



May 11, 2015

Mr. Michael L. Dawson, President
Charter College
Prospect Education, Inc.
750 Sandhill Road, Suite 100
Reno, Nevada 89521

Certified Mail
Return Receipt Requested
#: 70070710000106758463

RE: **Final Program Review Determination**
Charter College – Anchorage, AK
OPE ID: 02576900
PRCN: 201240928002

Dear Mr. Dawson:

The U.S. Department of Education's (Department's) San Francisco/Seattle School Participation Team issued a program review report (PRR) on March 18, 2013 covering Charter College's (Charter's) administration of programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs), for the 2010-2011 and 2011-2012 award years. Charter's final response was received on June 11, 2013. A copy of the program review report (and related attachments) and Charter's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by Charter 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 PRR. The purpose of this letter is to: (1) identify liabilities resulting from the findings of this PRR, (2) provide instructions for payment of liabilities to the Department, (3) notify the institution of its right to appeal, (4) close the review, and (5) notify Charter of a possible adverse action. Due to the serious nature of one or more of the enclosed findings, this FPRD is being referred to the Department's Administrative Actions and Appeals Service Group (AAASG) for its consideration of possible adverse action. Such action may include a fine, or the limitation, suspension or termination of the eligibility of the institution. Such action may also include the revocation of the institution's program participation agreement (if provisional), or, if the institution has an application pending for renewal of its certification, denial of that application.

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

Federal Student Aid
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50 Beale Street, Suite 9800, San Francisco, CA 94105-1863
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Statistics Act (*Clery Act*) in Section 485(f) of the HEA, 20 U.S.C. § 1092(f), and the Department's regulations at 34 C.F.R. §§ 668.41, 668.46, and 668.49. Because *Clery Act* findings do not result in a financial liability, such findings may not be appealed. If an adverse administrative action is initiated, additional information about Charter's appeal rights will be provided under separate cover.

Liabilities totaling \$216,835 have been repaid by Charter. Additional liabilities due from the institution for this program review are \$6,592.94.

Appeal Procedures:

This constitutes the Department's FPRD with respect to the liabilities identified from the March 18, 2013 PRR. If Charter 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 Charter receives this FPRD. An original and four copies of the information Charter 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 – Room 84F2
Washington, DC 20002-8019

Charter'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 Charter'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).

The Department expresses its appreciation for the courtesy and cooperation extended during the review. If the institution has any questions regarding this letter, please contact Tracy Simmonds at 415-486-5688. Questions relating to any appeal of the FPRD should be directed to the address noted in the Appeal Procedures section of this letter.

Sincerely,



Martina Fernandez-Rosario
Division Director
San Francisco/Seattle School Participation Division

Enclosures:
Protection of Personally Identifiable Information
Final Program Review Determination (and appendices)

cc: Shellee Kilbride, Corporate Director of Financial Aid
Jeffrey L. Bodimer, Corporate Director of Compliance
Albert Gray, President and CEO, Accrediting Council of Independent Colleges & Schools
Joann Rieselbach, School Relations Manager, Alaska Commission on Postsecondary Education
Joanne Wenzel, Chief, California Bureau of Private Postsecondary Education
Patricia Spencer, Program Manager for Private Career Schools, Washington Workforce Training and Education Council
Department of Defense, (osd.pentagon.ousd-p-r.mbx.vol-edu-compliance@mail.mil)
Department of Veterans Affairs (INCOMING.VBAVACO@va.gov)
Consumer Financial Protection Bureau (CFPB_ENF_Students@cfpb.gov)

Prepared for
Charter College

OPE ID 02576900
PRCN 201240928002

Prepared by:
U.S. Department of Education
Federal Student Aid
San Francisco/Seattle School Participation Division

Final Program Review Determination
May 11, 2015

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A. Institutional Information

Charter College
Administrative Offices:
750 Sandhill Road, Suite 100
Reno, NV 89521
School Address:
2221 East Northern Lights Boulevard, Suite 120
Anchorage, AK 99508-4103

Type: Proprietary

Highest Level of Offering: Bachelor's Degree

Accrediting Agency: Accrediting Council for Independent Colleges and Schools

Current Student Enrollment: 2,561 (2011-2012)

% of Students Receiving Title IV: 86.9% (2011-2012)

Title IV Participation (as reported in G5, the Department's grants management system):

	<u>2012-2013</u>
Federal Pell Grant (Pell)	\$12,165,004
Federal Supplemental Educational Opportunity Grant (FSEOG)	\$ 487,503
Federal Work Study (FWS)	\$ 188,703
William D. Ford Federal Direct Student Loan (FDL)	\$25,566,747

Default Rate FFEL/DL: 2011 / 16.2% (3-year Cohort Default Rate)
 2010 / 11.8% (2-year Cohort Default Rate)
 2009 / 17.2% (2-year Cohort Default Rate)

B. Scope of Review

The U.S. Department of Education (Department) conducted a program review at Charter College (Charter) from August 6, 2012 to August 10, 2012. The review was conducted by Donna Wittman and Frank Reyes.

The focus of the review was on fiscal responsibility and online education delivery. The review consisted of an examination of Charter's fiscal records, policies and procedures regarding institutional and student eligibility, individual student financial aid and academic files, attendance records, and student account ledgers.

A sample of 30 files was identified for review from the 2010-2011 and 2011-2012 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 to the Program Review Report identified the students whose files were examined during the program review (students ##1-30). Additional student records were examined related to Finding 3 specifically (students ##31-76). A Program Review Report was issued on March 18, 2013.

Disclaimer:

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning Charter'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 Charter 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

- Finding 1. Substantial Misrepresentation to the Department
- Finding 2. Misrepresentation of Cost of Attendance to Students/Prospective Students
- Finding 4. Credit Balance Authorization Inadequate/Credit Balances Paid Late or Not Paid
- Finding 5. Failure to Disclose Required Consumer Information/Failure to Notify Student of Amount, How and When Title IV Program Funds Will be Disbursed
- Finding 8. Failure to Reconcile Direct Loan Disbursements
- Finding 9. Failure to Properly Prorate Awards
- Finding 10. Conflicting Information
- Finding 11. Student Status – Inaccurate/Untimely Reporting to NSLDS

Charter has taken the corrective actions necessary to resolve Findings #1, 2, 4, 5, 8, 9, 10 and 11 of the Program Review Report (PRR). Therefore, these findings may be

considered closed. Appendix B contains the institution's written response related to the resolved findings.

Findings with Final Determinations

The program review report findings requiring further action are summarized below. At the conclusion of each finding is a summary of Charter's response to the finding, and the Department's final determination for that finding. A copy of the PRR issued on March 18, 2013 is attached as Appendix A.

Liabilities that Charter must pay from these findings are summarized in Section D of the Final Program Review Determination (FPRD) and payment instructions are provided in Section E.

Finding 3. Ineligible Programs – Approval Requirements Not Met

Citation Summary: *An institution may participate in any Title IV program only if it enters into a written program participation agreement with the Secretary. 34 C.F.R. §§ 668.14(a). By entering into a program participation agreement, an institution agrees that it will meet the requirements established by its nationally recognized accrediting agency. 34 C.F.R. §§ 668.14(b)(23). An institution's eligibility extends to those educational programs identified on the institution's notice of eligibility from the Department. 34 C.F.R. §§ 600.10 (b).*

In order to be accredited, and therefore eligible for Title IV funds, a program must meet the established requirements of a nationally recognized accrediting agency. 34 C.F.R. §§ 600.2. Any false or misleading information concerning the nature and extent of accreditation of an institution or program constitutes misrepresentation and is in violation of the regulations. 34 C.F.R. §§ 668.72(a).

Noncompliance Summary: *Accredited by the Accrediting Commission for Independent Colleges and Schools (ACICS), Charter had obtained the approval of ACICS for three programs that contained either an Internship (BS Degree in Business Management Accounting, ACC450, Senior Accounting Internship, 120 hours); Externship (AAS in Paralegal Studies, PAR115, Paralegal Externship, 120 hours); or a Practicum (BS Degree in Criminal Justice, CJA406, Criminal Justice Practicum, 90 hours). These three programs, as approved by ACICS, were identified on Charter's notice of eligibility from the Department.*

In 2009 and 2010, Charter decided to offer these three programs via distance education method in addition to its historical brick-and-mortar method. Under ACICS rules, its approval of online programs extends to the program when offered online if the online version is exactly the same program previously approved by ACICS. Otherwise, ACICS requires that it be notified of a curriculum change so that it may review the modified online version as a substantive change.

When Charter offered the above three programs online, it replaced the Internship, Externship, and Practicum with a thesis class containing 40 hours of instruction and research. It then proceeded to enroll online students in the modified programs in June 2009. At no time did Charter submit these changes for review and approval of ACICS. After operating these programs online in this format from June 2009 through approximately December 2011, Charter then modified the classes back to having the original Internship, Externship or Practicum as previously approved by ACICS. It was confirmed during interviews while on-site that the students enrolled in these programs did not have an opportunity to take the Internship, Externship, or Practicum (as applicable) during the period of time these components were not offered.

The program reviewers contacted ACICS and submitted to its officials the curriculum for the three programs as modified by Charter to omit the Externship, Practicum, and Internship. ACICS confirmed, and Charter conceded, that Charter had not provided ACICS notice of the curriculum changes as required by ACICS rules, and Charter had not received ACICS approval. In response, ACICS entered an order to Charter to Show Cause why its accreditation should not be revoked. When Charter showed ACICS that it had reverted to offering the programs as originally approved by ACICS, ACICS accepted the corrective action as a sufficient showing. ACICS did not retroactively approve the unaccredited programs.

The institution enrolled 45 students in the ineligible programs, resulting in the institution drawing \$443,117 in Title IV funds for these students. Charter received the following Title IV funds for the 45 students who were enrolled in the three ineligible programs:

Title IV Program	Amount
2010-11 Pell	\$131,968
2011-12 Pell	\$40,992
2010-11 FSEOG	\$1,600
2010-11 Subsidized Direct Loan	\$75,618
2011-12 Subsidized Direct Loan	\$32,507
2010-11 Unsubsidized Direct Loan	\$120,094
2011-12 Unsubsidized Direct Loan	\$40,338
Total	\$443,117

Appendices A and D to the PRR identify the students enrolled in the ineligible programs, setting forth the Title IV disbursements made for enrollment in the ineligible programs. Appendix A identifies student names and Appendix D refers to each student by an assigned student number (the numbers are assigned in Appendix A).

Required Action Summary: *Charter was required to return all Pell Grant funds and enter the appropriate Pell adjustments in COD for Pell Grant recipients identified in Appendix D to the PRR. These are individuals to whom disbursements were made while*

enrolled in an ineligible (i.e. unapproved by the accreditor) program. As to Direct Loan fund disbursements, Charter is liable for the payment not of the principal amount of the loans but of the Estimated Actual Loss to the Department associated with those Direct Loan funds.

With its response, Charter was to provide a copy of the following for each of the students identified in Appendix D to the PRR:

- *All enrollment contracts and addenda thereto;*
- *Updated ledger showing all transactions on the student's account;*
- *Any and all documentation related to change of status, withdrawal, and any transfer, including, but not limited to, notes and comments made in CampusVue with regard to the student;*
- *Any and all documentation related to the calculation of any unearned Title IV funds including calculation of funds to return;*
- *Any and all transcripts;*
- *Any documentation of the student's attendance.*

Charter was also required to establish and implement written policies and procedures to assure that it will comply with the established requirements of its accrediting agency, including the provision of notices and any procedures for obtaining accrediting agency approval. Charter was required to provide assurance that it will comply with its accrediting agency requirements to avoid the repeat of this finding. Charter was required to submit a copy of the written policies and procedures in response to the PRR.

Charter's Response: Charter College has returned all Pell Grant disbursements for the students listed in Appendix D to the PRR and has made appropriate adjustments to the student ledger cards and reported these adjustments to COD. As requested by the Department, Charter College submitted the following items for each student:

- All enrollment contracts and addenda thereto;
- Updated ledgers showing all transactions on the students' accounts;
- Any and all documentation related to change of status, withdrawal, and any transfer, including, but not limited to, notes and comments made in CampusVue with regard to the student;
- Any and all documentation related to the calculation of any unearned Title IV funds including calculation of funds to return;
- Any and all transcripts;
- Any documentation of the students' attendance.

All campus personnel, including the Campus President and externship personnel have been informed the externship component of the curriculum must be delivered as approved and allowing students to write a paper is not permitted. Any such act will result in disciplinary action up to and including termination from the organization. Also, Prospect

Education has taken an initiative to centralize the campus registrar functions at the corporate office. Specifically, the central registrars are responsible for scheduling all classes and ensuring the integrity of all data and completion of academic requirements for graduation. The central registrar group conducts the final review of all students graduating to ensure the student has met the academic requirements for the program. This includes the appropriate completion of the externship component.

As discussed in Finding #1, Prospect Education has implemented an Internal Audit Program whereby each campus will be internally audited two times per year to ensure the campuses are maintaining federal, accrediting agency, state regulations and internal policy and procedures. Specifically, the Internal Audit Program contains many tests associated with assurance that the externship component of a student's program is completed as approved by the accrediting agency.

Finally, Charter College is prepared to reimburse the Department for the Estimated Actual Loan loss associated with the Direct Loan funds in the amount of \$8,974.

Final Determination: Charter has taken the necessary corrective action in connection with the file review by returning all Pell Grants funds in the amount of \$215,235 and making the appropriate Pell adjustments in COD for the Pell Grant recipients identified in Appendices A and D of the PRR. In addition, Charter has also returned FSEOG funds in the amount of \$1,600 for four students also identified in the Appendices of the PRR.

The total amount of Direct Loan funds disbursed to students while enrolled in an ineligible program during the 2010-11 and 2011-12 award years is \$268,557. (The Direct Loan recipients are listed in the Appendices to the PRR, attached to this FPRD.) The estimated actual loss to the Department that has resulted or will result from those ineligible loans is based on Charter's most recent cohort default rate available. As a result, the estimated actual loss that Charter must pay to the Department for the ineligible loans is \$6,592.94. A copy of the results of that calculation is included as Appendix C.

Finding 6. Failure to Comply with Required Drug and Alcohol Abuse Education and Prevention Program Requirements

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

On an annual basis, each institution must provide the following information in writing to all current students (enrolled for any type of academic credit except for continuing education units) and all current employees:

- 1) *the institution's standards of conduct prohibiting the possession, use, and distribution of drugs and alcohol;*
- 2) *possible sanctions for violations of federal, state, and local drug and alcohol laws as well as sanctions for violation of institutional policies;*
- 3) *health risks associated with the use of drugs and alcohol;*
- 4) *information on counseling, rehabilitation, and treatment programs; and,*
- 5) *a clear statement that the institution will impose sanctions on students and employees who violate drug and alcohol laws, ordinances, and/or institutional policies.*

In addition, each institution must conduct a biennial review to determine the effectiveness of its drug and alcohol abuse education and prevention program and to ensure consistent enforcement of applicable laws, ordinances, and institutional policies against violators. The biennial review materials must be maintained by the institution and made available to the Department upon request. 34 C.F.R. § 86.100.

Noncompliance Summary: *Charter violated multiple requirements of the Drug-Free Schools and Communities Act. Specifically, Charter failed to:*

- 1) *Conduct a biennial review in a timely manner. Charter conceded that it had never conducted a biennial review or completed a biennial review report.*
- 2) *Determine the effectiveness of its drug and alcohol abuse education and prevention program and evaluate the consistency of its sanctioning processes. Charter did not conduct any student surveys or other studies of the student body's use of drugs and alcohol, nor did it substantially evaluate the effectiveness of its drug and alcohol counseling, education, and interdiction programs. Moreover, Charter conceded that no systematic surveys or studies were conducted and that, in fact, no studies have been conducted to assess the effectiveness of Charter's drug and alcohol abuse education and prevention programs. Charter further conceded that no analysis regarding the consistency of sanctions has ever been conducted.*

Required Action Summary: *Charter was required to take all necessary corrective actions to rectify this violation and all others identified in the Program Review Report. Charter was required to develop and implement a comprehensive system of policy and procedural improvements. To address the specific deficiencies identified in this finding, Charter was required to:*

- *Conduct a biennial review to measure the effectiveness of its drug and alcohol abuse education and prevention programs. Charter was required to describe the research methods and data analysis tools that used to determine the effectiveness of the program as well as the responsible official or office that conducted the review. The Biennial Review report needed to include a status report on the implementation of any improvements. The new biennial review and report was required to be completed by April 15, 2013 and be submitted to the Department by May 1, 2013.*

Finally, institutional officials were reminded to review the accuracy and completeness of its Drug and Alcohol Abuse Prevention Program (DAAPP) as required by the Drug-Free Schools and Communities Act (DFSCA) and Part 86 of the Department's General Administrative Regulations.

Charter's Response: Charter submitted its official response on April 12, 2013. In its response, Charter concurred with the finding and stated that a review of the DAAPP was conducted in August 2012, as directed by the Department. Furthermore, management asserted that subsequent reviews will be conducted on an annual basis. Per the response, Charter officials will commence each review shortly after the College finalizes its campus crime statistics with a focus on drug and alcohol arrest and referral data so that this information can be considered during the assessment. The College also provided a copy of its first biennial review report as well as a copy of the minutes from the August 2012 meeting where the review was discussed and planned.

Final Determination: Finding #6 of the Program Review Report cited Charter for its persistent failure to conduct biennial reviews and the resultant failure to produce biennial review reports. As a result of this violation, the College was required to develop a review plan and then conduct a substantive review of the DAAPP's effectiveness and to assess the consistency of its disciplinary sanctions policies. In its response, Charter concurred with the finding and stated that a formal biennial review was conducted in accordance with the Department's instructions. Finally, the College submitted a copy of its biennial review report to support its claims.

The Department carefully examined Charter's narrative response and supporting documentation. The review team's examination showed that the identified violations were, for the most part, satisfactorily addressed by the College's response. Based on that review and the College's admission of noncompliance, the violations identified in the finding are sustained. The Department also determined that Charter's remedial action plan meets minimum requirements. For these reasons, the Department has accepted the College's response and considers this finding to be closed for purposes of this program review. Nevertheless, the officials and directors of Charter are put on notice that the College must take all necessary action to address the deficiencies and weaknesses identified by the Department as well as those that were detected during the preparation of the response to the Department's report and as may otherwise be needed to ensure that these violations do not recur.

Although this program review finding is now closed, Charter 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" a violation of this type once it occurs. The College was instructed to conduct its first substantive biennial review and by doing so, has finally begun to address the conditions that led to these violations. Charter has stated that it has brought its overall drug and alcohol abuse program into compliance with the DFSCA as required by its Program Participation Agreement (PPA).

While this is an important first step, Charter officials must understand that compliance with the DFSCA and the Clery Act are essential to maintaining a safe and healthy learning environment, especially in light of the fact that more than 90% of all violent campus crimes are drug and/or alcohol-related. The compliance failures documented by the Department deprived the College and members of the campus community 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, Charter 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 such violations, the Department strongly recommends that Charter re-examine its drug and alcohol and general Title IV policies, procedures, and programs on at least an annual basis and revise them as needed to ensure that they continue to reflect current institutional policy and are in full compliance with federal regulations. To that end, Charter is reminded of its obligation to conduct comprehensive biennial reviews and to prepare substantive reports of findings and recommendations going forward.

Charter is advised that its next report must contain substantially more information about the actual conduct of the review. Moreover, the findings and recommendations must be supported by valid evidentiary data about the DAAPP's effectiveness. The regulations governing the DFSCA can be found at 34 C.F.R. Part 86. Please be advised that the Department may request information on a periodic basis to test the effectiveness of the College's new DAAPP policies and procedures.

In light of the serious consequences associated with compliance failures of this type, the Department strongly recommends that Charter re-examine its drug and alcohol policies, procedures, and programs on at least an annual basis and revise them as needed to ensure that they continue to reflect current institutional policy and are in full compliance with the DFSCA. Please be advised that the Department may request information on a periodic basis to test the effectiveness of the College's new DAAPP policies and procedures.

Finding 7. Crime Awareness Requirement Not Met – Failure to Disclose Crime Statistics for All Campuses and Locations, Omitted and Inadequate Policy Statements, and Failure to Distribute the ASR in Accordance with Federal Regulations

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

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).

The ASR also must include several mandated policy statements. These disclosures are intended to inform the campus community about the institution's security policies, procedures, and the availability of crime prevention 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 ASR 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, emergency notifications, and evacuation procedures. As noted above, the ASR must be published as a single comprehensive document. 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. Section 485(f) of the HEA; 34 C.F.R. § 668.46(b).

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

Noncompliance Summary: Charter failed to comply separately with the requirements of the Clery Act for each of its additional locations (which may qualify as "separate campuses" for Clery Act purposes). There are several components to this finding. First, Charter failed to prepare, publish and distribute an accurate and complete 2012 ASR for each of its additional locations (known as "separate campuses" for Clery Act purposes). In addition, Charter failed to submit crime statistics for each separate campus to the Department's Campus Safety and Security Data Analysis Cutting Tool for those years. Charter also failed to disclose its campus crime statistics in the required format and did not break out its statistics into the mandated sub-categories for Criminal Homicide and Forcible Sex Offenses. Similar errors were identified in Charter's presentation of its hate crime statistics, which were not broken out by crime classification and category of prejudice. Moreover, no statistics for incidents of crimes reported as occurring on immediately adjacent and accessible public property were disclosed.

Charter also failed to publish certain required campus safety policies and procedures in its ASR. For example, the ASR for the main campus in Anchorage, Alaska did not contain any information about counseling resources or sex offender registry data for its additional locations/separate campuses. Furthermore, Charter's policies for advising accusers and accused persons in alleged sex offense cases about the outcomes reached and sanctions imposed by an on-campus judicial entity are not in compliance with the Clery Act or the standards established by the Department's Office for Civil Rights.

Please note that Charter has five separate campuses located in Wasilla, Alaska; Oxnard, California; Bellingham, Washington; Pasco, Washington; and, Vancouver, Washington. Each campus is permanent in nature with its own budget and has faculty and administrative personnel assigned to the facilities to provide and support educational programs leading to recognized credentials. Charter also conducts classes at several other locations. It was not clear if the buildings and properties were owned and/or controlled by the institution.

Documents provided to the review team show that Charter substantially failed to ever publish and distribute an ASR that contained all of the statistical and policy disclosures required by 34 C.F.R. § 668.46(b) during the review period and before. The violation is especially egregious as it applies to the additional locations/separate campuses that are covered by a common Program Participation Agreement (PPA). Serious and persistent violations of this type constitute a general failure to properly implement the requirements of the Clery Act.

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

Institutional Action Initiated to Address Compliance Violations: Prior to the issuance of the Program Review Report, Charter initiated certain corrective actions to begin to address its Clery Act violations. A copy of an amended ASR was submitted to the

Department and was analyzed by the review team. The new report included several changes to the statistical and policy disclosures that address most of the exceptions noted above. As such, the amended ASR appears to be at least minimally adequate. However, no evidence was submitted to indicate that the amended ASR was distributed to current students and employees. Notwithstanding its attempts to take corrective action, Charter is reminded that Clery Act violations are reportable conditions that must be fully documented in the Program Review Report. Charter is also reminded that it must take all additional steps that are necessary to ensure that these violations do not recur. At a minimum, Charter was required to distribute its amended ASR to its current students and employees if it had not already done so and was required to provide evidence of that distribution to the Department.

Required Action Summary: *As a result of these violations, Charter would have normally been required to review and revise its policies and procedures for preparing, publishing, and distributing its ASR. The College would have been directed to use those new policies as a guide for developing a revised ASR that includes all of the consumer protection disclosures required by 34 C.F.R. § 668.46(b) and to submit its draft ASR and new policies to the Department for approval. Finally, Charter would have been required to distribute the new ASR to its current students and employees and provide evidence of that distribution to the Department.*

In consideration of the remedial actions already taken, however, no further changes to the ASR or to Charter's policies were required by the Department. However, Charter was required to review its policies and procedures for all aspects of Clery Act compliance and revise them as needed to ensure that the violations identified above do not recur. Charter was further advised to review its policies, procedures and programs on at least an annual basis to confirm that operations continue to be in full compliance with the Clery Act and the Drug-Free Schools and Communities Act.

Charter was provided an opportunity to take corrective action. These actions should result in the development and distribution of compliant ASRs in the future and enable the institution to bring its overall campus security program into compliance with the Clery Act as required by its PPA. Still, Charter was reminded that the exceptions identified in this finding constitute serious violations of the Clery Act that, by their nature, cannot be cured. As such, Charter was 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 administrative actions or corrective measures as a result.

Charter College officials may wish to review the Department's "Handbook for Campus Safety and Security Reporting" (2011) for guidance on complying with the Clery Act. The handbook is available online at: www2.ed.gov/admins/lead/safety/handbook.pdf. The regulations governing the Clery Act can be found at 34 C.F.R. §§ 668.14, 668.41, 668.46, and 668.49.

Charter's Response: Charter submitted its official response on April 12, 2013. In its response, Charter concurred with the finding and stated that adequate corrective action was initiated prior to the issuance of the PRR. Per the response, Prospect Education (PE), the College's parent company, has developed an Internal Audit Program (IAP) and compliance with the Clery Act is now examined during each audit. PE claimed that each of its schools is audited twice each year to assess compliance with federal and state laws, accreditation standards, and institutional policy and procedures. Finally, management represented that the IAP consists of 229 tests of compliance, performance, and risk

Final Determination: Finding #7 of the program review report cited Charter for its failure to disclose crime statistics for all campuses and locations, omitted and inadequate policy statements and its failure to distribute the 2012 ASR in accordance with federal regulations. Prior to the issuance of the program review report, Charter initiated certain corrective actions to address its Clery Act violations. A copy of an amended 2012 ASR was submitted to the Department and was analyzed by the review team. The revised 2012 ASR included several changes to the statistical and policy disclosures that addressed exceptions noted during the review. As noted above, the amended 2012 ASR was at least minimally adequate; however, no evidence was submitted to indicate that the amended 2012 ASR was distributed to current students and employees. The PRR specifically required Charter to distribute its amended 2012 ASR to its current students and employees, if it had not already done so, and provide evidence of that distribution to the Department. The Department has determined that Charter did not properly distribute its deficient 2012 ASR and the revised 2012 ASR to current students and employees. The review team examined Charter's amended ASR prior to the issuance of the program review report, which included several changes to the statistical and policy disclosures that address most of the exceptions noted. The revised document appeared to be at least minimally adequate. However, the team could not confirm that the revised ASR had been distributed, as required.

The Department carefully examined Charter's narrative response and supporting documentation. The review team's examination showed that the identified violations were satisfactorily addressed in the 2012 ASR. Based on that review and the College's admission of noncompliance, the violations identified in the finding are sustained. The Department has also determined that Charter's corrective action plan meets minimum requirements. For these reasons, the Department has accepted Charter's response and considers this finding to be closed for the purposes of this program review. Nevertheless, the officials and directors of Charter are put on notice that the College must take any additional action that may be necessary to fully address the deficiencies and weaknesses identified by the Department as well as any such deficiencies that were detected during the preparation of the College's response to the Department's report and as may otherwise be needed to ensure that these violations do not recur. Moreover, Charter must provide the following documentation so that the Department can further evaluate the College's recent efforts to comply: 1) copies of the 2012 and 2013 ASRs with proof of active distribution to all required recipients; 2) A copy of the 2014 ASR with proof of active distribution to all required recipients; and, 3) A certification statement attesting to

the fact that the 2012, 2013, and/or 2014 ASRs (if true) were distributed in accordance with the Clery Act. This certification must also affirm that the College understands its Clery Act obligations and that it has taken all necessary corrective actions to ensure that these violations do not recur.

Charter's response to item #1 must be submitted via electronic mail to Ms. Tracy Simmonds at tracy.simmonds@ed.gov and to the Department's Clery Act Compliance Division at clery@ed.gov within 15 days of the receipt of this FPRD. Responses to #2 and 3 must be submitted via electronic mail to Ms. Simmonds and the CACD no later than December 31, 2014. Charter's submission must reference its Program Review Control Number (PRCN) in the subject line of its e-mail message. If any of the requested records were not produced or do not exist, Charter officials must clearly communicate that fact to the Department in writing. In this context, College officials are advised that no new documents are to be created for the purpose of demonstrating compliance with the ASR requirement for past periods. Charter is also advised that any failure to respond to the supplemental request for document production will result in a referral for the imposition of administrative actions in addition to any such referral that may be made to address the original violations identified in Finding #7 of the Program Review Report.

Although this program review finding is now closed, Charter is reminded that the exceptions identified above constitute serious violations of the Clery Act that by their nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. The College was required to initiate all necessary remedial measures and in doing so, has begun to remediate the conditions that led to these violations. Charter has stated that it has brought its overall campus security program into compliance with the Clery Act as required by its PPA. Nevertheless, the College is advised that such 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 such violations, the Department strongly recommends that Charter officials re-examine its campus safety and general Title IV policies and procedures on an annual basis to ensure that they continue to reflect current institutional practices and are compliant with federal requirements. To that end, Charter officials are encouraged to consult the Department's "Handbook for Campus Safety and Security Reporting" (2011) as a reference guide on Clery Act compliance. The Handbook is online at: www2.ed.gov/admins/lead/safety/handbook.pdf. The Department also provides a number of other Clery Act training resources. The College can access these materials at: www2.ed.gov/admins/lead/safety/campus.html. The regulations governing the Clery Act can be found at 34 C.F.R. §§ 668.14, 668.41, 668.46, and 668.49.

D. Summary of Liabilities

The total amount calculated as liabilities from this program review is as follows.

Established Liabilities

Liabilities	EAL – DL	Pell Funds Paid	FSEOG Funds Paid
Finding #3	\$6,592.94	\$215,235	\$1,600

Total liabilities due to the Department: \$6,592.94

Total liabilities: \$223,427.94

In lieu of requiring the institution to assume the risk of default by purchasing the ineligible loans from the holders, the Department has asserted a liability not for the loan amounts, but rather for the estimated actual or potential loss that the government may incur with respect to the ineligible loans or loan amounts (EAL). The estimated actual loss to the Department that has resulted or will result from those ineligible loans is based on Charter's most recent cohort default rate available.

The total amount of DLs that Charter improperly disbursed during the 2010-11 and 2011-12 award years for Finding #3 is \$268,557. The estimated actual loss to the Department for the ineligible loans is \$6,592.94. A copy of the results of that calculation is included in Appendix C.

E. Payment Instructions

I. Liabilities Owed to the Department \$1,000 or More but Less Than \$100,000

Charter owes to the Department \$6,592.94. Payment must be made by forwarding a check 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.

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The following identification data must be provided with the payment:

Amount: \$6,592.94
DUNS: 131469280
TIN: 550880289
PRCN: 201240928002

Terms of Payment

As a result of this final determination, the Department has created a receivable for this liability and payment must be received by the Department within **45 days of the date of this letter**. If payment is not received within the 45-day period, interest will accrue in monthly increments from the date of this determination, on the amount owed to the Department, at the current value of funds rate in effect as established by the Treasury Department, until the date of receipt of the payment. Charter is also responsible for repaying any interest that accrues. If you have any questions regarding interest accruals or payment credits, contact the Department's Accounts Receivable Group at (202) 245-8080 and ask to speak to Charter's account representative.

If full payment cannot be made within **45** days of the date of this letter, contact the Department's Accounts Receivable Group to apply for a payment plan. Interest charges and other conditions apply. A written request may be sent to:

U.S. Department of Education
OCFO Financial Management Operations
Accounts Receivable Group
550 12th Street, S.W., Room 6114
Washington, DC 20202-4461

If within 45 days of the date of this letter, Charter has neither made payment in accordance with these instructions nor entered into an arrangement to repay the liability under terms satisfactory to the Department, the Department intends to collect the amount due and payable by administrative offset against payments due Charter from the federal government. **Charter may object to the collection by offset only by challenging the existence or amount of the debt.** To challenge the debt, Charter must **timely appeal** this determination under the procedures described in the "Appeal Procedures" section of the cover letter. The Department will use those procedures to consider any objection to offset. **No separate appeal opportunity will be provided.** If a timely appeal is filed, the Department will defer offset until completion of the appeal, unless the Department determines that offset is necessary as provided at 34 C.F.R. § 30.28. This debt may also be referred to the Department of the Treasury for further action as authorized by the Debt Collection Improvement Act of 1996.

II. Direct Loan – Estimated Actual Loss

Finding: 3
Appendix: A

DL Estimated Actual Loss	
Amount	Award Year
\$2,988.40	2010-2011
\$3,604.54	2011-2012
Total	
\$6,592.94	

Charter must pay \$6,592.95 in Direct Loan estimated loss liabilities for award years 2010-2011 and 2011-2012. The liabilities will be applied to the general Direct Loan fund.

F. Appendices

Appendix A: Program Review Report dated March 18, 2013

Appendix B: Charter's Written Response to the Program Review Report dated April 12, 2013

Appendix C: Estimated Actual Loss Calculation

Appendix D: Estimated Actual Loss Description

Appendix A
Program Review Report



March 18, 2013

Michael L. Dawson, President
Charter College
Prospect Education, Inc., Owner
750 Sandhill Road, Suite 100
Reno, Nevada 89521

Certified Mail
Return Receipt Requested
#7007 0710 0001 0675 9316

RE: Program Review Report
OPE ID: 02576900
PRCN: 201240928002

Dear Mr. Dawson:

From August 6, 2012 through August 10, 2012, Donna Wittman and Frank Reyes conducted a review of Charter College's (Charter's) administration of the programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs). The findings of that review are presented in the enclosed report.

Findings of noncompliance are referenced to the applicable statutes and regulations and specify the action required to comply with the statute and regulations. Please review the report and respond to each finding, indicating the corrective actions taken by Charter. The response should include a brief, written narrative for each finding that clearly states Charter's position regarding the finding and the corrective action taken to resolve the finding. Separate from the written narrative, Charter must provide supporting documentation as required in each finding.

Please note that pursuant to HEA section 498A(b), the Department is required to:

- (1) provide to the institution an adequate opportunity to review and respond to any preliminary program review report¹ and relevant materials related to the report before any final program review report is issued;
- (2) review and take into consideration an institution's response in any final program review report or audit determination, and include in the report or determination –
 - a. A written statement addressing the institution's response;
 - b. A written statement of the basis for such report or determination; and
 - c. A copy of the institution's response.

The Department considers the institution's response to be the written narrative (to include e-mail communication). Any supporting documentation submitted with the institution's written response will not be attached to the FPRDL. However, it will be retained and available for inspection by Charter upon request. Copies of the program review report, the institution's response, 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 the FPRDL is issued.

¹ A "preliminary" program review report is the program review report. The Department's final program review report is the Final Program Review Determination Letter (FPRDL).

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Charter's response should be sent directly to Donna Wittman of this office within 30 calendar days of receipt of this letter.

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. Please see the enclosure Protection of Personally Identifiable Information for instructions regarding submission to the Department of required data / documents containing PII.

Record Retention:

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

Please refer to the above Program Review Control Number (PRCN) in all correspondence relating to this report. If you have any questions concerning this report, please contact Donna Wittman at (415) 486-5618 or donna.wittman@ed.gov.

Sincerely,



Joseph E. Palumbo, Ed.D.

Compliance Manager

San Francisco/Seattle School Participation Division

cc: Shellee Kilbride, Corporate Director of Financial Aid, shellee.kilbride@prospecteducation.com
Michael L. Dawson, President, mdawson@prospecteducation.com
Jeffrey L. Bodimer, Corporate Director of Compliance,
jeffrey.bodimer@prospecteducation.com

Enclosures:

Protection of Personally Identifiable Information
Program Review Report



PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION

Personally Identifiable Information (PII) being submitted to the Department must be protected. 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).

PII being submitted electronically or on media (e.g., CD-ROM, floppy disk, DVD) must be encrypted. The data must be submitted in a .zip file encrypted with Advanced Encryption Standard (AES) encryption (256-bit is preferred). The Department uses WinZip. However, files created with other encryption software are also acceptable, provided that they are compatible with WinZip (Version 9.0) and are encrypted with AES encryption. Zipped files using WinZip must be saved as Legacy compression (Zip 2.0 compatible).

The Department must receive an access password to view the encrypted information. The password must be e-mailed separately from the encrypted data. The password must be 12 characters in length and use three of the following: upper case letter, lower case letter, number, special character. A manifest must be included with the e-mail that lists the types of files being sent (a copy of the manifest must be retained by the sender).

Hard copy files and media containing PII must be:

- sent via a shipping method that can be tracked with signature required upon delivery
- double packaged in packaging that is approved by the shipping agent (FedEx, DHL, UPS, USPS)
- labeled with both the "To" and "From" addresses on both the inner and outer packages
- identified by a manifest included in the inner package that lists the types of files in the shipment (a copy of the manifest must be retained by the sender).

PII data cannot be sent via fax.

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Prepared for
Charter College

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

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OPE ID 02576900
PRCN 201240928002

Prepared by
U.S. Department of Education
Federal Student Aid
San Francisco/Seattle School Participation Division

Program Review Report

March 18, 2013

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A. Institutional Information

Charter College
Administrative Offices:
750 Sandhill Road, Suite 100
Reno, NV 89521
School Address:
2221 East Northern Lights Boulevard, Suite 120
Anchorage, AK 99508-4103

Type: Proprietary

Highest Level of Offering: Bachelor's Degree

Accrediting Agency: Accrediting Council for Independent Colleges and Schools

Current Student Enrollment: 2,561 (2011-2012)

% of Students Receiving Title IV: 86.9% (2011-2012)

Title IV Participation (as reported in G5, the Department's grants management system):

	<u>2011-2012</u>
Federal Pell Grant (Pell)	\$12,403,642
Federal Supplemental Educational Opportunity Grant (FSEOG)	\$236,509
Federal Work Study	\$130,722
William D. Ford Federal Direct Student Loan (FDL)	\$28,943,096
Academic Competitiveness Grant (ACG)	\$0
National Science and Mathematics Access to Retain Talent Grant (SMART)	\$0
Teacher Education Assistance for College and Higher Education Grant (TEACH)	\$0
Total	\$41,713,969

Default Rate FFEL/DL: 2010 / 9.3%
2009 / 9.5%
2008 / 10.2%

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C. Scope of Review

The U.S. Department of Education (the Department) conducted a program review at Charter College (Charter) from August 6, 2012 to August 10, 2012. The review was conducted by Donna Wittman and Frank Reyes.

The focus of the review was fiscal responsibility and online education delivery. The review consisted of an examination of Charter'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 2010-2011 and 2011-2012 (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 identifies the students whose files were examined during the program review (students ##1-30). Additional student records were examined related to Finding 3 specifically (students ##31-76). Appendix A contains personally identifiable information and will be provided to Charter as an encrypted WinZip file using Advanced Encryption Standard 256-bit encryption.

Disclaimer:

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning Charter'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 Charter 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 (FPRD).

D. 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 Charter to bring operations of the financial aid programs into compliance with the statutes and regulations.

Finding 1. Substantial Misrepresentation to the Department

Citation: If the Secretary determines that an eligible institution has engaged in substantial misrepresentation, the Secretary may—

- (1) Revoke the eligible institution's program participation agreement;
- (2) Impose limitations on the institution's participation in the Title IV programs;
- (3) Deny participation applications made on behalf of the institution; or
- (4) Initiate a proceeding against the eligible institution.

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An eligible institution is deemed to have engaged in substantial misrepresentation when the institution itself or one of its representatives makes a substantial misrepresentation regarding the eligible institution, including about the nature of its educational program, its financial charges, or the employability of its graduates. Substantial misrepresentations are prohibited in all forms. 34 C.F.R. § 668.71(a).

A misrepresentation is defined as any false, erroneous or misleading statement an eligible institution or one of its representatives makes directly or indirectly to a student, prospective student or any member of the public, or to an accrediting agency, to a state agency, or to the Secretary. A misleading statement includes any statement that has the likelihood or tendency to deceive. A statement is any communication made in writing, visually, orally, or through other means. A "substantial misrepresentation" is any misrepresentation on which the person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person's detriment. 34 C.F.R. § 668.71(c).

Noncompliance: The Department conducted a program review of Charter on site in Anchorage, Alaska from November 17, 2008 through November 20, 2008.¹ A program review report was issued on December 31, 2008 setting forth the following findings:

- **Inadequate Credit Balance Authorization**, describing the noncompliance as follows: "CC's credit balance authorization did not allow students the opportunity to choose to receive credit balance funds. Rather, CC's credit balance authorization was included on a document with multiple provisions that required the student to initial and/or sign each provision. The credit balance authorization did not clearly instruct the student or parent that there was an option to obtain the credit balance funds, and the statement did not clearly explain how the credit balance authorization could be modified. Rather, the credit balance statement authorized CC to return funds in excess of direct charges to the lender in order to reduce the student indebtedness."
- **Accurate Cost of Attendance (COA) Not Provided to Students.** The report states that the noncompliance was: "There was no documentation that CC made its accurate COA readily available to students. The accurate COA was not provided on any award letter, or any other document distributed to the students. The COA listed on award letters was limited to CC's direct tuition and fees costs, and did not include the students' indirect cost of attendance, including living expenses, transportation costs, and other costs of attendance exclusive of CC's tuition and fees."

Finding Regarding Credit Balance Authorization: In response to the 2008 program review report, Charter concurred with the findings. It assured the Department that it had eliminated the noncompliance related to required disclosures regarding credit balances by modifying its Financial Aid Application form to include a credit balance disclosure to students which provided them with the option to choose to receive their credit balance as follows:

¹ See Program Review Control Number 200910926809

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- ◆ I understand all financial aid funds will be applied toward tuition and laboratory costs, fees, and textbooks before excess funds will be available to me. All funds in excess of my institutional costs will be available to me however I may request these funds remain on account. I request these funds remain on account until I request them

YES or NO

Relying on Charter's assurances that it had taken the described corrective action, the program review was closed with issuance of a Final Program Review Determination (FPRD) that stated:

CC's responses have resolved all findings. In addition, CC has provided assurances that the corrective actions have been taken to resolve and prevent future occurrences of all findings. Therefore, CC may consider the program review closed with no further action required.

In fact, Charter continued to set forth a credit balance authorization on its "Financial Aid Application" form that did not provide students the option of receiving their credit balances. The form in use states:

SECTION E		FUNDING AUTHORIZATIONS	
I agree that all financial aid funds will be applied toward tuition costs and fees before excess funds will be available to me. All funds in excess of my institutional costs will be issued to me via an e-disbursement debit card to use for future educational expenses at the end of each payment period/quarter. In the event excess funds are not immediately distributed to my card, I hereby authorize these funds to be held on my Charter College Account.			
			Initials _____

Not only does the credit balance authorization fail to inform the student of the right to cancel the authorization at any time, it informs the student that if the credit balance is disbursed it will not be disbursed until the end of the payment period, but in any event, Charter is authorized to retain the credit balance for some unspecified period of time. The short-lived corrective action in 2008, together with Charter's assurances of maintaining corrective action to prevent future occurrences of the finding, were discarded by Charter soon after the issuance of the FPRD. Disregarding its assurances, Charter reverted to the same disclosures for which it had been cited in 2008. The authorization put in place shortly after issuance of the FPRD again does not allow students the opportunity to choose to receive credit balance funds, and the statement does not clearly explain how the credit balance authorization could be modified.

Finding Regarding Cost of Attendance: Charter further represented, in its responses to the earlier Program Review Report, that it had eliminated the noncompliance related to improper COA disclosures by publishing the accurate COA in its catalog with a catalog addendum. Charter submitted a copy of the purported catalog addendum which reflected accurate COA data. Dated November 20, 2009, Charter printed the following representation on the addendum:

The following policy changes have been adopted will be included in the next revision of the catalog:

For each program, Charter has developed a standard budget, otherwise known as Cost of Attendance (COA). Each budget includes the total of tuition, books, fees, and

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standardized amounts for living expenses including room/board, travel, and additional expenses.

A copy of the submitted addendum is attached as Appendix B.

During the most recent program review conducted, from August 6, 2012 through August 10, 2012, the reviewers found that Charter was again failing to disclose the correct cost of attendance to students. None of the award letters or catalogs, including all catalog revisions after November 20, 2009, set forth the actual cost of attendance, informing students only of Charter's direct tuition and fees cost – the practice Charter had represented it had abandoned in 2009. Charter failed to disclose the students' accurate cost of attendance, including living expenses, transportation costs, and other costs of attendance exclusive of Charter's tuition and fees. None of the catalogs for 2009 through the date of the program review disclosed any costs other than tuition and fees.

Charter uses CampusVue, a campus management software, to calculate and award the amount of financial aid for which students are eligible. Charter inputs the COA of students using a budget that includes tuition and fees charged, estimates of costs for necessary books and supplies, estimates of typical charges for room and board, and estimates of transportation costs for students. While using the correct COA for purposes of calculating Title IV aid, Charter told students that the COA was only the direct cost of tuition and fees. Charter did not disclose the true COA to students, and could only provide reviewers with a print of the CampusVue screen showing students' COA elements.

Required Action: In response to this Program Review Report (Report), Charter must provide a descriptive explanation for its failure to implement the corrective action that it represented to the Department in 2009, including an explanation of exactly what action was taken, when such action, if taken, was abandoned, and provide a copy of each document reflecting any corrective action taken. Please provide a copy of each catalog and catalog addenda containing the purported corrective action regarding cost of attendance. Also provide a copy of each version of any credit balance authorization form used from and after November 2009, including, with each version, the effective dates of use.

In addition, Charter must amend the current credit balance authorization form, policies, and procedures in use and submit the revised documents in response to this Report. Charter must also amend its current practices with respect to ensuring that students receive accurate COA information and submit a written description of its procedures as to the methods used by Charter to ensure that students are fully informed of this information. Include copies of forms (e.g. award letters) and consumer information documents that reflect these disclosures.

Charter must establish and implement policies and procedures that will assure that the representations made to the Department, including representations regarding corrective actions, are accurate, truthful, and complete. Such procedures must further ensure that corrective actions represented to the Department shall remain in effect until superseded by intervening laws and regulations. Based on an evaluation of such policies, procedures, and documents, the

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Department will determine if additional action will be required and will advise Charter accordingly in the Final Program Review Determination Letter.

Finding 2. Misrepresentation of Cost of Attendance to Students / Prospective Students

Citation: Misrepresentation concerning the nature of an eligible institution's educational program includes, but is not limited to, false, erroneous, or misleading statements concerning any matters required to be disclosed to prospective students under 34 C.F.R. §§ 668.42 and 668.43. 34 C.F.R. § 668.72.

34 C.F.R. § 668.43(a)(1) provides:

Institutional information that the institution must make readily available to enrolled and prospective students under this subpart includes, but is not limited to, the cost of attending the institution, including—

- Tuition and fees charged to full-time and part-time students;
- Estimates of costs for necessary books and supplies;
- Estimates of typical charges for room and board;
- Estimates of transportation costs for students; and
- Any additional cost of a program in which a student is enrolled or expresses a specific interest.

Noncompliance: Charter College advises students of their cost of attendance using its catalog and award letter. The award letter, "Financial Aid Estimate," advises the student that the cost of attendance as stated on the award letter affects financial aid eligibility. The award letter and catalogs, however, disclose only the tuition costs, not actual costs of attendance as required by the Title IV regulations. When Charter actually calculates a student's Title IV eligibility, it does use the Title IV required elements, i.e., including room and board, transportation, additional costs. This actual COA, however, is never disclosed to the students. The following are examples of this practice:

Student #16's file indicates that Charter represented to her that her financial aid was determined on the basis of a COA of \$15,943.75 for her first academic year. This amount is set forth on the student's award letter and her enrollment contract. When it calculated the student's financial aid package, Charter used a COA of \$30,504.52, an amount that was never disclosed to the student.

Student #22's file indicates that Charter represented to her that her financial aid was determined on the basis of a COA of \$14,943.75 for her first academic year. This amount is set forth on the student's award letter and her enrollment contract. When it calculated the student's financial aid package, Charter used a COA of \$29,205.87, an amount that was never disclosed to the student.

Student #23's file indicates that Charter represented to him that his financial aid was determined on the basis of a COA of \$18,725 for his first academic year. This amount is set forth on the student's award letter and his enrollment contract. When it calculated the student's financial aid package, Charter used a COA of \$30,613, an amount that was never disclosed to the student.

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Student #24's file indicates that Charter represented to her, on both her award letter and private education loan application, that her financial aid was determined on the basis of a COA of \$18,725 for her first academic year. This amount is set forth on the student's award letter and enrollment contract. When it calculated the student's financial aid package, Charter used a COA of \$33,535, an amount that was never disclosed to the student.

Student #25's file indicates that Charter represented to her that her financial aid was determined on the basis of a COA of \$17,725 for her first academic year. This amount is set forth on the student's award letter and her enrollment contract. When it calculated the student's financial aid package, Charter used a COA of \$39,118, an amount that was never disclosed to the student.

Student #30's file indicates that Charter represented to him that his financial aid was determined on the basis of a COA of \$17,725 for his second academic year (2011-12). This amount is set forth on the student's award letter and his enrollment contract as the COA. When it calculated the student's financial aid package, Charter used a COA of \$31,291.66, an amount that was never disclosed to the student.

The error rate for this finding is 100%, for all files reviewed contained the erroneous disclosure of COA based only on tuition and fees, while Title IV eligibility was calculated on the basis of a COA that included living expenses, an amount never disclosed to students.

Required Action: Charter must establish and implement policies and procedures that will assure that the representations made to students, including, but not limited to, representations regarding students' COA, are accurate, truthful, and complete. Charter must submit a copy of such policies and procedures with its response to this Report for evaluation. Based on an evaluation of such documents, the Department will determine if additional action will be required and will advise Charter accordingly in the Final Program Review Determination Letter. In addition, see Finding 1 with respect to disclosures on COA and submit, in response to this Report, current COA disclosures being provided to students and prospective students.

Finding 3. Ineligible Programs – Approval Requirements Not Met

Citation: An institution may participate in any Title IV program only if it enters into a written program participation agreement with the Secretary. 34 C.F.R. §§ 668.14(a). By entering into a program participation agreement, an institution agrees that it will meet the requirements established by its nationally recognized accrediting agency. 34 C.F.R. §§ 668.14(b)(23). An institution's eligibility extends to those educational programs identified on the institution's notice of eligibility from the Department. 34 C.F.R. §§ 600.10 (b).

In order to be accredited, and therefore eligible for Title IV funds, a program must meet the established requirements of a nationally recognized accrediting agency. 34 C.F.R. §§ 600.2. Any false or misleading information concerning the nature and extent of accreditation of an institution or program constitutes misrepresentation and is in violation of the regulations. 34 C.F.R. §§ 668.72(a).

Appendix B

Charter's Written Response to the Program Review Report