awareness Requirements Not Met - Omitted/Inadequate/Incomplete Campus Safety Policy and Statistical Disclosures and Failure to Actively Distribute the Annual Security Report as a Comprehensive Document**

***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 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. This notice must also 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).*

*In addition, the ASR must include several policy statements. These disclosures are intended to inform the campus community about the institution's security policies, procedures, and the availability of programs and resources as well as channels for victims of crime to seek recourse. In general, these policies include topics such as the law enforcement authority and practices of campus police and security forces, incident reporting procedures for students and employees, and policies that govern the preparation of the report itself. Institutions are also required to disclose alcohol and drug policies and*

*educational 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 and emergency notifications as well as its emergency response and evacuation procedures. All required information referenced in 34 C.F.R. §668.46(b) must be published in the ASR. With the exception of certain drug and alcohol program information, cross referencing to other publications is not sufficient to meet the publication and distribution requirements of the Act. 34 C.F.R. §668.46(b).*

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

***Noncompliance:***

*BIR violated multiple provisions of the Clery Act. Specifically, the institution failed to prepare and publish a materially-complete 2012 ASR as a single comprehensive document. Substantive issues were identified regarding the institution's campus safety policy, procedural, programmatic, and statistical disclosures. In this case, required content was either omitted entirely or lacked sufficient detail in an area of mandatory disclosure. These errors include the following:*

- *2011, 2010, and 2009 campus crime statistics were not broken out by separate campus location. BIR currently has three locations; Devon campus, Wabash campus and Belmont campus. All campus crime statistics for these separate campuses were combined and published under the heading for the Devon campus; and,*
- *A statement advising the campus community where law enforcement agency information provided by a State under section 170101(j) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. § 14071(j)), concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.*

*In addition, BIR failed to actively distribute this mandatory report to all current students and employees in the required manner. Specifically, the 2012 ASR was not actively disseminated to non-teaching staff even though the report was provided directly to current students and members of the faculty. BIR used its student and instructor portals to distribute a direct link to the ASR. Non - faculty members do not have access to this link and therefore, could not access the ASR. Moreover, the Department's review indicated that BIR also persistently failed to actively notify prospective students and employees about the availability of the ASR including the 2012 ASR and all prior reports.*

*Failure to publish an accurate and complete ASR deprives the campus community of important security information that can empower its members to be informed and to play a more active role in their own safety and security.*

***Required Action:***

*As a result of this violation, BIR must develop and implement policies and procedures for preparing, publishing, and distributing an ASR that meets Federal standards. The new procedures also must articulate how all current students and employees will be notified of the report's availability each year. Using its new policies as a guide, BIR must prepare and publish an accurate and complete ASR that separates the crime statistics to the appropriate campuses and includes all of the statistical disclosures and policy, procedure and programmatic information required under 34 C.F.R. §668.46(b). A copy of the institution's new policies and procedures and its draft ASR must accompany BIR's response to this program review report. Once the new ASR is evaluated by the review team for accuracy and completeness, BIR must actively distribute it to all current students and employees in accordance with 34 C.F.R. §668.41(e).*

*Finally, BIR must provide documentation to the Department evidencing the distribution as well as a statement of certification attesting to the fact that the materials were distributed in accordance with the Clery Act. This certification must also affirm that BIR understands its Clery Act obligations and that it will take all necessary corrective actions to ensure that this violation does not recur.*

*As noted above, this finding constitutes a serious violation of the Clery Act that by its nature cannot be cured. BIR will be given an opportunity to develop and distribute a compliant ASR and in so doing, bring its overall campus security program into compliance with the Clery Act as required by its Program Participation Agreement (PPA). However, BIR 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 as a result.*

*Based on an evaluation of all available information including BIR's response, the Department will determine if additional actions will be required and will advise the institution accordingly in its Final Program Review Determination.*

### **BIR's Response:**

In its official response, BIR concurred with the finding and stated that remedial action was taken as directed in the program review report. In summary, BIR management asserted the following: The review team advised the institution of the violations during the site visit. Shortly thereafter, work commenced on remedial actions. On March 5, 2013, the 2011 ASR was sent via electronic mail to all employees. No distribution to students was mentioned. Per the response, the 2012 ASR was posted to BIR's website on September 30, 2013. BIR officials claimed that employees were once again notified of the report's availability via e-mail. In addition, management stated that information including the exact electronic address of the report was sent to enrolled students and current employees via their designated Portal Message Boards.

BIR's response also included information about its new ASR distribution procedure. In relevant part, the procedure is as follows:

- 1) All current students of BIR will be notified of the availability of the ASR and Crime Statistics on BIR's website at the time the ASR is posted, but no later than September 30<sup>th</sup> of each year. The

notification will be posted on the Student Portal Message Board, and will include the link to the report and statistics

- 2) All employees of BIR will be notified via e-mail of the availability of the ASR and Crime Statistics on BIR's website at the time the ASR is posted, but no later than September 30<sup>th</sup> of each year. The e-mail will include the link to the report and statistics
- 3) All faculty of BIR will be notified of the availability of the ASR and Crime Statistics on BIR's website at the time the ASR is posted, but no later than September 30<sup>th</sup> of each year. The notification will be posted on the Instructor Portal Message Board and will include the link to the report and statistics

BIR also created procedures on how the ASR will be prepared and displayed:

- 1) The ASR will be prepared timely and will include Crime Statistics for the reporting calendar year
- 2) The Crime Statistics will be separated to the appropriate BIR locations
- 3) The Crime Statistics for the last 3 years will be posted on the BIR website
- 4) The ASR will be posted on the BIR website. The notifications to all members of BIR community will be timely posted in accordance with the policy

In BIR's response, the institution provided documentation to the Department supporting the implementation of the new policies and procedures, updated/corrected ASR and evidence of the distribution and notification to all members of the BIR community.

#### **Final Determination:**

Finding #1 cited BIR for its failure to properly publish and distribute a complete 2011 ASR. The ASR MIR distributed for calendar year 2011 did not have the crime statistics information detailed in the noncompliance section above. In addition, BIR failed to actively distribute this mandatory report to all current students and employees in the required manner. Specifically, the 2012 ASR was not actively disseminated to non-teaching staff even though the report was provided directly to current students and members of the faculty. BIR used its student and instructor portals to distribute a direct link to the ASR. Non - faculty members do not have access to this link and therefore, could not access the ASR. Moreover, the Department's review indicated that BIR also persistently failed to actively notify prospective students and employees about the availability of the ASR including the 2012 ASR and all prior reports. As a result of this violation, BIR was required to develop and implement substantive policies and procedures to ensure that all future ASRs are produced and distributed in accordance with the *Clery Act* and the Department's regulation. In addition, the Department required BIR to submit credible evidence showing that the 2012 report was actively distributed to required recipients by the regulatory due date. In its response, BIR concurred with the finding, described its remedial actions, and submitted documentation in support of its claims.

The Department carefully examined BIR's narrative response and supporting documentation. Based on that review and the institution's admission of noncompliance, the violation identified in the initial finding is sustained. The review team's examination also showed that the identified violation was, for

the most part, satisfactorily addressed by the institution's new ASR format and its new internal policies and procedures. As such, the Department has determined that BIR's remedial action plan meets minimum requirements. For these reasons, the Department has accepted the institution's response and considers this finding closed for purposes of this program review. Nevertheless, the directors and officials of BIR are put on notice that they must take any additional actions that may be needed to address the deficiencies identified by the Department, as well as any other deficiencies or weaknesses that were detected by the institution during the preparation of its response, and/or as may otherwise be needed to ensure that these violations do not recur.

Although the finding is closed for the purposes of this program review, BIR is reminded that the exception identified above constitutes a serious violation of the *Clery Act* that by its nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. The active and timely distribution of an accurate and complete ASR is among the most basic requirements of the *Clery Act* and is fundamental to its campus safety goals. BIR asserted that it has taken adequate remedial actions and that by doing so, is now in compliance with the *Clery Act* as required by its Program Participation Agreement (PPA). Nevertheless, BIR's management must understand that the violations documented by the program review deprived students and employees of important campus safety and crime prevention information to which they are entitled. For these reasons, BIR is advised that its remedial actions 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 *Clery Act* violations, the Department strongly recommends that BIR re-examine its campus security 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 regulations. As part of these periodic reviews, BIR officials are encouraged to continue to use the Department's "Handbook for Campus Safety and Security Reporting" (2011) as a reference guide for *Clery Act* compliance. The Handbook is online at: [www2.ed.gov/admins/lead/safety/handbook.pdf](http://www2.ed.gov/admins/lead/safety/handbook.pdf). The Department also provides a number of other *Clery Act* training resources. BIR officials can access these materials at: [www2.ed.gov/admins/lead/safety/campus.html](http://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.

BIR's management is also reminded that Section 304 of the Violence Against Women Reauthorization Act of 2013 (VAWA) amended the *Clery Act* to require institutions to compile and disclose statistics for incidents of sexual assault, dating violence, domestic violence, and stalking. VAWA also requires institutions to include new policy, procedural, and programmatic disclosures regarding sexual assault prevention, response, and adjudication in their ASRs, among other requirements. All institutions were already obligated to make a documented good-faith effort to comply with the statutory requirements of VAWA and were also required to include all VAWA-specific content in the 2014 ASR. The Department issued Final Rules on the VAWA amendments on October 20, 2014 and therefore, these regulations went into full effect on July 1, 2015, per the Department's Master Calendar. BIR officials may access the text of the Final Rule at: <http://ifap.ed.gov/fregisters/attachments/FR102014FinalRuleViolenceAgainstWomenAct.pdf>.

**Finding 2: Drug and Alcohol Abuse Prevention Program Requirements Not Met – Failure to Conduct a Biennial Review**

***Citation:***

*The Drug-Free Schools and Communities Act (DFSCA) and Part 86 of the Department's General Administrative Regulations requires each participating institutions 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:*

- *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;*
- *A written description of legal sanctions imposed under Federal, state and local laws for unlawful possession or distribution of illicit drugs and alcohol;*
- *A description of the health risks associated with the use of illicit drugs and the abuse of alcohol;*
- *A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to students and employees; and,*
- *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, 86.100, 86.103.*

***Noncompliance:***

*BIR violated multiple provisions of the DFSCA's biennial review requirements. Specifically, the institution failed to conduct a 2012 biennial review and as a result, also failed to prepare a report of findings, as required. BIR officials conceded that work on a 2013 biennial review did not commence until Department officials requested the institution's report as part of the initial program review data request. In fact, BIR officials stated that the institution has never conducted a biennial review.*

*Failure to comply with the biennial review requirements deprives the institution of important information about the effectiveness of its own drug and alcohol programs. Such failures may contribute to increased drug and alcohol abuse as well as an increase in drug and alcohol-related violent crime.*

**Required Action:**

*BIR is required to take all necessary corrective actions to address the violations identified above and all other violations identified by the Institution during the preparation of its response to this program review report. At a minimum, BIR must take the following remedial actions:*

- *Conduct a biennial review to: 1) assess the effectiveness of the Institution's DAAPP; 2) evaluate the consistency of sanctions imposed for violations of its disciplinary standards and codes of conduct related to drugs and alcohol; and, 3) identify areas requiring improvement or modification. BIR must also prepare a report of findings. In that report, the Institution must describe the research methods and data analysis tools that were used to determine the effectiveness of the program. In addition, the report must identify the responsible official(s) who conducted the review. Moreover, the report must include a plan of action that details how the findings and recommendations identified during the review will be integrated into the DAAPP to improve the program's effectiveness. Finally, the report must be approved by BIR's President and/or BIR's Board;*
- *Submit copies of the two most-recent biennial review reports that the institution has produced (if any) with its response to this program review report. If no such reports were ever produced as was indicated during the site visit, institution officials must clearly state that fact. In this context, BIR officials are specifically advised that no new documents are to be created for the purpose of demonstrating compliance with the biennial review report requirement for past periods; and,*
- *Establish policies and procedures to ensure that all subsequent biennial reviews are conducted in a timely manner and are fully documented and to take all other necessary action to ensure that this violation does not recur. A copy of these policies and procedures must accompany the institution's submission of its biennial review report.*

*Because the DFSCA went into effect in 1990, longstanding practice dictates that the biennial review is normally conducted in even-numbered years. However, given BIR's failures in this regard, the Department must require that a biennial review be initiated immediately. Therefore, BIR's biennial review must commence immediately upon receipt of this program review report and be completed by March 1, 2014. The institution must submit its biennial review report of findings to the review team by March 15, 2014.*

*As noted above, violations of the DFSCA are very serious and by their nature, cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. BIR will be given an opportunity to conduct a substantive biennial review and in doing so, will begin to bring its overall drug and alcohol prevention programs into compliance with the DFSCA as required by its PPA. However, BIR 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 an adverse administrative action and/or additional corrective measures as a result.*

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

**BIR's Response:**

In its response, BIR concurred with the finding and stated that remedial action was taken as directed in the program review report. Specifically, the institution's management asserted the following: After the Department's site visit, BIR convened a meeting for the purpose of commencing a biennial review. In support of its remedial action claims, BIR submitted copies of its meeting notes and its supporting documentation.

**Final Determination:**

Finding #2 of the program review report cited BIR for not conducting biennial reviews to assess the effectiveness of its DAAPP as well as for the resultant failure to produce the required report of findings for each review. As a result of this violation, BIR was required to conduct a substantive biennial review and produce a detailed report of findings. In addition, the institution was required to develop and implement internal policies and procedures to ensure that future reviews are conducted on the required schedule. In its response, BIR officials concurred with the finding and conceded that it has never conducted a biennial review prior to the program review. BIR management also asserted that it took adequate remedial action and submitted documents in support of its claims.

The Department carefully examined BIR's narrative response and supporting documentation. Based on that review and the institution's admission of noncompliance, the violations identified in the initial finding are sustained. Although additional refinements are needed, the review team's examination also showed that the identified violations were, for the most part, satisfactorily addressed by the BIR's inaugural biennial review report and new internal policies and procedures. As such, the Department determined that the institution's remedial action plan meets minimum requirements. For these reasons, the Department has accepted the response and considers this finding to be closed for purposes of this program review. Nevertheless, the officials and directors of BIR are put on notice that the institution must take all necessary action to address the violations identified by the Department as well any deficiencies and weaknesses that were detected during the preparation of its response, and/or as may otherwise be needed to ensure that these violations do not recur.

In this regard, BIR is advised that it must continue to develop its DAAPP. The institution also must ensure that it distributes accurate and complete DAAPP materials to all students and employees in accordance with the Department's regulations. Moreover, given the lack of specifics in BIR's first biennial review report, the institution must take definitive steps to conduct more substantive biennial reviews going forward and ensure that it produces detailed reports about the conduct of each review. The Department reviewed BIR's inaugural report and noted that the document did not clearly show that the current review process specifically assesses the effectiveness of BIR's program. Going forward, it is essential that each review be a probative inquiry into the actual effectiveness of the program and not merely be a conclusory ratification of current policy. Moreover, all findings of the review committee

must be supported by valid evidence. Finally, each report must be approved by BIR's President and/or its board.

Although this finding is now closed, BIR is reminded that the exceptions identified above constitute very serious and persistent violations of the *DFSCA* that by their nature cannot be cured. There is no way to truly "correct" violations of this type once they occur. The institution asserted that it has taken adequate remedial actions and is now in compliance with the *DFSCA* as required by its PPA. Nevertheless, BIR officials must understand that compliance with the *Clery Act* and the *DFSCA* is essential to maintaining a safe and healthy learning environment. Data compiled by the Department shows that the use of illicit drugs and alcohol abuse is highly correlated to increased incidents of violent crime on campus. *DFSCA* violations deprive students and employees of important information regarding the educational, financial, health, and legal consequences of alcohol abuse and illicit drug use and deprive institutions of important information about the effectiveness of any drug and alcohol programs that may have been in place during the review period. For these reasons, BIR is advised that its remedial actions 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 of *DFSCA* compliance failures, the Department strongly recommends that BIR re-examine its DAAPP policies and procedures 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*. Please be advised that the Department may request information on a periodic basis to test the effectiveness of BIR's new policies and procedures.

### **Finding 3. Ineligible Disbursements of Direct Loans**

#### **Citation:**

*The minimum period of enrollment for which a school may originate a Direct Loan application at a school that measures academic progress in clock hours, or measures academic progress in credit hours but does not use a semester, trimester, or quarter system and does not have terms that are substantially equal in length with no term less than nine weeks in length is the lesser of-*

- 1) The length of the student's program (or the remaining portion of that program if the student has less than the full program remaining at the school); or*
- 2) The academic year as defined by the school in accordance with 34 C.F.R. § 668.3, 34 C.F.R. § 665.301(a)(10)(i)(B)*

*If a school measures academic progress in an educational program in credit hours and uses nonstandard terms that are not substantially equal in length or each term is not at least nine weeks of instructional time in length, or measures academic progress in credit hours and does not*

*have academic terms, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of-*

- i) The student's completion of the weeks of instructional time in the student's academic year; or*
  - ii) The date, as determined by the school, that the student has successfully completed the academic coursework in the student's academic year*
- 34 C.F.R. § 685.301(c)(2)*

*The Department defines an academic year for a program offered in credit hours, a minimum of 30 weeks of instructional time and a full-time student is expected to complete at least twenty-four semester or trimester credit hours or 36 quarter credit hours. 34 C.F.R. § 668.3(a)*

*For an undergraduate student who has not successfully completed the first year of a program of undergraduate education, the total amount the student may borrow for any academic year of study under the Subsidized Federal Direct Loan Program may not exceed the following:*

- (i) \$3,500, for a program of study of at least a full academic year in length.*
- (ii) For a one-year program of study with less than a full academic year remaining, the amount that is the same ratio to \$3,500, as the:*

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

*For a program of study with less than a full academic year remaining, the amount that is the same ratio to \$4,500 as the:*

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

*34 C.F.R. § 685.203(a)*

*For a dependent undergraduate student who has not successfully completed the first year of a program of undergraduate education, the total amount the student may borrow for any academic year of study under the Unsubsidized Federal Direct Loan Program may not exceed the following:*

- (i) \$2,000, for a program of study of at least a full academic year in length.*
- (ii) For a program of student that is one academic year or more in length with less than a full academic year remaining, the amount that is the same ratio to \$2,000, as the:*

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

*34 C.F.R. § 685.203(b)*

*For an independent undergraduate student who has not successfully completed the first year of a program of undergraduate education, the total amount the student may borrow for any academic year of study under the Unsubsidized Federal Direct Loan Program may not exceed the following:*

- (i) \$6,000, for a program of study of at least a full academic year in length.*
- (ii) For a program of student that is one academic year or more in length with less than a full academic year remaining, the amount that is the same ratio to \$6,000, as the:*

*Number of semester, trimester, quarter, or clock hours enrolled*  
*Number of semester, trimester, quarter, or clock hours in academic year*  
*34 C.F.R. § 685.203(c)*

*Additionally, when evaluating how an institution should award Stafford loans, Volume 3, Chapter 5 in the 2012-2013 Federal Student Aid Handbook states:*

*There are two types of academic years that may be used to monitor annual loan limits for Stafford Loans: a Scheduled Academic Year (SAY) or a Borrower-Based Academic Year (BBAY). (Note that although there is no annual loan limit for PLUS Loans, PLUS Loans are awarded for the same SAY or BBAY period that is used for Stafford Loans.)*

*An SAY corresponds to a traditional academic year calendar that is published in a school's catalogue or other materials (for example, fall and spring semesters, or fall, winter, and spring quarters, or, for a nonstandard substantially equal and at least nine weeks in length (SE9W) program, an academic calendar comparable to a traditional academic calendar).*

*An SAY is a fixed period of time that begins and ends at the same time each year. A BBAY does not have fixed beginning and ending dates. Instead, it "floats" with a student's (or group of students') attendance and progression in a program of study.*

*If a program is offered in an SAY calendar, you have the option of using either an SAY or BBAY 1 to monitor the annual loan limits for students in that program. You **must** use a BBAY to monitor the annual loan limits for any academic program that does not meet the definition of a program allowed to use an SAY. However, there are significant differences:*

- BBAY 1, for credit-hour programs using a Scheduled Academic Year with standard terms or nonstandard SE9W terms.*
- BBAY 2, for credit-hour programs not using an SAY, with standard terms or nonstandard SE9W terms.*
- BBAY 3, for clock-hour programs, nonterm programs, and any nonstandard-term program, or a program with standard and nonstandard terms, not described above.*

*Further in the same chapter, the Federal Student Aid Handbook describes what is required for non-standard term programs that are not SE9W:*

*Clock-hour, nonterm credit-hour, and nonstandard-term programs that are not SE9W: BBAY 3*

*All clock-hour programs, nonterm credit-hour programs, and nonstandard-term programs with terms that are not SE9W must use a BBAY that meets the minimum requirements for an academic year. That is, the BBAY must contain at least 30 (or, for clock-hour programs, 26) weeks of instructional time and at least the appropriate number of credit or clock-hours: for undergraduate programs, 24 semester or trimester hours, 36 quarter-hours, or 900 clock-hours; for graduate programs, the number of hours a student would complete under the school's full-time standard in the weeks of the FSA academic year, which must be a minimum of 30 weeks of instructional time, or, for clock-hour programs, at least 26 weeks of instructional time. This requirement also applies to a program that consists of both standard and nonstandard terms and that does not qualify to use an SAY.*

*The BBAY begins when a student enrolls and does not end until the later of the date the student successfully completes the hours in the academic year, or the number of weeks of instructional time in the academic year.*

*Because a student must successfully complete the minimum number of hours or weeks of instructional time in an academic year (whichever comes later) before a new BBAY begins, a student's enrollment status may affect how soon the student regains eligibility for a new annual loan limit. For example, a student who is attending part-time will take longer to complete a BBAY than a full-time student. (In contrast, a SAY or BBAY for a standard term program, or a nonstandard SE9W program ends when the calendar period associated with the terms in the SAY or BBAY has elapsed, regardless of how many credit-hours or weeks of instruction the student completed during the SAY or BBAY.)*

### **Noncompliance:**

*BIR failed to identify the type of academic year that should be used based on their term schedules. This resulted in the institution, at times, disbursing ineligible Direct Loan installments to students.*

*Although BIR has seven, seven week terms within a calendar year, the institution was using a Standard Academic Year (SAY). BIR defines their academic year as beginning in summer and a full academic year is six terms. According to BIR, a student must take a term off, because the*

*student cannot attend seven consecutive terms and receive Title IV aid. However, because BIR has terms that are not substantially equal to nine weeks or longer, the institution is required to use the BBAY3 calculation to determine a student's annual loan limits; the academic year begins when the student begins class and does not end until the later of the academic year or credit hours in the academic year. In BIR's case, the academic year would be the later of six terms (42 weeks) or 24 credit hours. Because*

*BIR did not use the required BBAY3 calculation, students who completed six terms but had yet to complete 24 credit hours were allowed to receive second year loans.*

*Student #2 started in the Medical Assisting program (MA) during the Fall 1 term in BIR's 2010-2011 academic year. The first year loan period began 2010-2011 Fall 1 and went through the 2010-2011 Spring 2 term, disbursing the first year maximum of \$3,500.00 in Federal Subsidized Stafford loans (Sub) and \$6,000.00 in Federal Unsubsidized Stafford loans (Unsub). Within this loan period, the student successfully completed 19 credits. The student then received second year loans the following term, 2011-2012 Summer that continued through the 2011-2012 Winter 2; disbursing another \$2,417.00 in Sub and \$4,000.00 in Unsub. The student did not earn 24 credits until after the Fall 1 term, where the student finished with 26 credits. Therefore, the student received ineligible loan disbursements of \$1,021 in Sub and \$1,750.00 in Unsub for the 2011-2012 Summer and Fall 1 terms. In the Summer 2012-2013 term, the student then transferred out of the MA program and in to the Machine Tool Technology Program (MTTP) and then withdrew from the institution after the Fall 2 2012-2013 term. The student never finished the program and therefore did not go on to earn the ineligible disbursements.*

*Student #12 started in the Computer Numerical Control Computerized Manufacturing program during the Fall 2 term in BIR's 2011-2012 academic year. The first loan period began Fall 2 and went through Spring 2 term, disbursing first year loans of \$1,969.00 in Sub and \$3,000.00 in Unsub. Within this loan period, the student successfully completed five credits. The student then received another set of loans with the loan period starting Summer 2012-2013 term and continuing through Winter 2, where it appears the student withdrew from the program. After the Winter 2 term in the 2012-2013 academic year, the student successfully completed 11 credits, never earning enough credits for second year level loans, but received a total of \$3,718.00 in Sub and \$6,000.00 in Unsub. Therefore, the student received \$218.00 over the allowable first year level Sub limit and is considered ineligible.*

*Student #15 started in the MA program during the Fall 2 term in BIR's 2010-2011 academic year. The first year loan period began Fall 1 and went through the Spring 2 term, disbursing \$2,915.00 in Sub and \$5,000.00 in Unsub. Within this loan period, the student successfully completed 20 credits. The student then received another set of loans the following term, Summer that continued through Fall 1, when the student withdrew; disbursing another \$876.00 in Sub and \$1,500.00 in Unsub. The student did not earn 24 credits until after the 2011-2012 Fall 1 term, where the student finished with 26 credits. Therefore, the student received ineligible loan disbursements of \$438.00 in Sub and \$750.00 in Unsub. The student never finished the program and therefore did not go on to earn the ineligible disbursements.*

*Student #18 started in the MA program during the Winter 2 term in BIR's 2010-2011 academic year. The first year loan period began Winter 2 and went through the Spring 2 term, disbursing \$1,750.00 in Sub and \$3,000.00 in Unsub. Within this loan period, the student successfully completed 11 credits. The student then received another set of loans the following term, 2011-2012 Summer that continued through Spring 2; disbursing another \$3,500.00 in Sub and \$6,000.00 in Unsub. The student did not earn 24 credits until after the 2011-2012 Spring 2 term, where the student finished with 24 credits. Therefore, the student received ineligible loan disbursements of \$1,750.00 in Sub and \$3,000.00 in Unsub. The student never finished the program and therefore did not go on to earn the ineligible disbursements.*

*Student #22 started in the MA program during the Fall 1 term in BIR's 2011-2012 academic year. The first year loan period began Fall 1 and went through the Spring 2 term, disbursing \$2,915.00 in Sub and \$5,000.00 in Unsub. Within this loan period, the student successfully completed 15 credits. The student then received another set of loans the following term, 2012-2013 Summer that continued through Fall 1, when the student withdrew; disbursing another \$730.00 in Sub and \$1,250.00 in Unsub. The student never earned 24 credits. Therefore, the student received ineligible loan disbursements of \$145.00 in Sub and \$250.00 in Unsub.*

**Required Action:**

*BIR must immediately establish and implement written procedures to ensure all Federal Stafford loans are calculated accurately and within the requirements of the BBAY3 calculation established by federal regulations. A copy of those policies and procedures must be submitted in response to this report.*

*Additionally, due to the fact the reviewers found a systemic and significant error, BIR must perform a file review of all students enrolled during the 2011-2012 and/or 2012-2013 award years who received more than one set of loans at BIR. The information should be provided in an Excel spreadsheet, paper and electronic formats with the following data:*

- 1) Student name*
- 2) Social security number*
- 3) Terms enrolled*
- 4) Term in which student first completed at least 24 credit hours*
- 5) Total gross amount disbursed in Federal Subsidized Stafford Loan*
- 6) Total gross amount disbursed in Federal Unsubsidized Stafford Loan*
- 7) Total gross amount disbursed in Federal PLUS Loan*
- 8) Dates of disbursements by program*
- 9) Withdrawal date (if withdrew from institution)*

*A copy of this report must be submitted in electronic format (Excel spreadsheets) with supporting documentation including but not limited to academic transcripts, financial aid award and the cumulative student account information.*

*Repayment instructions, if necessary, will be provided in the Final Program Review Determination Letter.*

**BIR's Response:**

BIR's initial response indicated the institution did not agree with the Department's assessment that the institution had failed to identify the academic year used in all circumstances of student aid and academic eligibility and appealed the file review. However, after further discussion with the Department, BIR completed a full file review as requested.

Additionally, BIR states the institution revisited the academic year and Title IV awarding requirements. Upon review, BIR corrected their academic year three 16 week terms comprised of six 8 week modules and has begun awarding Title IV aid under the Borrower Based Award Year (BBAY) method.

### **Final Determination:**

The written procedures and file review in response to this finding were received with the institution's response. BIR has created the necessary procedures and restricted the academic term and year to align with Department requirements. Although the institution's response was found to be minimally adequate, it is important to note that although is currently awarding under BBAY, BIR's new academic year definition of 3 terms comprised of two modules in each term satisfies the Standard Academic Year (SAY) requirement and could have remained under SAY. However, since BIR has implemented the appropriate policies and procedures for awarding under BBAY, BIR is expected to follow their corrective action given in the program review response.

BIR submitted complete file review for all students enrolled during the 2011-2012 and 2012-2013 award year who received more than one set of loans. The institution provided a spreadsheet with a master list of all the students who received more than one set of loans at BIR. The aforementioned spreadsheet can be found in Appendix C In addition, BIR separated all of these students in to five categories/tabs:

1. < 24 credits earned
2. > 24 credits No Over Award
3. > 24 credits earned
4. MULTIPLE Programs ALL
5. Completed 6 term AY

The Department reviewed a sample from the master list of BIR's file review for accuracy. Upon review, it was determined that the institution correctly identified overawards for those students listed under the category "< 24 credits earned". While the other categories indicated overawards because BIR noted these students received second year level loans prior to them completing 24 credits, it was determined the majority of these students eventually earned the 24 credits and completed the previously defined academic year and therefore went on to earn second year level loans and no first year level loan overaward exists. Based on BIR's response for the students categorized as "< 24 credits earned," BIR is liable for \$223,932.00 in 2012-2013 Federal Subsidized Direct Loan (Sub) funds and \$350,222.00 in 2012-2013 Federal Unsubsidized Direct Loan (Unsub) funds. Detailed information about this liability determination can be found in Appendix D.

During the examination of BIR's file review, the Department noted that there were students who remained in one program and although going on to earn second year level loans, received loans over the allowable prorated second year loan amounts for their program, resulting in a programmatic overaward. While no instances were found on site during the program review, this was a concern that was brought to the institution by the reviewers while on site. Because there were noted instances of programmatic

overaward while reviewing a sample from the master list BIR submitted, each student who was not enrolled in multiple programs (all tabs except “MULTIPLE Programs ALL”) during the period of review was assigned the total credits for the program enrolled in accompanied by the maximum Sub and Unsub eligible for each program. Based on this information, it was determined 128 students received programmatic overawards in the period of review totaling \$71,206.50 in 2012-2013 Federal Subsidized Direct Loans, of which 31 of these students, totaling \$13,334.00 never reached or became eligible for second year level loans and were already identified as a liability and these amounts were removed as duplicates. Therefore, after the duplicate student liabilities removed, BIR is liable for a total of \$281,804.50 in 2012-2013 Federal Subsidized Direct Loan funds and \$350,222.00 in 2012-2013 Federal Unsubsidized Direct Loans funds for this finding. Detailed information about this liability determination can be found in Appendix E.

In lieu of requiring BIR to repay for this finding, the \$281,804.50 in 2012-2013 Federal Subsidized Direct Loan funds and \$350,222.00 in 2012-2013 Federal Unsubsidized Direct Loans funds to the current holder of the promissory note, the Department has estimated a financial loss from this improperly disbursed loan. The total amount of Direct Loan funds (subsidized and unsubsidized) disbursed to students as an overaward during the 2011-2012 and 2012-2013 award years is \$632,026.50. The estimated actual loss to the Department that has resulted or will result from those ineligible loans is based on BIR’s most recent cohort default rate available. As a result, the estimated actual loss that BIR must pay to the Department for the ineligible loans is **\$19,775.50**. A copy of the results of that calculation is included as Appendix F.

#### **Finding 4. Subsidized Federal Direct Loan (FDL) Certification**

##### **Citation:**

*A school must disburse loan proceeds in substantially equal installments, and no installment may exceed one-half of the loan.*  
34 C.F.R. § 685.301(b)(5)

##### **Noncompliance:**

*Because BIR has not properly defined their academic year/payment period based on the institution’s term length, BIR improperly certified and disbursed loans for students who were going in to, what BIR defined as, their second academic year.*

*As described in the previous finding, BIR has seven, seven week terms within a calendar year. The institution was defining their academic year as a Standard Academic Year (SAY) with the start of the SAY in the summer and ends after the spring 2 term. Currently, if a student has less than 24 credit hours remaining in their program at the start of the summer term, the loan disbursements are prorated based upon the number of credits a student is taking per term; creating unequal disbursements throughout the student’s loan period.*

*Student #2 successfully completed 19 credits with 16 credits left to complete the program when entering the summer term for the 2011-2012 academic year. According to the award letter, the student's loans were prorated at \$146.00 for Subsidized and \$250.00 for Unsubsidized per credit hour. During the 2011-2012 academic year, the student took three credits for the summer term, four credits during fall 1 term, and three credits during fall 2 term and received the aforementioned prorated amounts per credit hour; making unequal loan disbursements through the loan period.*

*Student #15 successfully completed 20 credits with 15 credits left to complete the program when entering the summer term for the 2011-2012 academic year. According to the award letter, the student's loans were prorated at \$146.00 for Subsidized and \$250.00 for Unsubsidized per credit hour. During the 2011-2012 academic year, the student took three credits for the summer term, three credits during fall 1 term, and five credits during winter 1 term and received the aforementioned prorated amounts per credit hour; making unequal loan disbursements through the loan period.*

*Student #17 successfully completed 10 credits with 17 credits left to complete the program when entering the summer term for the 2012-2013 academic year. According to the award letter, the student's loans were prorated at \$146.00 for Subsidized and \$250.00 for Unsubsidized per credit hour. During the 2012-2013 academic year, the student took three credits for the summer term,*

*three credits during fall 1 term, three credits during the fall 2 term, four credits during the winter 1 terms and four credits during winter 2 term and received the aforementioned prorated amounts per credit hour; making unequal loan disbursements through the loan period.*

*Student #22 successfully completed 15 credits with 20 credits left to complete the program when entering the summer term for the 2012-2013 academic year. According to the award letter, the student's loans were prorated at \$146.00 for Subsidized and \$250.00 for Unsubsidized per credit hour. During the 2012-2013 academic year, the student took three credits during summer term and two credits during the fall 1 term and received the aforementioned prorated amounts per credit hour; making unequal loan disbursements through the loan period.*

**Required Action:**

*The institution must develop and implement written procedures and control mechanisms that will ensure that, in the future Federal Direct Loans are certified and disbursed correctly. A copy of those procedures must be submitted in response to this report.*

**BIR's Response:**

BIR disagrees with the finding that the institution had failed to appropriately identify and prorate loan eligibility. BIR contends that it satisfied the requirements by completion of the prorated eligibilities based on the remaining credits in a student's program.

**Final Determination:**

The Department does not agree with BIR's assertion that it disbursed loan proceeds in substantially equal installments. Although no disbursement seemed to exceed one-half of the loan, the loan amount disbursed depended on the credits enrolled in for that term, making the disbursements unequal if/when a student took different credits from one term to the next.

While although the institution does not agree with this finding, because the institution changed their academic year to consist of three 16 week terms comprised of two modules in each term and has begun awarding Title IV aid under the BBAY method, this finding has been resolved and can be considered closed.

BIR is directed to review the above-cited regulatory provisions to ensure strict compliance with the requirements thereof.

**Finding 5. Verification Violation**

**Citation:**

*An institution shall require each applicant whose application is selected for verification on the basis of edits specified by the Secretary, to verify all of the applicable items specified in § 668.56, except that no institution is required to verify the applications of more than 30 percent of its total number of applicants for assistance under the Federal Pell Grant, ACG, National SMART Grant, Federal Direct Stafford/Ford Loan, campus based, and Federal Stafford Loan programs in an award year. 34 C.F.R. § 668.54(a)(2)(i).*

*If an applicant is selected to verify the information on his or her application, the institution shall require the applicant to verify the information as specified in § 668.56 on each additional application he or she submits for that award year, except for information already verified under a previous application submitted for the applicable award year. 34 C.F.R. § 668.54(a)(4).*

*If the number of family members in the applicant's household or the number of those household members attending postsecondary educational institutions changes for a reason other than a change in the applicant's marital status, an applicant who is selected for verification shall update the information contained in his or her application regarding those factors so that the information is correct as of the day the applicant verifies the information. 34 C.F.R. § 668.54(b).*

*An institution shall require an applicant selected for verification to submit acceptable documentation described in § 668.57 that will verify or update the following information used to determine the applicant's expected family contribution:*

- (1) Adjusted gross income (AGI) for the base year if base year data was used in determining eligibility, or income earned from work, for a non-tax filer.*

- (2) *U.S. income tax paid for the base year if base year data was used in determining eligibility.*
- (3) *For an applicant who is a dependent student, the aggregate number of family members in the household or households of the applicant's parents and for an applicant who is an independent student, the number of family members in the household of the applicant.*
- (4) *The number of family members in the household who are enrolled as at least half-time students in postsecondary educational institutions if that number is greater than one.*
- (5) *The following untaxed income and benefits for the base year if base year data was used in determining eligibility—*
  - (i) *Social Security benefits if the institution has reason to believe that those benefits were received and were not reported or were incorrectly reported;*
  - (i) *Child support if the institution has reason to believe that child support was received;*
  - (ii) *U.S. income tax deduction for a payment made to an individual retirement account (IRA) or Keogh account;*
  - (iii) *Interest on tax-free bond;*
  - (iv) *Foreign income excluded from U.S. income taxation if the institution has reason to believe that foreign income was received;*
  - (v) *The earned income credit taken on the applicant's tax return; and*
  - (vi) *All other untaxed income subject to U.S. income tax reporting requirements in the base year which is included on the tax return form, excluding information contained on schedules appended to such forms. 34 C.F.R. § 668.56(a).*

**Noncompliance:**

*BIR failed to properly verify one student in the 2011-2012 sample.*

*Student #3 was selected for verification for the 2011-2012 award year. The student stated she was a ward of the court, which was the only item making the student 'independent,' in transaction 03 on her Institutional Student Information Report (ISIR) and listed one person in the household (herself). The student was selected for verification, in which BIR collected verification documents. The student completed the 2011-2012 Dependent Verification Worksheet, indicating two in the household and lists her "mom" as a household member. There was no documentation to indicate the institution resolved the discrepant number in household. Additionally, the fact the student listed a parent on the verification worksheet, most likely indicates the student is not a ward of the court and would, therefore, be considered 'dependent' and parental information would be required both on the ISIR and in the document collection to complete verification.*

**Required Action:**

*The institution must properly complete the verification process for the student in question. If the student indicates she is a ward of the court, proper documentation should be collected due to the fact she previously listed a parent in her household and completed the Dependent Verification Worksheet. If the student is not a ward of the court, the ISIR must be corrected and the student must be treated as a*

*dependent student. If BIR is unable to properly complete verification, the institution must return all the need-based aid disbursed on behalf of this student for the 2011-2012 award year.*

*BIR must also develop and implement written procedures and control mechanisms which will ensure that all inconsistent information will be identified and resolved prior to the disbursement of Title IV funds. A copy of those procedures must be submitted in response to this report.*

**BIR's Response:**

Due to BIR receiving the incorrect student list that did not associate the student number to the correct student, the institution's initial response did not concur with the Department's finding. However, when BIR was notified of the correct student associated with the student number, the institution concurred with the finding.

BIR agrees that Student #3 should have been considered dependent based on the information provided on the Dependent Verification Worksheet and stated it will return all need-based aid, if required.

**Final Determination:**

Student received \$1,850.00 in Federal Pell Grant funds and \$1,166.00 in Federal Subsidized Direct Loans during the 2011-2012 award year that BIR is liable for. Therefore, BIR is liable for **\$1,850.00** in 2011-2012 Federal Pell Grant funds plus **\$42.50** for the cost of these funds to the Department. A copy of the results of the above described calculation is included as Appendix G.

BIR must notify the student in writing regarding payments made on their behalf. This notification must include the amount and date of the payments.

In lieu of requiring BIR to repay for this finding, the \$1,166.00 2011-2012 Federal Subsidized Direct Loan funds to the current holder of the promissory note, the Department has estimated a financial loss from this improperly disbursed loan. The estimated actual loss to the Department that has resulted or will result from those ineligible loans is based on BIR's most recent cohort default rate available. As a result, the estimated actual loss that BIR must pay to the Department for the ineligible loans is **\$146.55**. A copy of the results of that calculation is included as Appendix H.

**D. Summary of Liabilities**

The total amount calculated as liabilities from the findings in the program review determination is as follows. This information is provided so that the institution understands the liabilities associated with each finding. Duplicate liabilities have been removed. The payment instructions in Section E have been adjusted to reflect the unduplicated liabilities.

Liabilities	Pell (Closed Award Year)	FSEOG	TEACH	DL	Perkins	EALF DL
Finding 3	\$ -	\$ -	\$ -	\$ 632,026.50	\$ -	
Finding 5	\$ 1,850.00	\$ -	\$ -	\$ 1,166.00	\$ -	
<b>Subtotal</b>	\$ 1,850.00	\$ -	\$ -	\$ 633,192.50*	\$ -	\$ 19,922.05
Interest/SA	\$42.50	\$ -	\$ -	\$ -	\$ -	
<b>Subtotal</b>	\$ 1,892.50	\$ -	\$ -	\$ -	\$ -	
<b>TOTAL</b>	\$ 1,892.50	\$ -	\$ -	\$ -	\$ -	\$ 19,922.05
<b>Payable To:</b>						
Department	\$ 1,892.50	\$ -	\$ -	\$ -	\$ -	\$ 19,922.05
						<b>Totals</b>
						\$ 21,814.55

\* The gross amount for ineligible DL disbursements – this total is converted to Estimated Loss shown under “EALF DL” column

## **E. Payment Instructions**

### **1. Liabilities Owed to the Department**

BIR owes to the Department \$21,815.00 (\$21,814.55 rounded). Payment must be made by forwarding a check made payable to the "U.S. Department of Education" to the following address within 45 days of the date of this letter:

U.S. Department of Education  
P.O. Box 979026  
St. Louis, MO 63197-9000

Remit checks only. Do not send correspondence to this address.

**Payment must be made via check and sent to the above Post Office Box. Payment and/or adjustments made via G5 will not be accepted as payment of this liability. Instead, the school must first make any required adjustments in COD as required by the applicable finding(s) and Section II – Instructions by Title IV, HEA Program (below), remit payment, and upon receipt of payment the Department will apply the funds to the appropriate G5 award (if necessary).**

The following identification data must be provided with the payment:

Amount: \$21,815.00  
DUNS: 939691069  
TIN: 363965612  
Program Review Control Number: 201320528236

**Direct Loan Estimated Actual Loss**

Findings: 3 and 5  
 Appendix: F and H

<b>DL Estimated Actual Loss</b>	
Amount	Award Year
\$ 146.55	2011-2012
\$ 19,775.50	2012-2013
<b>Total</b>	
<b>\$ 19,922.05</b>	

BIR must pay the amount reflected above in Direct Loan estimated loss liabilities for the award year(s) reflected above. The liabilities will be applied to the general Direct Loan fund. This amount is also reflected in the total amount owed to the Department in Section 1 above.

**Pell– Closed Award Year**

Finding: 5  
 Appendix: G

BIR must repay:

<b>Pell Closed Award Year</b>			
Amount (Principal)	Amount (Interest)	Title IV Grant	Award Year
\$ 1,850.00	\$ 42.50	Federal Pell Grant	2011-2012
<b>Total Principal</b>	<b>Total Interest</b>		
<b>\$ 1,850.00</b>	<b>\$42.50</b>		

The disbursement record for the student identified in Appendix G to the applicable finding must be adjusted in the Common Origination and Disbursement (COD) system based on the recalculated amount.

**Adjustments in COD must be completed prior to remitting payment to the Department. Payment cannot be accepted via G5. Once the Department receives payment via check, the Department will apply the principal payment to the applicable G5 award. The interest will be applied to the general program account.**

A copy of the adjustment to each student’s COD record must be sent to Jason Charlton **within 45 days of the date of this letter.**

## **F. Appendices**

Appendix B: Program Review Report will be emailed to DCB as an encrypted WinZip file using Advanced Encryption Standard, 256-bit. The password needed to open the encrypted WinZip file(s) will be sent in a separate email.

Appendix C: File Review Excel Spreadsheets contains personally identifiable information and will be emailed to DCB as an encrypted WinZip file using Advanced Encryption Standard, 256-bit. The password needed to open the encrypted WinZip file(s) will be sent in a separate email.



### Appendix F: Estimated Lost Formula – Finding 3

The Estimated Actual Loss Formula (EALF) is used for only certain types of findings on ineligible FFEL and Direct Loan liabilities. The EALF estimates (1) the principal amount that has or will default; and (2) the interest and special allowance on the entire ineligible loan amount.

The EALF uses an institution's applicable cohort default rate (CDR) to estimate the amount of defaults from the ineligible principal amount. This is usually the institution's latest published CDR. Draft CDRs are not used unless there is no prior CDR.

Example:

Ineligible Principal Loan Amount	\$100,000
Cohort Default Rate	10.0%
Estimated Default Amount Due	\$ 10,000

The EALF calculates interest and special allowance (SA), where applicable, on the entire amount of ineligible loan principal. The number of days used to calculate interest and special allowance is based on average historical data for various time periods for different types of schools.

Period	School Type	One-Year	Two-Year	Four-Year	Rate Types
Disbursement to Repayment		584	774	969	Interest & SA
Repayment to Default		418	498	619	SA
Repayment to Paid In Full		1659	1580	1712	SA

The EALF uses the actual interest rates in effect when the ineligible loans were disbursed and an annualized average of the quarterly special allowance rates in effect. The EALF divides the number of days in each time period so that changes in interest and special allowance rates are considered. The EALF also assumes that the ineligible loans were made in two disbursements after a 30-day delay.

Example for the Disbursement to Repayment Period for a Two-Year Institution (2004-05)

Variable Rate Ineligible Loans: \$40,000 subsidized and \$60,000 unsubsidized

Interest Rates: 04-05 (2.77), 05-06 (4.70), 06-07 (6.54)

SA Rates: 04-05 (1.45), 05-06 (1.55), 06-07 (0.53)

Subsidized Loan Amount (Interest and Special Allowance)

$$\$40,000/2 \times (451 \times (.0422/365))$$

$$+ \$40,000/2 \times (730 \times (.0625/365))$$

$$+ \$40,000/2 \times (367 \times (.0707/365)) = \$4,964.61$$

Unsubsidized Loan Amount (Special Allowance Only)

$$\$60,000/2 \times (451 \times (.0145/365))$$

$$+ \$60,000/2 \times (730 \times (.0155/365))$$

$$+ \$60,000/2 \times (367 \times (.0053/365)) = \$1,627.36$$

NOTE: The number of days of 774 for this time period is doubled to 1548 (451+730+367) because the principal amount is divided by two.

Similar calculations are made for the other two periods. The total liability is the sum of the default amount with the interest and special allowance calculations for all three periods.

Appendix G: Cost of Funds – Finding 5

**Ineligible Disbursements (Non-Loan) - Cost of Funds and Administrative Cost Allowance**

Name of Institution: Business Industrial Resources

No.	Description/Name	Ineligible Disbursement	Program	Disbursement Date	Return Paid Date	No. of Days	Imputed CVFR	Federal Share	To ED	To Inst Accounts
(b)(6)		\$925.00	Pell Grant	8/10/2011	12/23/2013	866	1.00%	\$ 925.00	\$ 21.95	\$ -
		\$925.00	Pell Grant	10/4/2011	12/23/2013	811	1.00%	\$ 925.00	\$ 20.55	\$ -

Total Ineligible \$1,850.00

**Campus-Based Amounts Spent (from FISAP, Part VI, Section B)**

Federal FWS	
Federal SEOG	
Federal Perkins	

Total C-B Spent \$ -  
 ACA Percentage

	Total	Federal Share
Pell	\$ 1,850.00	\$ 1,850.00
ACG	\$ -	\$ -
SMART	\$ -	\$ -
TEACH	\$ -	\$ -
FWS	\$ -	\$ -
FSEOG	\$ -	\$ -
Perkins	\$ -	\$ -
FWS-50% Match	\$ -	\$ -
FWS-No Match	\$ -	\$ -
FSEOG-No Match	\$ -	\$ -
Perkins-No Match	\$ -	\$ -

Total Campus-Based \$ -

Totals \$ 42.50  
 ACA Liability

Interest Breakdown	\$ 42.50	\$ -
Pell Grants	\$ -	\$ -
ACG	\$ -	\$ -
SMART	\$ -	\$ -
TEACH	\$ -	\$ -
FWS	\$ -	\$ -
FSEOG	\$ -	\$ -
Perkins	\$ -	\$ -
FWS-50% Match	\$ -	\$ -
FWS-No Match	\$ -	\$ -
FSEOG-No Match	\$ -	\$ -
Perkins-No Match	\$ -	\$ -

FWS	
FSEOG	
Perkins	
FWS-50% Match	
FWS-No Match	
FSEOG-No Match	
Perkins-No Match	

### Appendix H: Estimated Loss Formula – Finding 5

**Estimated Loss Formula**

9/4/2014

**Enter Institution Name** Business Industrial Resources

**Select Institution Type** Proprietary 2 Yrs or Less

To calculate estimated loss for a given ineligible loan amount, that amount is multiplied by the total subsidy rates calculated for the ineligible loans. Consolidation Loans will be obtained in the future to prepay some of the ineligible loans; the amount of Consolidation Loans divided by the ineligible Stafford/PLUS loans equals the "Consolidation prepayment rate" (H) for those loans. The Department's Budget Office calculates, on an annual basis, the rate per dollar of loan of default subsidies (DSRs) and all other subsidies (OSRs) (D & F) for Stafford and PLUS Loans, by cohort year, program, loan type, and risk group. (note that 2008-2010 FFEL loan costs are calculated only by cohort year).

Select Type of Loan	Select Award Year	Enter Ineligible Loan Amount	Enter School CDR	Total Subsidy Costs	Estimated Loss Liability
DL Subsidized	2011-2012	\$ 1,166.00	20.90%	12.57%	\$ 146.55
Description		\$ 1,166.00			\$ 146.55
Description		\$ -			\$ -
Description		\$ -			\$ -
Description		\$ -			\$ -
Description		\$ -			\$ -

  

A	B	C	D	E	F	G	H	I	J
School CDR	Sector CDR*	Ratio**	DSR ***	Adjusted DSR	OSR ***	Avg Cons Year	Cons Prepay %	Cons DSR	Cons OS
1 20.90%	12.00%	1.74	0.94%	1.64%	7.94%	2019	21.1%	2.71%	11.46%
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									

Federal Student Aid (FSA) calculates the cohort default rates (CDRs) of the institution (A), and the average CDR for the sector for that institution (B). FSA applies the CDR comparison ratio (C), [A/B = C] against the Budget Office's cohort loan DSR (D) to determine the default subsidy rate for the institution (E). The Budget Office estimates the default subsidy rate and other subsidy rate for the Consolidation Loans that will prepay some of these Stafford and PLUS Loans (I & J). The total subsidy rate for the ineligible Stafford and PLUS Loans is ((E+F) + ((I+J) x H)). The total subsidy cost for these loans is the ineligible loan amount multiplied by the total subsidy rate.

**Original Ineligible Loan Liability** \$ 1,166.00      **Total Estimated Loss** \$ 146.55

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Cohort Default Rate	10.0%
Estimated Default Amount Due	\$ 10,000

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Unsubsidized Loan Amount (Special Allowance Only)

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$$+ \$60,000/2 \times (730 \times (.0155/365))$$

$$+ \$60,000/2 \times (367 \times (.0053/365)) = \$1,627.36$$

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Similar calculations are made for the other two periods. The total liability is the sum of the default amount with the interest and special allowance calculations for all three periods.

Prepared for  
**Business Industrial Resources**

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

PROUD SPONSOR of  
*the AMERICAN MIND™*

**OPE ID** 03448300  
**PRCN** 201320528236

Prepared by  
**U.S. Department of Education**  
**Federal Student Aid**  
**Chicago/Denver School Participation Division**

# Program Review Report

December 20, 2013

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Business Industrial Resources  
OPE ID 03448300  
PRCN 201320528236

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**A. Institutional Information**

Business Industrial Resources  
3601 West Devon, suite 210  
Chicago, IL 60659-1298

Type: Proprietary

Highest Level of Offering: Non-Degree/ Vocational Programs

Accrediting Agency: North Central Association on Accreditation and School Improvement

Current Student Enrollment: 626 (2011)

% of Students Receiving Title IV: 76% (2011)

Title IV Participation Postsecondary Education Participants System (PEPS):

	<u>2011-2012</u>
Federal Pell Grant (Pell)	\$4,048,232.00
William D. Ford Federal Direct Loan Program (Direct Loan)	\$6,892,223.00
Federal Supplemental Education Opportunity Grant (FSEOG)	\$68,288.00
Federal Work Study (FWS)	\$42,062.00

Default Rate FFEL/DL:	2010	12.3%
	2009	13.9%
	2008	18.0%

## **B. Scope of Review**

The U.S. Department of Education (the Department) conducted a program review at Business Industrial Resources (BIR) from February 25, 2013 to March 1, 2013. The review was conducted by Jason Charlton and Nicholas Koulermos.

The focus of the review was to determine BIR'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 BIR'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 15 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 partial 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 BIR'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 BIR 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 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 BIR to bring operations of the financial aid programs into compliance with the statutes and regulations.

**Finding 1. Crime Awareness Requirements Not Met - Omitted/Inadequate/Incomplete Campus Safety Policy and Statistical Disclosures and Failure to Actively Distribute the Annual Security Report as a Comprehensive Document**

### **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 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. This notice must also 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 hates 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)*.

In addition, the ASR must include several policy statements. These disclosures are intended to inform the campus community about the institution's security policies, procedures, and the availability of programs and resources as well as channels for victims of crime to seek recourse. In general, these policies include topics such as the law enforcement authority and practices of campus police and security forces, incident reporting procedures for students and employees, and policies that govern the preparation of the report itself. Institutions are also required to disclose alcohol and drug policies and educational 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 and emergency notifications as well as its emergency response and evacuation procedures. All required information referenced in *34 C.F.R. § 668.46(b)* must be published in the ASR. With the exception of certain drug and alcohol program information, cross referencing to other publications is not sufficient to meet the publication and distribution requirements of the Act. *34 C.F.R. § 668.46(b)*.

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

**Noncompliance:**

BIR violated multiple provisions of the *Clery Act*. Specifically, the institution failed to prepare and publish a materially-complete 2012 ASR as a single comprehensive document. Substantive issues were identified regarding the institution's campus safety policy, procedural, programmatic, and statistical disclosures. In this case, required content was either omitted entirely or lacked sufficient detail in an area of mandatory disclosure. These errors include the following:

- 2011, 2010, and 2009 campus crime statistics were not broken out by separate campus location. BIR currently has three locations; Devon campus, Wabash campus and Belmont campus. All campus crime statistics for these separate campuses were combined and published under the heading for the Devon campus; and,
- A statement advising the campus community where law enforcement agency information provided by a State under section 170101(j) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. § 14071(j)), concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.

In addition, BIR failed to actively distribute this mandatory report to all current students and employees in the required manner. Specifically, the 2012 ASR was not actively disseminated to non-teaching staff even though the report was provided directly to current students and members of the faculty. BIR used its student and instructor portals to distribute a direct link to the ASR. Non-faculty members do not have access to this link and therefore, could not access the ASR. Moreover, the Department's review indicated that BIR also persistently failed to actively notify prospective students and employees about the availability of the ASR including the 2012 ASR and all prior reports.

Failure to publish an accurate and complete ASR deprives the campus community of important security information that can empower its members to be informed and to play a more active role in their own safety and security.

**Required Action:**

As a result of this violation, BIR must develop and implement policies and procedures for preparing, publishing, and distributing an ASR that meets Federal standards. The new procedures also must articulate how all current students and employees will be notified of the report's availability each year. Using its new policies as a guide, BIR must prepare and publish an accurate and complete ASR that separates the crime statistics to the appropriate campuses and includes all of the statistical disclosures and policy, procedure and programmatic information required under *34 C.F.R. § 668.46(b)*. A copy of the institution's new policies and procedures and its draft ASR must accompany BIR's response to this program review report. Once the new ASR is evaluated by the review team for accuracy and completeness, BIR must actively distribute it to all current students and employees in accordance with *34 C.F.R. § 668.41(e)*.

Finally, BIR must provide documentation to the Department evidencing the distribution as well as a statement of certification attesting to the fact that the materials were distributed in accordance with the *Clery Act*. This certification must also affirm that BIR understands its *Clery Act* obligations and that it will take all necessary corrective actions to ensure that this violation does not recur.

As noted above, this finding constitutes a serious violation of the *Clery Act* that by its nature cannot be cured. BIR will be given an opportunity to develop and distribute a compliant ASR and in so doing, bring its overall campus security program into compliance with the *Clery Act* as required by its Program Participation Agreement (PPA). However, BIR 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 as a result.

Based on an evaluation of all available information including BIR's response, the Department will determine if additional actions will be required and will advise the institution accordingly in its Final Program Review Determination.

**Finding 2. Drug and Alcohol Abuse Prevention Program Requirements Not Met – Failure to Conduct a Biennial Review**

**Citation:**

The Drug-Free Schools and Communities Act (*DFSCA*) and Part 86 of the Department's General Administrative Regulations requires each participating institutions 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:

- 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;
- A written description of legal sanctions imposed under Federal, state and local laws for unlawful possession or distribution of illicit drugs and alcohol;
- A description of the health risks associated with the use of illicit drugs and the abuse of alcohol;
- A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to students and employees; and,

- 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.*

#### **Non-compliance:**

BIR violated multiple provisions of the *DFSCA*'s biennial review requirements. Specifically, the institution failed to conduct a 2012 biennial review and as a result, also failed to prepare a report of findings, as required. BIR officials conceded that work on a 2013 biennial review did not commence until Department officials requested the institution's report as part of the initial program review data request. In fact, BIR officials stated that the institution has never conducted a biennial review.

Failure to comply with the biennial review requirements deprives the institution of important information about the effectiveness of its own drug and alcohol programs. Such failures may contribute to increased drug and alcohol abuse as well as an increase in drug and alcohol-related violent crime.

#### **Required Action:**

BIR is required to take all necessary corrective actions to address the violations identified above and all other violations identified by the Institution during the preparation of its response to this program review report. At a minimum, BIR must take the following remedial actions:

- Conduct a biennial review to: 1) assess the effectiveness of the Institution's DAAPP; 2) evaluate the consistency of sanctions imposed for violations of its disciplinary standards and codes of conduct related to drugs and alcohol; and, 3) identify areas requiring improvement or modification. BIR must also prepare a report of findings. In that report, the Institution must describe the research methods and data analysis tools that were used to determine the effectiveness of the program. In addition, the report must identify the responsible official(s) who conducted the review. Moreover, the report must include a plan of action that details how the findings and recommendations identified during the review will be integrated into the DAAPP to improve the program's effectiveness. Finally, the report must be approved by BIR's President and/or BIR's Board;
- Submit copies of the two most-recent biennial review reports that the institution has produced (if any) with its response to this program review report. If no such reports were ever produced as was indicated during the site visit, institution officials must clearly state that fact. In this context, BIR officials are specifically advised that no new documents

are to be created for the purpose of demonstrating compliance with the biennial review report requirement for past periods; and,

- Establish policies and procedures to ensure that all subsequent biennial reviews are conducted in a timely manner and are fully documented and to take all other necessary action to ensure that this violation does not recur. A copy of these policies and procedures must accompany the institution's submission of its biennial review report.

Because the *DFSCA* went into effect in 1990, longstanding practice dictates that the biennial review is normally conducted in even-numbered years. However, given BIR's failures in this regard, the Department must require that a biennial review be initiated immediately. Therefore, BIR's biennial review must commence immediately upon receipt of this program review report and be completed by March 1, 2014. The institution must submit its biennial review report of findings to the review team by March 15, 2014.

As noted above, violations of the *DFSCA* are very serious and by their nature, cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. BIR will be given an opportunity to conduct a substantive biennial review and in doing so, will begin to bring its overall drug and alcohol prevention programs into compliance with the *DFSCA* as required by its PPA. However, BIR 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 an adverse administrative action and/or additional corrective measures as a result.

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

### **Finding 3. Ineligible Disbursements of Direct Loans**

#### **Citation:**

The minimum period of enrollment for which a school may originate a Direct Loan application at a school that measures academic progress in clock hours, or measures academic progress in credit hours but does not use a semester, trimester, or quarter system and does not have terms that are substantially equal in length with no term less than nine weeks in length is the lesser of-

- 1) The length of the student's program (or the remaining portion of that program if the student has less than the full program remaining at the school); or
- 2) The academic year as defined by the school in accordance with 34 C.F.R. § 668.3.  
*34 C.F.R. § 665.301(a)(10)(i)(B)*

If a school measures academic progress in an educational program in credit hours and uses nonstandard terms that are not substantially equal in length or each term is not at least nine weeks of instructional time in length, or measures academic progress in credit hours and does not

have academic terms, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of-

- i) The student's completion of the weeks of instructional time in the student's academic year; or
- ii) The date, as determined by the school, that the student has successfully completed the academic coursework in the student's academic year

*34 C.F.R. § 685.301(c)(2)*

The Department defines an academic year for a program offered in credit hours, a minimum of 30 weeks of instructional time and a full-time student is expected to complete at least twenty-four semester or trimester credit hours or 36 quarter credit hours. *34 C.F.R. § 668.3(a)*

For an undergraduate student who has not successfully completed the first year of a program of undergraduate education, the total amount the student may borrow for any academic year of study under the Subsidized Federal Direct Loan Program may not exceed the following:

- (i) \$3,500, for a program of study of at least a full academic year in length.
- (ii) For a one-year program of study with less than a full academic year remaining, the amount that is the same ratio to \$3,500, as the:

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

For a program of study with less than a full academic year remaining, the amount that is the same ratio to \$4,500 as the:

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$
*34 C.F.R. § 685.203(a)*

For a dependent undergraduate student who has not successfully completed the first year of a program of undergraduate education, the total amount the student may borrow for any academic year of study under the Unsubsidized Federal Direct Loan Program may not exceed the following:

- (i) \$2,000, for a program of study of at least a full academic year in length.
- (ii) For a program of student that is one academic year or more in length with less than a full academic year remaining, the amount that is the same ratio to \$2,000, as the:

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$
*34 C.F.R. § 685.203(b)*

For an independent undergraduate student who has not successfully completed the first year of a program of undergraduate education, the total amount the student may borrow for any academic year of study under the Unsubsidized Federal Direct Loan Program may not exceed the following:

- (i) \$6,000, for a program of study of at least a full academic year in length.
- (ii) For a program of student that is one academic year or more in length with less than a full academic year remaining, the amount that is the same ratio to \$6,000, as the:

$$\frac{\text{Number of semester, trimester, quarter, or clock hours enrolled}}{\text{Number of semester, trimester, quarter, or clock hours in academic year}}$$

34 C.F.R. § 685.203(c)

Additionally, when evaluating how an institution should award Stafford loans, Volume 3, Chapter 5 in the 2012-2013 Federal Student Aid Handbook states:

*There are two types of academic years that may be used to monitor annual loan limits for Stafford Loans: a Scheduled Academic Year (SAY) or a Borrower-Based Academic Year (BBAY). (Note that although there is no annual loan limit for PLUS Loans, PLUS Loans are awarded for the same SAY or BBAY period that is used for Stafford Loans.)*

*An SAY corresponds to a traditional academic year calendar that is published in a school's catalogue or other materials (for example, fall and spring semesters, or fall, winter, and spring quarters, or, for a nonstandard substantially equal and at least nine weeks in length (SE9W) program, an academic calendar comparable to a traditional academic calendar).*

*An SAY is a fixed period of time that begins and ends at the same time each year. A BBAY does not have fixed beginning and ending dates. Instead, it "floats" with a student's (or group of students') attendance and progression in a program of study.*

*If a program is offered in an SAY calendar, you have the option of using either an SAY or BBAY 1 to monitor the annual loan limits for students in that program. You **must** use a BBAY to monitor the annual loan limits for any academic program that does not meet the definition of a program allowed to use an SAY. However, there are significant differences:*

- *BBAY 1, for credit-hour programs using a Scheduled Academic Year with standard terms or nonstandard SE9W terms.*
- *BBAY 2, for credit-hour programs not using an SAY, with standard terms or nonstandard SE9W terms.*

- *BBAY 3, for clock-hour programs, nonterm programs, and any nonstandard-term program, or a program with standard and nonstandard terms, not described above.*

Further in the same chapter, the Federal Student Aid Handbook describes what is required for non-standard term programs that are not SE9W:

*Clock-hour, nonterm credit-hour, and nonstandard-term programs that are not SE9W: BBAY 3*

*All clock-hour programs, nonterm credit-hour programs, and nonstandard-term programs with terms that are not SE9W must use a BBAY that meets the minimum requirements for an academic year. That is, the BBAY must contain at least 30 (or, for clock-hour programs, 26) weeks of instructional time and at least the appropriate number of credit or clock-hours: for undergraduate programs, 24 semester or trimester hours, 36 quarter-hours, or 900 clock-hours; for graduate programs, the number of hours a student would complete under the school's full-time standard in the weeks of the FSA academic year, which must be a minimum of 30 weeks of instructional time, or, for clock-hour programs, at least 26 weeks of instructional time. This requirement also applies to a program that consists of both standard and nonstandard terms and that does not qualify to use an SAY.*

*The BBAY begins when a student enrolls and does not end until the later of the date the student successfully completes the hours in the academic year, or the number of weeks of instructional time in the academic year.*

*Because a student must successfully complete the minimum number of hours or weeks of instructional time in an academic year (whichever comes later) before a new BBAY begins, a student's enrollment status may affect how soon the student regains eligibility for a new annual loan limit. For example, a student who is attending part-time will take longer to complete a BBAY than a full-time student. (In contrast, a SAY or BBAY for a standard term program, or a nonstandard SE9W program ends when the calendar period associated with the terms in the SAY or BBAY has elapsed, regardless of how many credit-hours or weeks of instruction the student completed during the SAY or BBAY.)*

### **Noncompliance:**

BIR failed to identify the type of academic year that should be used based on their term schedules. This resulted in the institution, at times, disbursing ineligible Direct Loan installments to students.

Although BIR has seven, seven week terms within a calendar year, the institution was using a Standard Academic Year (SAY). BIR defines their academic year as beginning in summer and a full academic year is six terms. According to BIR, a student must take a term off, because the

student cannot attend seven consecutive terms and receive Title IV aid. However, because BIR has terms that are not substantially equal to nine weeks or longer, the institution is required to use the BBAY3 calculation to determine a student's annual loan limits; the academic year begins when the student begins class and does not end until the later of the academic year or credit hours in the academic year. In BIR's case, the academic year would be the later of six terms (42 weeks) or 24 credit hours. Because BIR did not use the required BBAY3 calculation, students who completed six terms but had yet to complete 24 credit hours were allowed to receive second year loans.

Student #2 started in the Medical Assisting program (MA) during the Fall 1 term in BIR's 2010-2011 academic year. The first year loan period began 2010-2011 Fall 1 and went through the 2010-2011 Spring 2 term, disbursing the first year maximum of \$3,500.00 in Federal Subsidized Stafford loans (Sub) and \$6,000.00 in Federal Unsubsidized Stafford loans (Unsub). Within this loan period, the student successfully completed 19 credits. The student then received second year loans the following term, 2011-2012 Summer that continued through the 2011-2012 Winter 2; disbursing another \$2,417.00 in Sub and \$4,000.00 in Unsub. The student did not earn 24 credits until after the Fall 1 term, where the student finished with 26 credits. Therefore, the student received ineligible loan disbursements of \$1,021 in Sub and \$1,750.00 in Unsub for the 2011-2012 Summer and Fall 1 terms. In the Summer 2012-2013 term, the student then transferred out of the MA program and in to the Machine Tool Technology Program (MTTP) and then withdrew from the institution after the Fall 2 2012-2013 term. The student never finished the program and therefore did not go on to earn the ineligible disbursements.

Student #12 started in the Computer Numerical Control Computerized Manufacturing program during the Fall 2 term in BIR's 2011-2012 academic year. The first loan period began Fall 2 and went through Spring 2 term, disbursing first year loans of \$1,969.00 in Sub and \$3,000.00 in Unsub. Within this loan period, the student successfully completed five credits. The student then received another set of loans with the loan period starting Summer 2012-2013 term and continuing through Winter 2, where it appears the student withdrew from the program. After the Winter 2 term in the 2012-2013 academic year, the student successfully completed 11 credits, never earning enough credits for second year level loans, but received a total of \$3,718.00 in Sub and \$6,000.00 in Unsub. Therefore, the student received \$218.00 over the allowable first year level Sub limit and is considered ineligible.

Student #15 started in the MA program during the Fall 2 term in BIR's 2010-2011 academic year. The first year loan period began Fall 1 and went through the Spring 2 term, disbursing \$2,915.00 in Sub and \$5,000.00 in Unsub. Within this loan period, the student successfully completed 20 credits. The student then received another set of loans the following term, Summer that continued through Fall 1, when the student withdrew; disbursing another \$876.00 in Sub and \$1,500.00 in Unsub. The student did not earn 24 credits until after the 2011-2012 Fall 1 term, where the student finished with 26 credits. Therefore, the student received ineligible loan disbursements of \$438.00 in Sub and \$750.00 in Unsub. The student never finished the program and therefore did not go on to earn the ineligible disbursements.

Student #18 started in the MA program during the Winter 2 term in BIR's 2010-2011 academic year. The first year loan period began Winter 2 and went through the Spring 2 term, disbursing \$1,750.00 in Sub and \$3,000.00 in Unsub. Within this loan period, the student successfully completed 11 credits. The student then received another set of loans the following term, 2011-2012 Summer that continued through Spring 2; disbursing another \$3,500.00 in Sub and \$6,000.00 in Unsub. The student did not earn 24 credits until after the 2011-2012 Spring 2 term, where the student finished with 24 credits. Therefore, the student received ineligible loan disbursements of \$1,750.00 in Sub and \$3,000.00 in Unsub. The student never finished the program and therefore did not go on to earn the ineligible disbursements.

Student #22 started in the MA program during the Fall 1 term in BIR's 2011-2012 academic year. The first year loan period began Fall 1 and went through the Spring 2 term, disbursing \$2,915.00 in Sub and \$5,000.00 in Unsub. Within this loan period, the student successfully completed 15 credits. The student then received another set of loans the following term, 2012-2013 Summer that continued through Fall 1, when the student withdrew; disbursing another \$730.00 in Sub and \$1,250.00 in Unsub. The student never earned 24 credits. Therefore, the student received ineligible loan disbursements of \$145.00 in Sub and \$250.00 in Unsub.

**Required Action:**

BIR must immediately establish and implement written procedures to ensure all Federal Stafford loans are calculated accurately and within the requirements of the BBAY3 calculation established by federal regulations. A copy of those policies and procedures must be submitted in response to this report.

Additionally, due to the fact the reviewers found a systemic and significant error, BIR must perform a file review of all students enrolled during the 2011-2012 and/or 2012-2013 award years who received more than one set of loans at BIR. The information should be provided in an Excel spreadsheet, paper and electronic formats with the following data:

- 1) Student name
- 2) Social security number
- 3) Terms enrolled
- 4) Term in which student first completed at least 24 credit hours
- 5) Total gross amount disbursed in Federal Subsidized Stafford Loan
- 6) Total gross amount disbursed in Federal Unsubsidized Stafford Loan
- 7) Total gross amount disbursed in Federal PLUS Loan
- 8) Dates of disbursements by program
- 9) Withdrawal date (if withdrew from institution)

A copy of this report must be submitted in electronic format (Excel spreadsheets) with supporting documentation including but not limited to academic transcripts, financial aid award and the cumulative student account information.

Repayment instructions, if necessary, will be provided in the Final Program Review Determination Letter.

**Finding 4. Subsidized Federal Direct Loan (FDL) Certification**

**Citation:**

A school must disburse loan proceeds in substantially equal installments, and no installment may exceed one-half of the loan.

*34 C.F.R. § 685.301(b)(5)*

**Noncompliance:**

Because BIR has not properly defined their academic year/payment period based on the institution's term length, BIR improperly certified and disbursed loans for students who were going in to, what BIR defined as, their second academic year.

As described in the previous finding, BIR has seven, seven week terms within a calendar year. The institution was defining their academic year as a Standard Academic Year (SAY) with the start of the SAY in the summer and ends after the spring 2 term. Currently, if a student has less than 24 credit hours remaining in their program at the start of the summer term, the loan disbursements are prorated based upon the number of credits a student is taking per term; creating unequal disbursements throughout the student's loan period.

Student #2 successfully completed 19 credits with 16 credits left to complete the program when entering the summer term for the 2011-2012 academic year. According to the award letter, the student's loans were prorated at \$146.00 for Subsidized and \$250.00 for Unsubsidized per credit hour. During the 2011-2012 academic year, the student took three credits for the summer term, four credits during fall 1 term, and three credits during fall 2 term and received the aforementioned prorated amounts per credit hour; making unequal loan disbursements through the loan period.

Student #15 successfully completed 20 credits with 15 credits left to complete the program when entering the summer term for the 2011-2012 academic year. According to the award letter, the student's loans were prorated at \$146.00 for Subsidized and \$250.00 for Unsubsidized per credit hour. During the 2011-2012 academic year, the student took three credits for the summer term, three credits during fall 1 term, and five credits during winter 1 term and received the aforementioned prorated amounts per credit hour; making unequal loan disbursements through the loan period.

Student #17 successfully completed 10 credits with 17 credits left to complete the program when entering the summer term for the 2012-2013 academic year. According to the award letter, the student's loans were prorated at \$146.00 for Subsidized and \$250.00 for Unsubsidized per credit hour. During the 2012-2013 academic year, the student took three credits for the summer term,

three credits during fall 1 term, three credits during the fall 2 term, four credits during the winter 1 terms and four credits during winter 2 term and received the aforementioned prorated amounts per credit hour; making unequal loan disbursements through the loan period.

Student #22 successfully completed 15 credits with 20 credits left to complete the program when entering the summer term for the 2012-2013 academic year. According to the award letter, the student's loans were prorated at \$146.00 for Subsidized and \$250.00 for Unsubsidized per credit hour. During the 2012-2013 academic year, the student took three credits during summer term and two credits during the fall 1 term and received the aforementioned prorated amounts per credit hour; making unequal loan disbursements through the loan period.

**Required Action:**

The institution must develop and implement written procedures and control mechanisms that will ensure that, in the future Federal Direct Loans are certified and disbursed correctly. A copy of those procedures must be submitted in response to this report.

**Finding 5. Verification Violation**

**Citation:**

An institution shall require each applicant whose application is selected for verification on the basis of edits specified by the Secretary, to verify all of the applicable items specified in § 668.56, except that no institution is required to verify the applications of more than 30 percent of its total number of applicants for assistance under the Federal Pell Grant, ACG, National SMART Grant, Federal Direct Stafford/Ford Loan, campus based, and Federal Stafford Loan programs in an award year. *34 C.F.R. § 668.54(a)(2)(i).*

If an applicant is selected to verify the information on his or her application, the institution shall require the applicant to verify the information as specified in § 668.56 on each additional application he or she submits for that award year, except for information already verified under a previous application submitted for the applicable award year. *34 C.F.R. § 668.54(a)(4).*

If the number of family members in the applicant's household or the number of those household members attending postsecondary educational institutions changes for a reason other than a change in the applicant's marital status, an applicant who is selected for verification shall update the information contained in his or her application regarding those factors so that the information is correct as of the day the applicant verifies the information. *34 C.F.R. § 668.54(b).*

An institution shall require an applicant selected for verification to submit acceptable documentation described in § 668.57 that will verify or update the following information used to determine the applicant's expected family contribution:

- (1) Adjusted gross income (AGI) for the base year if base year data was used in determining eligibility, or income earned from work, for a non-tax filer.
- (2) U.S. income tax paid for the base year if base year data was used in determining eligibility.
- (3) For an applicant who is a dependent student, the aggregate number of family members in the household or households of the applicant's parents and for an applicant who is an independent student, the number of family members in the household of the applicant.
- (4) The number of family members in the household who are enrolled as at least half-time students in postsecondary educational institutions if that number is greater than one.
- (5) The following untaxed income and benefits for the base year if base year data was used in determining eligibility—
  - (i) Social Security benefits if the institution has reason to believe that those benefits were received and were not reported or were incorrectly reported;
  - (i) Child support if the institution has reason to believe that child support was received;
  - (ii) U.S. income tax deduction for a payment made to an individual retirement account (IRA) or Keogh account;
  - (iii) Interest on tax-free bond;
  - (iv) Foreign income excluded from U.S. income taxation if the institution has reason to believe that foreign income was received;
  - (v) The earned income credit taken on the applicant's tax return; and
  - (vi) All other untaxed income subject to U.S. income tax reporting requirements in the base year which is included on the tax return form, excluding information contained on schedules appended to such forms. *34 C.F.R. § 668.56(a)*.

**Noncompliance:**

BIR failed to properly verify one student in the 2011-2012 sample.

Student #3 was selected for verification for the 2011-2012 award year. The student stated she was a ward of the court, which was the only item making the student 'independent,' in transaction 03 on her Institutional Student Information Report (ISIR) and listed one person in the household (herself). The student was selected for verification, in which BIR collected verification documents. The student completed the 2011-2012 Dependent Verification Worksheet, indicating two in the household and lists her "mom" as a household member. There was no documentation to indicate the institution resolved the discrepant number in household. Additionally, the fact the student listed a parent on the verification worksheet, most likely indicates the student is not a ward of the court and would, therefore, be considered 'dependent' and parental information would be required both on the ISIR and in the document collection to complete verification.

**Required Action:**

The institution must properly complete the verification process for the student in question. If the student indicates she is a ward of the court, proper documentation should be collected due to the fact she previously listed a parent in her household and completed the Dependent Verification Worksheet. If the student is not a ward of the court, the ISIR must be corrected and the student must be treated as a dependent student. If BIR is unable to properly complete verification, the institution must return all the need-based aid disbursed on behalf of this student for the 2011-2012 award year.

BIR must also develop and implement written procedures and control mechanisms which will ensure that all inconsistent information will be identified and resolved prior to the disbursement of Title IV funds. A copy of those procedures must be submitted in response to this report.

**Finding 6. Late Return of Funds**

**Citation:**

If a student does not begin attendance in a payment period or period of enrollment-

1. The institution must return all title IV, HEA program funds that were credited to the student's account at the institution or disbursed directly to the student for that payment period or period of enrollment, for Federal Perkins Loan, FSEOG TEACH Grant, Federal Pell Grant, ACG, and National SMART Grant program funds; and
2. For FFEL and Direct Loan funds-
  - A. The institution must return all FFEL and Direct Loan funds that were credited to the student's account at the institution for that payment period or period of enrollment; and
  - B. The institution must return the amount of payments made directly by or on behalf of the student to the institution for that payment period or period of enrollment, up to the total amount of the loan funds disbursed; *34 C.F.R. § 668.21(a)*

The institution must return those funds for which it is responsible to the respective title IV, HEA program as soon as possible, but no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance. *34 C.F.R. § 668.21(b)*

An institution is required to take attendance if:

- A. An outside entity (such as the institution accrediting agency or a State agency) has a requirement that the institution take attendance;
- B. The institution itself has a requirement that its instructors take attendance; or

- C. The institution or an outside entity has a requirement that can only be met by taking attendance or a comparable process, including, but not limited to, requiring that students in a program demonstrate attendance in the classes of that program, or a portion of that program. *34 C.F.R. § 668.22(b)(3)(i)*

**Noncompliance:**

BIR failed to return Title IV funds for a student who received aid, but never attended the term.

According to BIR, they require their instructors to take attendance in every course. Additionally, BIR states in their Catalog and Student Handbook that:

“A student who has registered for a module but has not attended that module is considered a No Show. A No Show student is dropped from a module automatically after that module had two recorded attendances.”

Student #15 received a Federal Pell Grant, Federal Direct Subsidized Loan and Federal Direct Unsubsidized Loan on January 18, 2012 for the Winter 1 term, for which the student never attended and received a No Show grade. The funds were eventually returned to the respective program on March 30, 2012; 117 days after Winter I term began and 73 days after the funds were disbursed to the student’s account.

**Required Action:**

BIR must develop and implement written procedures and control mechanisms which will ensure that all No Show students will be identified and the Title IV funds for these students returned timely. A copy of those procedures must be submitted in response to this report.

**Finding 7. Untimely Paid Credit Balance**

**Citation:**

When an institution disburses Title IV, HEA program funds by crediting a student's account and the total amount of all Title IV, HEA program funds credited exceeds the amount of tuition and fees, room and board, and other authorized charges the institution assessed the student, the institution must pay the resulting credit balance directly to the student or parent as soon as possible but:

1. No later than 14 days after the balance occurred if the credit balance occurred after the first day of class of a payment period; or
  2. No later than 14 days after the first day of class of a payment period if the credit balance occurred on or before the first day of class of that payment period.
- 34 C.F.R. § 668.164(e)*

If an institution obtains written authorization from a student or parent, as applicable, the institution may:

- (i) Disburse Title IV, HEA program funds to a bank account designated by the student or parent;
- (ii) Use the student's or parent's Title IV, HEA program funds to pay for charges that are included in that authorization; and
- (iii) Hold on behalf of the student or parent any Title IV, HEA program funds that would otherwise be paid directly to the student or parent.  
*34 C.F.R. § 668.165(b)*

In obtaining the student's or parent's authorization, an institution:

- (i) May not require or coerce the student or parent to provide that authorization;
- (ii) Must allow the student or parent to cancel or modify that authorization at any time; and
- (iii) Must clearly explain how it will carry out that activity.  
*34 C.F.R. § 668.165(b)(2)*

If a student or parent cancels an authorization to hold Title IV, HEA program funds, the institution must pay those funds directly to the student or parent as soon as possible but no later than 14 days after the institution receives that notice. *34 C.F.R. § 668.165(b)(4)*

**Noncompliance:**

The reviewers noted that BIR improperly retained a Title IV credit balance on a student's account longer than 14 days without the proper authorization from the student.

A Title IV credit balance for Student #16 was created for the Fall I term on September 11, 2012 and was not paid to the student until October 4, 2012; 24 days after the credit balance was created. The following Fall II term, a credit balance was created on November 9, 2012 and was not paid to the student until November 29, 2012; 20 days after the credit balance was created. A credit balance was again created on December 28, 2012 for the Winter I term and was not paid to the student until January 17, 2013; 20 days after the credit balance was created.

Student #16 did have Credit Authorization Waiver on file, however, the Credit Authorization Waiver the student signed only allows the school to pay for allowable charges other than tuition and fees and apply funds to prior year charges. Nowhere in the authorization form states the student authorizes BIR to retain his or her Title IV credit balance longer than 14 days.

**Required Action:**

Although late, BIR eventually issued the credit balances to the student.

BIR must develop and implement written procedures and control mechanisms which will ensure that all Title IV credit balances will be paid timely. If using the Credit Authorization Waiver to

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retain Title IV credit balances on students' accounts longer than 14 days, BIR must specifically state this on the form. A copy of those procedures and updated Credit Authorization Waiver must be submitted in response to this report.