



April 27, 2015

Dr. Ken Grosz, President
Dakota College at Bottineau
105 Simrall Boulevard
Bottineau, ND 58318-1159

Certified Mail
Return Receipt Requested
7012 1640 0000 0215 8122

RE: **Final Program Review Determination**
OPE ID: 00299500
PRCN: 201340528439

Dear Dr. Grosz:

The U.S. Department of Education's (Department's) Chicago/Denver School Participation Team issued a program review report on May 30, 2014 covering Dakota College at Bottineau's (DCB) administration of programs authorized by Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs), for the 2011-2012 and 2012-2013 award years. DCB's final response was received on August 13, 2014. A copy of the program review report (and related attachments) and DCB's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by DCB upon request. Additionally, this Final Program Review Determination (FPRD), related attachments, and any supporting documentation may be subject to release under the Freedom of Information Act (FOIA) and can be provided to other oversight entities after this FPRD is issued.

Purpose:

Final determinations have been made concerning all of the outstanding findings of the program review report. The purpose of this letter is to: (1) identify liabilities resulting from the findings of this program review report, (2) provide instructions for payment of liabilities to the Department, (3) notify the institution of its right to appeal, (4) close the review and (5) notify DCB of a possible adverse action. Due to the serious nature of one or more of the enclosed findings, this FPRD is being referred to the Department's Administrative Actions and Appeals Service Group (AAASG) for its consideration of possible adverse action. Such action may include a fine, or the limitation, suspension or termination of the eligibility of the institution. Such action may also include the revocation of the institution's program participation agreement (if provisional), or, if the institution has an application pending for renewal of its certification, denial of that application. If AAASG initiates any action, a separate notification will be provided which will include information on institutional appeal rights and procedures to file an appeal.

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

Federal Student

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Chicago/Denver School Participation Division

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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 financial liabilities, such findings may not be appealed. If an adverse administrative action is initiated, additional information about DCB's appeal rights will be provided under separate cover.

Protection of Personally Identifiable Information (PII):

PII is any information about an individual which can be used to distinguish or trace an individual's identity (some examples are name, social security number, date and place of birth). The loss of PII can result in substantial harm, embarrassment, and inconvenience to individuals and may lead to identity theft or other fraudulent use of the information. To protect PII, the findings in the attached report do not contain any student PII. Instead, each finding references students only by a student number created by Federal Student Aid. The student numbers were assigned in Appendix A, Student Sample. In addition, Appendix B also contains PII. These appendices were encrypted and sent separately to the institution via e-mail.

Appeal Procedures:

This constitutes the Department's FPRD with respect to the liabilities identified from the May 30, 2014 program review report. If DCB 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 DCB receives this FPRD. An original and four copies of the information DCB submits must be attached to the request. The request for an appeal must be sent to:

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

DCB'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 DCB’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 Jason Charlton at (312) 730-1695. Questions relating to any appeal of the FPRD should be directed to the address noted in the Appeal Procedures section of this letter.

Sincerely,



Douglas Parrott
Division Director

Enclosure:

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

cc: Valerie Heilman, Financial Aid Administrator
North Dakota State Board for Career and Technical Education
Higher Learning Commission
Department of Defense
Department of Veterans Affairs
Consumer Financial Protection Bureau

Prepared for
Dakota College at Bottineau

OPE ID: 00299500
PRCN: 201340528439

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

Final Program Review Determination

April 27, 2015

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A. Institutional Information

Dakota College at Bottineau
105 Simrall Boulevard
Bottineau, ND 58318-1159

Type: Public

Highest Level of Offering: Associate's Degree

Accrediting Agency: North Central Association of Colleges and Schools

Current Student Enrollment: 1,057 (2011-2012)

% of Students Receiving Title IV: 86% (2011-2012)

Title IV Participation Postsecondary Education Participants System (PEPS):

| | |
|---|------------------|
| Federal Pell Grant (Pell) | <u>2012-2013</u> |
| William D. Ford Federal Direct Loan Program (Direct Loan) | \$1,000,540.00 |
| Federal Supplemental Education Opportunity Grant (FSEOG) | \$1,657,351.00 |
| | \$33,000.00 |
| Federal Work Study (FWS) | \$42,902.00 |
| Federal Perkins Loan Program | \$32,333.00 |

| | | |
|-----------------------|------|------|
| Default Rate FFEL/DL: | 2011 | 8.2% |
| | 2010 | 8.2% |
| | 2009 | 6.5% |

| | | |
|-----------------------|------|-------|
| Default Rate Perkins: | 2013 | 13.5% |
| | 2012 | 8.1% |
| | 2011 | 14.3% |

B. Scope of Review

The U.S. Department of Education (the Department) conducted a program review at Dakota College at Bottineau (DCB) from September 16, 2013 to September 20, 2013. The review was conducted by Jason Charlton and Jeremy Early.

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

A sample of 30 files was identified for review from the 2011-2012 and 2012-2013 (year to date) award years. The files were selected randomly from a statistical sample of the total population receiving Title IV, HEA program funds for each award year. Appendix A lists the names and social security numbers of the students whose files were examined during the program review. A program review report was issued on May 30, 2014.

Disclaimer:

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

C. Findings and Determinations

Resolved Findings

Findings 4 and 5.

DCB has taken the corrective actions necessary to resolve findings 4 and 5 of the program review report. Therefore, these findings may be considered closed. DCB's written response, including their procedures, can be referenced in Appendix D. Findings requiring further action by DCB are discussed below.

Resolved Findings with Comments

The following program review finding has been resolved by the institution, and may be considered closed. This finding is included solely for the purpose of discussing resolution of the finding.

Finding 7: Consumer Information Requirements Not Met

Citation:

An institution must publish information on financial assistance and make readily available to current and prospective students under this subpart includes, but is not limited to, a description of all the Federal, State, local, private and institutional student financial assistance programs available to students who enroll at that institution. These programs include both need-based and non-need-based programs. The institution may describe its own financial assistance programs by listing them in general categories. The institution must describe the terms and conditions of the loans students receive under the Federal Family Education Loan Program, the William D. Ford Federal Direct Student Loan Program, and the Federal Perkins Loan Program. 34 C.F.R. § 668.42(a)

For each program referred to in paragraph (a) of this section, the information provided by the institution must describe-

- 1) The procedures and forms by which students apply for assistance;*
- 2) The student eligibility requirements;*
- 3) The criteria for selecting recipients from the group of eligible applicants; and*
- 4) The criteria for determining the amount of a student's award.*

34 C.F.R. § 668.42(b)

The institution must describe the rights and responsibilities of students receiving financial assistance and, specifically, assistance under the title IV, HEA programs. This description must include specific information regarding-

- 1) Criteria for continued student eligibility under each program;*
- 2) Standards which the student must maintain in order to be considered to be making satisfactory progress in his or her course of study for the purpose of receiving financial assistance; and criteria by which the student who has failed to maintain satisfactory progress may re-establish his or her eligibility for financial assistance;*
- 3) The method by which financial assistance disbursements will be made to the students and the frequency of those disbursements;*

- 4) *The terms of any loan received by a student as part of the student's financial assistance package, a sample loan repayment schedule for sample loans and the necessity for repaying loans;*
- 5) *The general conditions and terms applicable to any employment provided to a student as part of the student's financial assistance package; and*
- 6) *The exit counseling information the institution provides and collects as required by 34 CFR 674.42 for borrowers under the Federal Perkins Loan Program, by 34 CFR 685.304 for borrowers under the William D. Ford Federal Direct Student Loan Program, and by 34 CFR 682.604 for borrowers under the Federal Stafford Loan Program.*

34 C.F.R. § 668.42(c)

An institution that provides information regarding a private education loan from a lender to a prospective borrower must provide private education loan disclosures to the prospective borrower, regardless of whether the covered institution or institution-affiliated organization participates in a preferred lender arrangement.

The private education loan disclosures must-

- 1) *Provide the prospective borrower with the information the Board of Governors of the Federal Reserve System requires to be disclosed under section 128(e)(1) of the Truth in Lending Act (15 U.S.C. 1638(e)(1)) for such loan;*
- 2) *Inform the prospective borrower that—*
 - i. *The prospective borrower may qualify for loans or other assistance under title IV of the HEA; and*
 - ii. *The terms and conditions of Title IV, HEA program loans may be more favorable than the provisions of private education loans*

The covered institution or institution-affiliated organization must ensure that information regarding private education loans is presented in such a manner as to be distinct from information regarding Title IV, HEA program loans.

Upon an enrolled or admitted student applicant's request for a private education loan self-certification form, an institution must provide to the applicant, in written or electronic form-

- 1) *The self-certification form for private education loans developed by the Secretary in consultation with the Board of Governors of the Federal Reserve System, to*

satisfy the requirements of section 128(e)(3) of the Truth in Lending Act (15 U.S.C. 1638(e)(3)); and

- 2) *The information required to complete the form, to the extent the institution possesses such information as specified in 34 CFR 668.14(b)(29).*

34 C.F.R. § 601.11

An institution must have information on the diversity of the student body, including percentage of enrolled, Full-time students who are male, female, self-identified members of a major racial or ethnic group, and Federal Pell Grant recipients. HEA Sec. 488(a)(1)(E)

Noncompliance:

DCB failed to provide the following required consumer information:

- *Selection criteria for awarding the Federal Supplemental Education and Opportunity Grant and the Federal Perkins Loan;*
- *A sample loan repayment schedule and the necessity for repaying loans;*
- *Code of Conduct for private loans; and*
- *Information on diversity of the student body*

Required Action:

DCB must immediately develop and implement written procedures regarding consumer information required to be provided to students that complies with all program regulations. A copy of those procedures must be submitted in response to this report

DCB's Response:

DCB has a written policy regarding that consumer information required to be provided to students to comply with all federal regulations. The consumer information noted above had always been included in the DCB Policy and Procedure Manual, as public knowledge and in office publications, which have always been available upon request to students. Some of the information had also been included in entrance counseling that each student completes prior to their loan disbursement and during exit counseling. The information noted above was immediately updated on the DCB website per Mr. Charlton's request prior to his leaving the College during the reviews. DCB is including a copy of both the policy and copies of the website screenshots with this response. Refer to Appendix D for the institution's written response.

Final Determination:

The written policies and procedures regarding consumer information required in response to this finding were received with the institution's response. DCB has updated their website and will monitor it yearly for any new updates. The written policy and procedures appear to be adequate to ensure future compliance.

The institution is reminded that its fiduciary responsibilities obligate it to the highest standard of care and diligence in administering and accounting for Title IV, FSA funds.

Findings with Final Determinations

The program review report finding(s) requiring further action are summarized below. At the conclusion of each finding is a summary of DCB's response to the finding, and the Department's final determination for that finding. A copy of the program review report issued on May 30, 2014 is attached as Appendix C.

Finding 1: Crime Awareness Requirements Not Met - Incomplete Annual Security Report

Citation:

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) and the Department's regulations require that all institutions that receive Title IV, HEA funds must, by October 1 of each year, publish and distribute to its current students and employees, 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). With the exception of certain drug and alcohol prevention program information, cross-referencing to other publications is not sufficient to meet the publication and distribution requirements. § 485(f) of the HEA; 34 C.F.R. §668.46(b).

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

The 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 assaults, burglary,

motor vehicle theft, and arson. Statistics for certain hate crimes, as well as arrest and disciplinary referral statistics for violations of certain laws pertaining to illegal drugs, illegal usage of controlled substances, liquor, and weapons, also must be disclosed in the ASR. These crime statistics must be published for the following geographical categories: 1) on campus; 2) on-campus student residential facilities; 3) certain non-campus buildings and property; and, 4) certain adjacent and accessible public property. 34 C.F.R. §668.46(c)(1).

Also, institutions with a police or campus security department must maintain a written, easily understood daily crime log listing all crimes that occurred in the above geographical areas as well as those that occur within the campus police or security department's patrol area that it either becomes aware of or are reported to it. This reporting requirement applies to all crimes, not merely those crimes listed in 34 C.F.R. §668.46(c)(1) and (3). The log must include the nature, date, time, general location, and disposition of each offense. The crime log must be kept up to date and be freely accessible to any requestor. 34 C.F.R. §668.46(f).

Additionally, the ASR must include several policy statements. These disclosures are intended to inform the campus community about the institution's security policies, procedures, and the availability of programs and resources as well as channels for victims of crime to seek recourse. In general, these policies include topics such as the law enforcement authority and practices of campus police and security forces, incident reporting procedures for students and employees, and policies that govern the preparation of the report itself. Institutions are also required to disclose alcohol and drug policies and educational programs. Policies pertaining to sexual assault education, prevention, and adjudication must also be disclosed. Institutions also must provide detailed policies on the issuance of timely warnings, emergency notifications, and evacuation procedures. All required statistics and policies must be included in a single comprehensive document. § 485(f) of the HEA; 34 C.F.R. §668.46(b)(2).

Noncompliance:

DCB violated multiple provisions of the campus crime and fire safety awareness requirements:

- DCB failed to actively notify students and employees about the availability of the Annual Security Report (ASR) in the manner required by Federal regulations. Although the statistics were posted in the "Dakota College at Bottineau Campus Safety & Security" handbook, the college officials were unable to provide any documentation or assurances that any members of the campus community have ever received adequate notification regarding the availability of the ASR and other required information. DCB officials stated this notification was sent out via e-mail, however their e-mail is purged every 30 days; making the e-mail unavailable to the reviewers.*
- The institution failed to report Hate Crime subgroups in their ASR. Although the Hate Crimes numbers were reported to the Department, DCB did not put this subgroup in their statistics in the "Dakota College at Bottineau Campus Safety & Security" handbook or prominently noted that no hate crimes were reported.*

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 that can empower its campus community to be informed and play an active role in their own safety and security.

Required Action:

As a result of the above violations, DCB must review and revise its existing policies and develop and implement new detailed policies and procedures as needed to ensure that all aspects of the preparation, publication, and distribution of the ASR and fire safety report are carried out in a manner that complies with Federal regulations. These procedures must also specially articulate how prospective students and employees will be notified of the report's availability.

DCB must provide documentation to the Department evidencing that the ASR was updated to include all hate crime data and that the ASR was distributed in accordance with the Clery Act. The ASR must include all of the statistical disclosures and policy, procedure, and programmatic information required under 34 C.F.R. §668.46. A copy of DCB's new and revised policies and procedures must accompany its response to this program review report. This certification must also affirm that the institution understands its Clery Act obligations and that it has taken all necessary corrective actions to ensure that these violations do not recur.

As noted above, the exceptions identified in this finding 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. DCB will be given an opportunity to develop and distribute an accurate and complete ASR, and in so doing, finally begin to bring its overall campus security program into compliance with the Clery Act as required by its Program Participation Agreement (PPA). However, the institution is advised that these remedial measures cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective measures.

DCB officials may wish to review the Department's "Handbook for Campus Safety and Security Reporting" (2011) during the preparation of its response. The handbook is available online at: <http://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. This information was also provided to the institution's administrators during the program review.

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

DCB's Response:

In its official response, DCB concurred with part of the finding and challenged the component dealing with ASR distribution. Regarding the distribution and notification violations, College officials represented that DCB officials “believe it [the ASR] was distributed according to federal regulations, but had no proof to show to investigators.”

To address the Department’s concern, the College described its remedial actions. DCB stated that officials “reviewed and revised its existing policies regarding distribution and developed a procedure method that we have attached to this report. We will now keep more accurate records indicating that we have distributed the annual *Clery Act* information in a timely manner and in accordance with federal regulations.”

In addition, DCB management asserted that it updated and enhanced its ASR and other campus safety publications “to more accurately designate hate crime reporting and distributed the updated report to all faculty, staff, and students.” Moreover, the College claimed that the Department’s lead reviewer “responded positively” to the remedial action plan and included copies of e-mail correspondence between the review team and DCB officials.

Finally, DCB submitted the requested certification statement affirming that the institution understands its *Clery Act* obligations and will comply with the statutory and regulatory requirements going forward including a commitment to adequate recordkeeping.

Final Determination:

Finding #1 of the program review report cited DCB for its failure to actively distribute the 2013 ASR to enrolled students and current employees. In addition, the College failed to disclose hate crimes statistics in the proper format. As a result of these violations, DCB was required to review and revise its existing policies and procedures and develop and implement new processes as needed to ensure that future ASRs are prepared, published, and distributed in accordance with the *Clery Act* and the Department’s regulation. In its response, the College asserted that the 2013 ASR was disseminated in the required manner but that no documentation of those distribution efforts was maintained. DCB management also asserted that a new 18-page document, entitled, the “Campus Safety and Security Report” was produced. Per the response, this new report template also included a properly-formatted hate crimes statistical grid. The College also submitted several documents in support of its claims of remedial action. Furthermore, the Department required DCB to provide documentation to prove the production and distribution of the 2014 ASR along with a certification statement attesting to the fact that the materials were distributed in accordance with the *Clery Act*.

The Department carefully examined DCB’s narrative response and supporting documentation. Based on that review, the Department has determined that all components of the initial finding are sustained. The review team’s examination also showed that the identified violations were, for the most part, satisfactorily addressed by