



November 24, 2014

Ann Ledy
President
College of Visual Arts
344 Summit Avenue
Saint Paul, MN 55102-2199

Certified Mail Return Receipt Requested
7012 1640 000 0215 7682

RE **Final Program Review Determination – Closed School Loan Discharges**
OPE ID 00746200
PRCN: 2014-4-05-28803
Closure Date June 30, 2014

Dear Ms. Ledy:

The U.S. Department of Education's (Department's) School Participation Team – Chicago/Denver issued a program review report on October 3, 2014 covering College of Visual Arts (CVA) 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). Attached is a copy of the program review report and related attachments. The Department has made final determinations based on information obtained during the program review. This Final Program Review Determination (FPRD) and related attachments 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.

Every institution that executes a Program Participation Agreement with the Department agrees that it will comply with all statutory provisions of or applicable to Title IV of the HEA and all applicable regulatory provisions prescribed under that statutory authority, 34 C.F.R. § 668.14(b). Among the provisions applicable to institutions that close are statutory and regulatory provisions relating to the Secretary's claim for restitution on discharged Title IV, HEA loans.

The Department's records indicate that CVA, located in Saint Paul, MN, closed on June 30th, 2013. After CVA's closure, some students who received Title IV, HEA loan funds for attendance at CVA filed claims for discharge of their Title IV, HEA loans due to CVA's closure.

Purpose

A final determination has been made concerning the finding of the off-site program review. The purpose of this letter is to: (1) identify liabilities resulting from the finding of the program review, (2) provide instructions for payment of liabilities to the Department, (3) notify CVA of its right to appeal, and (4) close the review.

The total liabilities identified from this program review are \$18,307. This FPRD contains detailed information about the liability determination for its finding.

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

Federal Student

fraudulent use of the information. To protect PII, the finding in the attached report **does** not contain any student PII. Instead, **the** finding references students only by a student number created by Federal Student Aid. The student numbers were assigned in Appendix A, Student List. This appendix was encrypted and sent separately to the institution via e-mail to its attorney (b)(6); (b)(7)(C)

Appeal Procedures

This constitutes the Department's final determination with respect to the financial liabilities identified during the off-site program review conducted September 23, 2014 through September 23, 2014. If CVA wishes to appeal to the Secretary for a review of the financial liabilities established by the FPRD, CVA must file a written request for an administrative hearing. The Department must receive the request no later than 45 days from the date CVA receives this final determination. An original and four copies of the information CVA submits must be attached to the request. The request for an appeal must be sent to:

Ms. Mary E. Gust, 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

CVA'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 final program review determination. 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 of 1965, as amended, 20 U.S.C. § 1094(b)(2). The procedures followed with respect to CVA's appeal will be those provided in 34 C.F.R. Part 668, Subpart H.

Record Retention

Program records relating to the period covered by the off-site program review must be retained until the latter 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).

If the institution has any questions regarding this letter, please contact Mary Murray of my staff at (312) 730-1715. Questions relating to an 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

Enclosures

cc. Mark Vyvyan, Fredrikson & Byron, 200 South 6th Street Suite 4000 Minneapolis, MN 55402
Minnesota Office of Higher Education
North Central Association of Colleges, Higher Learning Commission
MN Consumer Services Division; MN Attorney General's Office

Prepared for

College of Visual Arts

Federal Student Aid

PRCN 2014-4-05-28803

OPE ID 00746200
PRCN 2014-4-05-28803

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

Final Program Review Determination
November 24, 2014

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A. Institutional Information

College of Visual Arts
344 Summit Ave
St Paul, MN 55102-2199

Type: Private nonprofit

Highest Level of Offering: Bachelor

Accrediting Agency: N/A School voluntarily withdrew June 30, 2013

Current Student Enrollment: N/A School voluntarily withdrew June 30, 2013

% of Students Receiving Title IV, HEA funds: N/A School voluntarily withdrew June 30, 2013

Title IV, HEA Program Participation: PCNet.

	2012-2013
Pell Grant Program	\$ 325,568
William D. Ford Direct Loan Program (Direct Loan)	\$1,389,469
Federal Work Study (FWS)	\$ 30,771
Federal Supplemental Educational Opportunity Grant	\$ 24,992

Default Rate FFEL/DL:	2011 1.7%
	2010 8.6%
	2009 1.5%

B. Scope of Review

The U.S. Department of Education (Department) conducted an off-site program review of the College of Visual Arts (CVA) from July 1, 2013 to June 30, 2014. The review was conducted by Mary Murray beginning on September 23, 2014.

The focus of the review was to determine CVS's liability for the discharge of William D Direct Loan Program due to CVS's closure on June 30, 2013. The review consisted of an examination of former student records in the National Student Loan Data System (NSLDS). NSLDS data includes applications for discharges filed by students who were unable to complete their programs due to CVS closure.

Disclaimer:

Often school liabilities continue to accrue following resolutions of any close-out audit or program review issues. For example, borrowers may in the future submit additional successful applications for closed schools discharges of the Title IV, HEA loans taken out to permit students to attend CVS. If that occurs, the Department will use the program review process to recover those liabilities from CVS at that time. Neither the Department's issuance of this letter, nor payment by CVS of the liabilities identified, in any way waives the Department's right to require payment of liabilities either existing now but unknown to the Department, or accruing in the future.

C. Finding and Final Determinations

The program review report finding is summarized below. At the conclusion of the finding is a summary of CVS's response to the finding, and the Department's final determination for that finding. The Department's final determination is below. A copy of the program review report issued on October 3, 2014 is attached as Appendix C.

Note: Any additional costs to the Department, including interest, special allowances, cost of funds, unearned administrative cost allowance, etc. are not attributed to individual findings, but are included in a summary listing at the end of the report.

Finding # 1 Closed Loan Discharges

A closed school is required to repay to the Department for all closed loan discharges successfully processed after the school closes. The Department has identified three borrowers with loans that were successfully discharged through the closed loan discharge process between July 1, 2013 and June 30, 2014; six loans that totaled \$27,000 were discharged (See Appendix A). These loans were not included in the close-out audit submitted by CVA in 2013 (ACN: 05-2013-30670).

Citation Summary: Citation: "34 C.F.R. § 685.214(a)(1) *The Secretary discharges the borrower's (and any endorser's) obligation to repay a Direct Loan in accordance with the provisions of this section if the borrower (or the student on whose behalf a parent borrowed) did not complete the program of study for which the loan was made because the school at which the borrower (or student) was enrolled closed.*

Additionally, under 34 C.F.R. § 685.214(a)(2) for purpose of the closed school discharged authorized by this section -

(i) A school's closure date is the date that the school ceases to provide educational instruction in all programs, as determined by the Secretary; and

(ii) "School" means a school's main campus or any location or branch of the main campus regardless of whether the school or its location or branch is considered eligible.

34 C.F.R. § 685.214(e) "(1) Upon discharge under this section, the borrower is deemed to have assigned to and relinquished in favor of the Secretary any right to a loan refund (up to the amount discharged) that the borrower (or student) may have by contract or applicable law with respect to the loan or the enrollment agreement for the program for which the loan was received, against the school, its principals, its affiliates and their successors, its sureties, and any private fund, including the portion of a public fund that represents funds received from a private party.

(2) The provisions of this section apply notwithstanding any provision of State law that would otherwise restrict transfer of those rights by the borrower (or student), limit or prevent a transferee from exercising those rights, or establish procedures or a scheme of distribution that would prejudice the Secretary's ability to recover on those rights.

(3) Nothing in this section limits or forecloses the borrower's (or student's) right to pursue legal and equitable relief regarding disputes arising from matters unrelated to the discharged Direct Loan.

Section 437 (a)(1) of the Higher Education Act states: "If a borrower (who received, on or after January 1, 1986, a loan made, insured, or guaranteed under this part) and the student (borrower, or the student on whose behalf a parent borrowed) is unable to complete a program in which the student is enrolled due to the closure of the institution or if such student's eligibility to borrow under this part was falsely certified

by the eligible institution, or if the institution failed to make a refund of loan proceeds which the institution owed to the such student's lender, then the Secretary shall discharge the borrower's liability on the loan (including interest and collection of fees) by repaying the amount owed on the loan and shall subsequently pursue any claim available to such borrower against the institutions affiliates and principals."

Additionally under 34 C.F.R. § 685.402(d)(1) states: "the Secretary reimburses the holder of a loan received by a borrower on or after January 1, 1986, and discharges the borrower's obligation with respect to the loan in accordance with the provisions of paragraph (d) of this section, if the borrower (or the student for whom a parent received a PLUS loan) could not complete the program of study for which the loan was intended because the school at which the borrower (or student) was enrolled, closed, or the borrower (or student) withdrew from the school not more than 90 days prior to the date the school closed. This 90-day period may be extended if the Secretary determines that exceptional circumstances related to a school's closing would justify an extension."

Noncompliance Summary: CVA ceased providing instruction and closed on June 30, 2013. Subsequent to the closure and the filing of the "Final Audit Determination" dated March 11, 2014, two students filed applications for, and received approval of the discharge of Direct Loans. Each student certified that he or she was unable to complete his or her program of study due to the closure of CVA.

The direct cost to the Department for the closed school loan discharges is \$18,000, an amount that CVA must return to the Department. CVA is further liable for the imputed interest on the cost of the discharge amounts paid by the Department.

Duplicated Liability: After it ceased providing instruction, CVA provided the required close-out audit, and the Department issued a Final Audit Determination (FAD) on March 11, 2013, under ACN 05-2013-30670. That FAD established a liability for the estimated amount of actual loss for all the Direct Loans funds disbursed during the un-audited period. The amount of estimated actual loss liability associated with the loans discharged for the two students who have filed for a closed school loan discharge is \$14,500 in principal and \$127 in imputed. These liabilities will not be duplicated in this FPRD.

CVA's Response Summary: CVA issued a response to the Program Review Report dated October 3, 2014 on October 16, 2014. CVA's responses are summarized below.

1. CVA asserts that they "objected to the discharge of the loan to the student/borrower identified in the Department's Final Audit Determination (FAD) dated March 11, 2014." CVA acknowledges that the appeal was decided adversely to CVA but included their arguments made in its brief for the appeal of the FAD as part of the response to the PRR.
2. CVA brought out that the \$9,000 loan to the student identified as "Student #3" was included in the FAD dated March 11, 2014 and previously adjudicated.
3. CVA acknowledges that the Secretary has the authority to discharge loans if they meet the "closed school discharge" requirements under federal law, 34 C.F.R. §685.214 (c). However, the discharge of a borrower's obligation does not automatically create a right for the Secretary to recover directly from the closed school. Instead, the applicable regulations provide that:
[u]pon discharge under this section, the borrower is deemed to have assigned and relinquished in favor of the Secretary a right to a loan refund (up to the amount discharged) that the borrower or student may have by contract or applicable law with respect to the loan or the enrollment agreement for the program for which the loan was received, against the (closed) school. 34 C.F.R. § 685.214 (e).

CVA does not believe that the students and/or borrowers identified in Appendix A of the Program Review Report dated October 3, 2014 have independent right to recover against it. Accordingly, there is no right of recovery to which the Secretary may succeed under 34 C.F.R. § 685.214 (e). As a result, while the student/borrowers may discharge their loan obligations, the Secretary should not be able to recover the discharged amounts from CVA.

Final Determination

CVA is liable for the \$18,000 paid to discharge loans for students who were unable to complete their programs of study due to CVA's closure as well as \$307 in imputed interest calculated after the loan discharge payment by the Department through December 14, 2013. Accordingly, the total liability for this finding is \$18,307. The Department acknowledges that the \$9,000 loan to the student identified as "Student #3" in the Program Review Report dated October 3, 2014 was included in the FAD dated March 11, 2014 and adjudicated in the appeal of the FAD. Student #3's loan reported in the Program Review Report as a \$9,000 liability is not included in the Final Determination of Liabilities.

Instructions for payment are set forth in the Payment Instructions section of this Final Program Review Determination.

D. Summary of Liabilities

Description of Liability	Payable to	Amount
Total Amount of Closed School Loan Discharges	Department	\$18,000
<i>Imputed Interest</i>	Department	\$307
Total Liability		\$18,307
Net Due		\$18,307

E. Payment Instructions

CVA owes to the Department \$18,307. 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.

The following identification data must be provided with the payment:

Amount	Liability amount to be repaid directly to ED - \$18,307
DUNS	063167393
TIN	237022431 -
PRON	2014-4-05-26803

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 amounts 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. CVA 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 CVA 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. Written request may be sent to:

U.S. Department of Education
OCFO Financial Management Operations
Accounts Receivable Group
550 12th Street, S.W., Room 6111
Washington, DC 20202-4461
Attn: Nancy I. Hoglund

If within 45 days of the date of this letter, CVA 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 CVA from the Federal Government. **CVA may object to the collection by offset only by challenging the existence or amount of the debt.** To challenge the debt, CVA 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.