



July 9, 2015

Dr. Donald C. Coston, President
Dickinson State University
291 Campus Drive
Dickinson, ND 58601

Certified Mail Return Receipt Requested
Domestic Return Receipt 7012164000002164246

RE: **Final Program Review Determination**
OPE ID: 00298900
PRCN: 201310828111

Dear Dr. Coston:

The U.S. Department of Education's (Department's) Chicago/Denver School Participation Division issued a program review report on August 6, 2014 covering Dickinson State University's (DSU) 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 2011/12 and 2012/13 award years. DSU's final response was received October 21, 2014. A copy of the program review report (and related attachments) and DSU's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by DSU 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) close the review, and (4) notify DSU 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 DSU's failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*) in Section 485(f) of the HEA, 20 U.S.C. §1092(f), and the Department's regulations at 34 C.F.R. §§668.41, 668.46, and 668.49. Because *Clery Act* findings do not result in financial liabilities, such findings may not be appealed. If an adverse

Federal Student
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School Participation Division – Chicago/Denver
500 West Madison, Chicago, IL 60661
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administrative action is initiated, additional information about DSU'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 **does** 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.

Record Retention:

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

If the institution has any questions regarding this letter, please contact Roslyn Harris at 312-730-1690.

Sincerely,

(b)(6)



Douglas Parrott
Division Director

Enclosure:

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

cc: Sandy Klein, Director of Financial Aid
ND State Board of Higher Education
ND North Dakota Board of Nursing
ND Education Standards and Practices Board
North Central Assoc of Colleges and Schools, the Higher Learning Commission
National Association of Schools of Music
National Council for Accreditation of Teacher Education
Accrediting Commission for Education in Nursing
Department of Defense
Department of Veterans Affairs
Consumer Financial Protection Bureau

Prepared for
Dickinson State University

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

Final Program Review Determination July 9, 2015

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A. Institutional Information

Dickinson State University
291 Campus Drive
Dickinson, ND 58601

Type: Public

Highest Level of Offering: Master's and Doctorate Degree

Accrediting Agency: North Central Association of Colleges and Schools

Current Student Enrollment: 1,404

% of Students Receiving Title IV, HEA funds: 55%

Title IV, HEA Program Participation (PEPS):

| | <u>2012/13 Award Year</u> |
|--|---------------------------|
| William D. Ford Federal Direct Loan Program | \$5,091,463 |
| Federal Pell Grant Program | \$1,676,914 |
| Federal Supplemental Educational Opportunity Grant Program | \$98,800 |
| Federal Work-Study Program | \$158,784 |
| Federal Perkins Loan Program | \$205,598 |

Default Rate FFEL/DL: 2011 – 5.0%
 2010 – 4.9%
 2009 – 3.6%

Default Rate Perkins: 06/30/13 – 1.8%
 06/30/12 – 8.6%
 06/30/11 – 3.9%

B. Scope of Review

The U.S. Department of Education (the Department) conducted a program review at Dickinson State University (DSU) from November 26, 2012 to November 30, 2012. The review was conducted by Mitch Cary, William Johnson and Stefanie Tucker.

The focus of the review was to determine DSU'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 DSU'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 2011/12 and 2012/13 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 August 7, 2014.

Disclaimer:

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

C. Findings and Final Determinations

Resolved Findings

Findings 1 and 3

DSU has taken the corrective actions necessary to resolve findings 1 and 3 of the program review report. Therefore, these findings may be considered closed. Appendix B contains DSU's written response related to the resolved findings. The findings requiring further action by DSU are discussed below.

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 DSU's response to the finding, and the Department's final determination for that finding. A copy of the program review report issued on August 7, 2014 is attached as Appendix C.

Finding 2 William D. Ford Federal Direct Loan Program Funds Not Prorated Correctly

Citation Summary: *As stipulated under 34 C.F.R. § 685.203(a)(2), in the case of an undergraduate student who has successfully completed the first year of an undergraduate program but has not successfully completed the second year of an undergraduate program, the total amount the student may borrow for an academic year of study under the Federal Direct Loan Program may not exceed the following:*

- *\$4,500, for a program of study of at least a full academic year in length. for a program of study with less than a full academic year remaining, an amount that is the same ratio to \$4,500, with a proration to be performed as follows:*

*Number of semester, trimester, quarter, or clock hours enrolled
Number of semester, trimester, quarter, or clock hours in academic year*

Noncompliance: *DSU failed to prorate a Direct Loan Program award for a student who was in her final period of enrollment, which was less than an academic year. The student # 17 was registered for nine credits in the Fall 2012 semester in order to complete the courses required for the Associates Degree objective. This represented the student's final period of enrollment. DSU certified a subsidized Direct Loan in the amount of \$2,250 for this semester. This represents 50% of the annual loan limit for a second year student. The maximum amount the student was eligible for during this payment period was \$1,710. This amount represents 38% (nine credits enrolled divided by 24 semester credits in the institution's academic year) of the annual loan limit for a second year student. DSU disbursed Direct Loan Program funds in the amount of \$2,250, while the student was only eligible for Direct Loan Program funds in the amount of \$1,710. This represents an ineligible Direct Loan disbursement in the amount of \$540.*

Required Action Summary: *DSU is liable for the improperly disbursed Direct Loan Program funds in the amount of \$540. In addition, DSU may be liable for interest charges that are attributable to this over-award. In response to this finding, DSU must develop and implement procedures to ensure that Direct Loan Program awards are prorated correctly when the remaining period of study is shorter than an academic year. A description of such procedures must be provided with DSU's response to this report.*

DSU's Response: DSU submitted their response to the Program Review Report in October 21, 2014. DSU concurs with this finding as the Direct Loan Program funds were not prorated correctly. According to DSU, student #17 indicated intent to complete a bachelor's degree at DSU upon admission however, the student decided to pursue an associate's degree instead with fall 2012 being the student's final period of enrollment. DSU submitted a school refund transmittal in the amount of \$540 to Fed Loan Servicing. Additionally, DSU instituted a new policy in which students who have applied for graduation are identified prior to disbursing aid. DSU also created an enrollment report that identifies less than full-time students in which Title IV Aid prorations are required. DSU also gathers additional information to clarify the difference between the remaining period of study and the academic program.

Final Determination: For student #17, DSU is liable for \$540 in Direct Loan funds. The Cost of Funds on that amount is \$11 as the return was 740 days post the initial disbursement. The total liability is \$551. The Cost of Funds calculation is included as Appendix D.

DSU paid the \$540 liability to Fed Loan Servicing however; DSU is still required to update COD to reflect the change. Additionally, DSU is liable for the financial loss to the Department in the form of Cost of Funds. In the case of DSU, the Cost of Funds is considered minimal; therefore, the Department makes no demand for repayment of the Cost of Funds liability in this final program review determination.

Finding 4 Crime Awareness Requirements Not Met - Inadequate Policy Statements/
Missing Persons Notification

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 receiving 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) which contains, at a minimum, all of the statistical and policy elements enumerated in 34 C.F.R. § 668.46(b).*

The ASR must be prepared and actively distributed as a single document. Acceptable means of distribution include U.S. Mail, campus mail, hand delivery, or by posting the ASR on the institution's website. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all students and employees that includes a statement of the report's availability and a link to its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. 34 C.F. R. § 668.41 (e)(1). These regulations also require institutions to provide a notice containing this information to all prospective students and employees. This notice must also 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. § 668.4/(e)(4).

Specifically, the Clery Act and the Department's regulations require institutions to 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).

In addition, the ASR must include several policy statements. These disclosures are intended to inform the campus community about the institution's security policies, procedures, and the availability of programs and resources, as well as channels for victims of crime to seek recourse. In general, these policies include topics such as the law enforcement authority and practices of campus police and security forces, incident reporting procedures for students and employees, and policies that govern the preparation of the report itself. Institutions are also required to disclose alcohol and drug policies and educational programs. Policies pertaining to sexual assault education, prevention, and adjudication must be disclosed. Institutions also must provide detailed policies of the issuance of timely warnings and emergency notifications as well as its emergency response and evacuation procedures. All required statistics and policies must be included in a single comprehensive document, known as an ASR. With the exception of certain drug and alcohol program information, cross referencing to other publications is not sufficient to meet the publication and distribution requirements of the Act. 34 C.F.R. § 485(t) of the HEA; 34 C.F.R. § 668.46(b). As stipulated under 34 C.F.R. § 668.46(h)(1), for students who reside in on-campus student housing an institution must include a statement of policy regarding the institution's missing student notification procedures in its ASR.

The statement must include the following information:

- 1) A list of titles of the persons or organizations to which students, employees, or other individuals should report that a student has been missing for 24 hours;*
- 2) Require that any missing student report must be referred immediately to the institution's police or campus security department, or, in the absence of an institutional police or campus security department, to the local law enforcement agency that has jurisdiction in the area;*
- 3) An option for each student to identify a contact person or persons whom the institution shall notify within 24 hours of the determination that the student is missing, if the student has been determined missing by the institutional police or campus security department, or the local law enforcement agency;*
- 4) Advise students that their contact information will be registered confidentially, that this information will be accessible only to authorized campus officials, and that it may not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation;*
- 5) Advise students that if they are under 18 years of age and not emancipated, the institution must notify a custodial parent or guardian within 24 hours of the determination that the*

student is missing, in addition to notifying any additional contact person designated by the student; and

6) Advise students that, regardless of whether they name a contact person, the institution will notify the local law enforcement agency of the determination that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing.

As stipulated under 34 C.F.R. § 668.46(h)(2), the procedures that an institution must follow when a student who resides in on-campus housing is determined to have been missing for 24 hours must be publicized in writing and must include the following:

- If the student has designated a contact person, the institution will notify that contact person within 24 hours that the student is missing;*
- If the student is under 18 years of age and is not emancipated, the institution will notify the student's custodial parent or guardian and any other designated contact person within 24 hours that the student is missing; and*
- Regardless of whether the student has identified a contact person, is above the age of 18, or is an emancipated minor, the institution will inform the local law enforcement agency that has jurisdiction in the area within 24 hours that the student is missing.*

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: *DSU failed to publish an accurate and complete a 2011 ASR and a 2012 ASR. DSU provides on-campus housing for its students and is required by the Clery Act to implement appropriate policies and procedures. The institution 's campus security policy addresses "missing persons," however, it does not contain all of the required notification components. Specifically, a statement indicating that regardless of whether or not a student names a contact person, unless the local law enforcement agency was the entity that made the determination that a student is missing, the institution will notify the local law enforcement agency that the student is missing. Additionally, the institution's policy does not contain a statement indicating that regardless of whether or not a student has identified a contact person, is above the age of 18, or is an emancipated minor, the institution will inform the local law enforcement agency that has jurisdiction in the area within 24 hours of the time that the student is reported missing.*

Failure to publish an accurate and complete ASR in accordance with the Clery Act deprives students of important security information while placing students and employees at increased risk. This failure deprives the campus community of important security information that can empower its members to make informed decisions and play an active role in their own safety and security.

Required Action Summary: *As a result of this violation, DSU must review and revise its existing policies. If policy statements are missing or have not met Clery Act requirements, new policies and procedures must be established, ensuring that all aspects of the preparation, publication, and distribution of the ASR are carried out in a manner that complies with the requirements of the Clery Act. At a minimum, DSU must perform the following corrective action:*

- *Develop and implement missing person policies and procedures and disclose all required information related to this policy, in accordance with the requirements of the Clery Act, in its ASR.*

DSU must ensure that the appropriate disclosures are published in its ASR, and that the ASR is distributed to all current students and employees in accordance with 34 C.F.R. § 668.41(e). A copy of DSU's new and revised policies and procedures and its 2014 ASR (in draft form) must accompany the institution's response to this program review report. Once the ASR is evaluated and approved by the review team, DSU must actively distribute it to all current students and employees in accordance with 34 C.F.R. § 668.41 (e)(l). Additionally, DSU must provide documentation to the Department evidencing the distribution as well as a statement of certification attesting to the fact that the materials were distributed in accordance with the Clery Act. This certification must also affirm that DSU understands its Clery Act obligations and that it will take all necessary corrective actions to ensure that this violation does not recur.

DSU 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/lcacl/safcty/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.

The exceptions identified in this finding constitute serious violations of the Clery Act that by their nature cannot be cured. DSU must develop, publish and distribute a materially complete ASR, and in doing so, will begin to bring its overall campus security program into compliance with the Clery Act, and its Program Participation Agreement. However, DSU is advised that these remedial measures cannot and do not diminish the seriousness of these violations, nor does it eliminate the possibility that the Department will impose an adverse administrative action and/or other corrective measures.

Based on an evaluation of all available information including the institution's response, the Department will advise DSU on the next course of action regarding this serious issue of non-compliance. This information will be provided in the Department's Final Program Review Determination letter.

DSU's Response: In its official response dated October 21, 2014, DSU concurred with the finding and stated that remedial action was taken as directed in the program review report. In summary, DSU claimed that it developed and implemented a missing student notification procedure and included it in the 2014 ASR. A copy of the 2014 report and other documents

were submitted as part of the response. In addition, DSU management submitted the required certification and asserted therein that the 2014 report and all subsequent reports will include all required disclosures and will be actively distributed to all required recipients.

Final Determination: Finding #4 of the program review report cited DSU for its failure to develop and implement missing student notification procedures and include this information in its 2011 and 2012 ASRs. As a result of this violation, DSU was required to review its current campus safety and crime prevention policies and procedures and revise them and to develop and implement new policies and procedures as needed to address the identified violation and ensure that similar violations do not recur. DSU was also required to update and enhance the 2014 ASR and ensure that the report and all future reports are actively distributed to enrolled students and current employees.

The Department carefully examined DSU's response and supporting documentation. Based on that review and DSU's admission of noncompliance, the violations identified in the finding are sustained. The Department's examination also determined that DSU's remedial action plan did not meet minimum requirements. As such, the Department does not concur with DSU that it has adequately addressed the Clery Act violations identified in the initial finding. Specifically, additional deficiencies were noted in DSU's 2014 ASR. These errors and omissions include:

- Missing persons notification: the new policy still does not clearly state that DSU will notify local law enforcement agencies within 24 hours of the determination that a student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing.
- Discrepancies in campus crime statistics: For example, the 2014 ASR indicated zero hate crimes for calendar years 2011- 2013; however DSU's data submission to the Department's Campus Safety and Security Data Analysis Cutting Tool (CSSDACT) indicated that one hate crime, an incident of vandalism/destruction of property based on sexual orientation, occurred on-campus during this time period. Similar variances were identified between the arrest and disciplinary referral statistics that were included in the ASR and those that were reported to the CSSDACT during this time period.

The Department is very concerned about DSU's failure to take adequate action to address all deficiencies and weaknesses noted in its campus safety and Clery Act compliance programs. In light of these continuing violations, the Department has determined that this finding is now closed for the purposes of this program review and is hereby referred to the Department's Clery Act Compliance Team (CACT). The CACT will oversee the DSU's final remedial actions that are needed to address the remaining violations. As part of that referral, DSU is hereby directed to take all necessary action to finally and fully address these deficiencies and submit credible evidence to substantiate its claims of remedial action.

Specifically, DSU must conduct a full review of its 2014 ASR to identify all omitted disclosures and other deficiencies. Once all deficiencies are identified, DSU must develop and

implement new policies and procedures and consumer information to address the identified deficiencies, discrepancies, and omissions and produce an accurate and complete 2015 ASR and AFSR. Both reports (or a properly-labeled combined report) must be actively distributed to all enrolled students and current employees on or before October 1, 2015. No later than October 10, 2015, DSU must submit copies of the following to the Department: 1) the 2014 ASR/AFSR; 2) 2015 ASR/AFSR; and, 3) credible evidence showing that the 2014 and 2015 reports were actively distributed to mandatory recipients. Suitable evidence of distribution may include a copy of an e-mail used to transmit the report or other similar documentation. These materials must be submitted via electronic mail to Ms. Roslyn Harris at Roslyn.Harris@ed.gov and the CACT at clery@ed.gov.

DSU's submission must reference the Program Review Control Number noted on the cover letter in the subject line of its e-mail submission. If any of the requested records were not produced or do not exist, DSU officials must clearly communicate that fact to the Department in writing via electronic mail. In this context, DSU officials are advised that no new documents are to be created at this time for the purpose of demonstrating compliance with any Clery Act requirement for past periods. DSU is also advised that a failure to respond to this request for document production will result in a referral for the imposition of administrative actions in addition to any such referrals that may be made to address the original violations identified in Finding #4 of the program review report.

Although the finding is closed for the purposes of this program review¹, the officers and directors of DSU are put on notice that DSU must take the necessary steps to address the violations identified above, as well as any other deficiencies and weaknesses detected during the preparation of DSU's responses, and as may otherwise be needed to ensure that these violations do not recur. DSU is also reminded that the exceptions identified above constitute serious and persistent violations of the Clery Act that by their nature cannot be cured. There is no way to truly "correct" violations of this type once they occur. DSU asserted that it took adequate remedial action but in fact, failed to do so, as required by its Program Participation Agreement (PPA). Pursuant to the referral explained above, DSU will be given another opportunity to become compliant. Nevertheless, DSU is advised that its remedial actions, whether already taken or planned for the future, cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Because of the serious consequences of Clery Act violations, the Department strongly recommends that DSU re-examine its campus security and general Title IV policies and procedures on an annual basis to ensure that they continue to reflect current institutional practices and are compliant with Federal regulations. DSU officials are encouraged to consult the Department's "Handbook for Campus Safety and Security Reporting" (2013) as a reference

¹ Subject to DSU's full and timely production of the requested documentation.

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. DSU officials 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.

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

Finding 5 Drug and Alcohol Abuse Prevention Program Requirements Not Met

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

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

- 1) A written statement about its standards of conduct that prohibits the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees;*
- 2) A written description of legal sanctions imposed under federal, state and local law for unlawful possession or distribution of illicit drugs and alcohol;*
- 3) A description of the health risks associated with the use of illicit drugs and the abuse of alcohol;*
- 4) A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to students and employees; and,*

5) *A statement that the IHE will impose disciplinary sanctions on students and employees for violations of the institution 's codes of conduct and a description of such sanctions.*

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

Noncompliance Summary: *DSU violated multiple provisions of the DFSCA. Specifically, DSU failed to develop and implement a comprehensive DAAPP and also failed to publish a materially-complete DAAPP disclosure that included all required elements in the 2011 -2012 and 2012-2013 award years. DSU's DAAPP disclosures failed to provide the following required information:*

- *A written description of legal sanctions imposed under local, state or federal law for unlawful possession or distribution of illicit drugs and alcohol; and*
- *A written description of health risks associated with the use of illicit drugs and the abuse of alcohol.*
- *Based on the violations identified above, the Department finds that DSU has failed to fully implement the DFSCA during the 2011-2012 and 2012-2013 award years.*

Failure to comply with the DFSCA 's DAAPP requirements deprives students, faculty and staff of important information regarding the educational, disciplinary, health, and legal consequences of illegal drug use and alcohol abuse. This lack of information may contribute to increased drug and alcohol abuse, as well as an increase in drug and alcohol-related violent crime.

Required Action Summary: *DSU is required to take all necessary corrective actions to resolve this violation and to ensure that it does not recur. At a minimum, DSU must develop and implement a comprehensive DAAPP that includes all of the required elements found in the DFSCA and the Department's Part 86 regulations.*

DSU must provide a draft copy of its DAAPP with its response to this program review report. Once the DAAPP is evaluated and approved by the review team, DSU must distribute it in accordance with part 86 regulations and provide documentation evidencing the distribution, as well as a statement of certification attesting to the fact that the materials were distributed in accordance with the DFSCA. This certification must also affirm that the institution understands all of its DFSCA obligations and that it has taken all necessary corrective actions to ensure that these violations do not recur.

The exceptions identified in this finding constitute serious violations of the DFSCA that by their nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. DSU will be given an opportunity to develop and distribute an accurate and complete DAAPP disclosure and to otherwise begin to bring its drug and alcohol programs into compliance with the DFSCA, as required by its Program Participation Agreement. However, DSU 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.

DSU's Response: In its official response dated October 21, 2014, DSU concurred with the finding and stated that remedial action was taken as directed in the program review report. In summary, DSU officials asserted that the DAAPP disclosure was revised to include the legal sanctions imposed under Federal, state, and local law for the unlawful possession or distribution of illicit drugs and alcohol as well as the health risks that are associated with the illicit use of drugs and alcohol abuse. DSU further said it will provide certification affirming that it understands all of its DFSCA obligations and that corrective action was taken to ensure the violations in this finding do not recur following final approval of the revised DAAPP disclosure.

Final Determination: Finding #5 of the program review report cited DSU for multiple violations in the DFSCA and Part 86 Regulations. DSU failed to develop and implement a comprehensive drug and alcohol abuse prevention program (DAAPP) that addressed all program requirements. It also failed to publish a materially-complete DAAPP disclosure and consequently was unable to distribute accurate and complete program materials to its enrolled students and current employees. Reviewers noted that DSU's DAAPP disclosures during the 2011-2012 and 2012-2013 award years did not include a written description of legal sanctions imposed under local, state or Federal law for unlawful possession or distribution of illicit drugs and alcohol; and a written description of health risks associated with the use of illicit drugs and the abuse of alcohol.

As a result of this violation, DSU was required to develop and implement a comprehensive DAAPP that includes all of the required elements found in the DFSCA and the Department's Part 86 Regulations. DSU was also instructed to provide a draft copy of its DAAPP with its response to this program review report. DSU was then required to distribute the revised DAAPP disclosure in accordance with the Department's regulations and DSU's new procedures. Finally, DSU was instructed to submit credible evidence showing that the new program materials were actively distributed as well as a certification attesting that it has taken remedial action in a manner that will provide reasonable assurance that similar violations will not recur.

The Department carefully examined DSU's response and supporting documentation. Based on that review and DSU's admission of noncompliance, the violations identified in the finding are

sustained. As such, the Department does not concur with DSU that it has adequately addressed the DFSCA violations identified in the initial finding.

DSU omitted the following required statement:

- DSU did not provide a statement that it will impose disciplinary sanctions on employees who violate DSU's policy on illicit drugs and alcohol, and a description of the sanctions, and
- a written description of legal sanctions imposed under federal law for unlawful possession or distribution of illicit drug and alcohol.

The Department is once again very concerned that DSU failed to take adequate action to address all deficiencies and weaknesses noted in its DAAPP and DFSCA compliance programs. For these reasons, the Department has determined that this finding is now closed for the purposes of this program review and like Finding #4 is hereby referred to the CACT. The CACT will oversee the additional remedial actions that are needed to fully address this violation. As part of that referral, the officials and directors of DSU are specifically put on notice that DSU must finally and fully take action to address the deficiencies identified in the program review report as well as any other violations and weaknesses that were detected during the preparation of its official response, and/or as may otherwise be needed to ensure that these violations do not recur. Finally, DSU must submit creditable evidence to substantiate its claims of remedial action as part of the supplemental response required under Finding #4.

These materials must be submitted via electronic mail to Ms. Roslyn Harris at Roslyn.Harris@ed.gov and the CACT at clery@ed.gov as part of the response required under Finding #4.

Although this finding is now closed for the purpose of this program review², DSU is reminded that the exceptions identified above constitute serious violations of the DFSCA that by nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. DSU officials must understand that compliance with the DFSCA is essential to maintaining a safe and healthy learning environment. DSU's failure to develop and implement a comprehensive DAAPP deprived the institution of important information about the effectiveness of any drug and alcohol programs that were in place. Such failures may contribute to increased drug and alcohol abuse on-campus as well as an increase in drug and alcohol related violent crimes. For these reasons, DSU is reminded that corrective measures cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administration action as authorized by the DFSCA and the Department's regulations and/or require additional corrective measures as a result.

² Subject to DSU's full and timely production of the requested documentation.

Finally, the Department strongly recommends that DSU re-examine its campus security, and its drug and alcohol abuse prevention policies and procedures on an annual basis to ensure that they effectively continue to reflect institutional practices 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 DSU's new DFSCA policies and procedures.

D. Summary of Liabilities

The total amount calculated as liabilities from the findings in the program review determination is as follows:

| | Direct Loans |
|--------------------------|-----------------|
| Liabilities | |
| Finding #2 | \$540.00 |
| Subtotal | \$540.00 |
| | |
| Interest | |
| Finding #2 | \$11.00* |
| Subtotal | \$551.00 |
| | |
| Total Payable To: | \$551.00 |
| The Department | |

*In the case of DSU, the Cost of Funds is considered minimal. Therefore, the Department makes no demand for repayment of the interest liability in this final program review determination

E. Payment Instructions

Since the total liability amount owed to the Department is minimal (less than \$1,000), a receivable is not being established with the Department's Accounts Receivable Group. However, DSU remains responsible, in its role as a fiduciary for Title IV, HEA federal funds, for making restitution to the appropriate account in the amount indicated in the applicable finding and must satisfy all program reporting requirements in making any required adjustments in COD. In addition, DSU must ensure that it has corrected its procedures so that this type of finding does not recur or is not repeated. A copy of the adjustment to the student's COD record must be sent to Roslyn Harris **within 45 days of the date of this letter.**

Direct Loan Closed Award Years (Request Extended Processing)

Finding(s): 1

Appendices: C and D

DSU must apply the following Direct Loan (DL) liabilities (*principal only*) to Common Origination and Disbursement (COD):

| DL Closed Award Year | |
|----------------------|------------|
| Amount (Principal) | Award Year |
| \$540 | 2012-13 |
| Total Principal | |
| \$540 | |

The disbursement record for the student identified in the appendices listed above must be adjusted in the Common Origination and Disbursement (COD) system based on the amount identified in the appendix. A copy of the adjustment to the student's COD record must be sent to Roslyn Harris within 45 days of the date of this letter. COD adjustments are necessary for the closed award year listed above. Before any student level adjustments can be processed, DSU must request extended processing through the COD Website (<http://cod.ed.gov>).

F. Appendices

Appendix A, Student Sample, contains personally identifiable information and will be emailed to DSU as an encrypted WinZip file using Advanced Encryption Standard, 256-bit. The password needed to open the encrypted WinZip files will be sent in a separate email.

Appendix B, C and D are attached to this report.

Prepared for
Dickinson State University

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

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OPE ID: 00298900
PRCN: 20131082811

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

Program Review Report

August 6, 2014

Federal Student Aid, Chicago/Denver School Participation Division
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A. Institutional Information

Dickinson State University
291 Campus Drive
Dickinson, ND 58601

Type: Public

Highest Level of Offering: Master's and Doctorate Degrees

Accrediting Agency: North Central Association of Colleges and Schools

Student Enrollment: 1,404

% of Students Receiving Title IV: 55%

Title IV Participation: (PEPS)

| <u>Program</u> | <u>2012/13 Award Year</u> |
|--|---------------------------|
| William D. Ford Federal Direct Loan Program | \$5,091,463 |
| Federal Pell Grant Program | 1,676,914 |
| Federal Supplemental Educational Opportunity Grant Program | 98,800 |
| Federal Work-Study Program | 158,784 |
| Federal Perkins Loan Program | 205,598 |

Default Rate - Direct Loan: 2011 - 5.0%
2010 - 4.9%
2009 - 3.6%

Default Rate Perkins: 6/30/13 - 1.8%
6/30/12 - 8.6%
6/30/11 - 3.9%

B. Scope of Review

The U.S. Department of Education (Department) conducted a program review at Dickinson State University (DSU) from November 26, 2012 to November 30, 2012. The review was conducted by Mitch Cary, William Johnson and Stefanie Tucker.

The focus of the review was to determine DSU's compliance with the statutes and federal regulations as they pertain to the institution's administration of the Title IV programs. The review consisted of, but was not limited to, an examination of DSU'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 2011/12 and 2012/13 award years. The files were selected randomly from a statistical sample of the total population receiving Title IV, HEA program funds for each award year. Appendix A lists the names and partial social security numbers of the students whose files were examined during the program review.

Disclaimer:

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

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

C. Findings

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

I. Falsification of Student Data

Citation: A participating institution acts in the nature of a fiduciary in the administration of the Title IV, HEA programs and is held to the standard of conduct described in the federal regulations. To participate in any Title IV, HEA

program, the institution must at all times act with the competency and integrity necessary to qualify as a fiduciary. A participating institution is subject to the highest standard of care and diligence in administering the programs and accounting to the Secretary for the funds received under those programs. 34 C.F.R. § 668.82(a) and (b)(1).

To begin and to continue participating in the Title IV, HEA programs, an institution shall demonstrate to the Secretary that it administers the Title IV, HEA programs in accordance 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. § 668.16(a).

As a condition of continued participation in the Title IV programs, all institutions must complete, in a timely and accurate manner, and to the satisfaction of the Secretary, surveys conducted as part of the Integrated Postsecondary Education Data System (IPEDS). 34 C.F.R. § 668.14(b)(19). This annual data collection is conducted by the Department's National Center for Education Statistics (NCES). It collects important institutional data about postsecondary institutions and the data collected through IPEDS is made available to the public.

Noncompliance: DSU submitted incorrect IPEDS student enrollment data during the 2011 IPEDS data collection period. Specifically, it was determined via an internal institutional audit and subsequently confirmed via a North Dakota University System audit that DSU inflated student enrollment data for the Fall 2010 term. This resulted from an inaccurate count by the institution of non-credit students and education conference attendees. These individuals were erroneously counted as enrolled students. Additionally, DSU failed to submit IPEDS data for the Spring 2012 term. In response to this omission, DSU indicated that it was not in favor of knowingly submitting inaccurate IPEDS surveys for the Spring 2012 collection period. Accordingly, it declined to submit the required data until it could ensure that its reporting irregularities were corrected.

Required Action: DSU compromised the integrity and validity of IPEDS surveys by misreporting and/or failing to report required information on a timely basis. As a result of this non-compliance, the Department's Administrative Actions and Appeals Service Group imposed a fine on DSU in the amount of \$32,500. DSU paid the fine in full on February 12, 2013. Additionally, in response to this finding, DSU corrected select IPEDS data that the Department allowed it to correct, and the Spring 2012 information that was previously unreported was updated during the Spring 2013 collection period. Student enrollment information that was reported on the applicable Fiscal Operations Report and Application to Participate (FISAP) during the incorrect IPEDS submissions period was corrected during the FISAP corrections period.

The violation identified in this finding is serious. Failure to accurately and timely respond to this important reporting requirement deprives students and parents of valuable, credible information that is needed to make higher education decisions. It also violates provisions contained in the institution's PPA and negatively reflects on the institution's capability to adequately administer the Title IV programs.

In response to this finding, DSU must identify specific administrative actions that have been taken and procedures that have been developed to facilitate a coordinated effort between all offices responsible for compiling survey information and to ensure the integrity and timeliness of information reported. A description of such procedures must be provided with DSU's response to this report.

2. **William D. Ford Federal Direct Loan Program (Direct Loan Program) Funds Not Prorated Correctly**

Citation: As stipulated under 34 C.F.R. § 685.203(a)(2), in the case of an undergraduate student who has successfully completed the first year of an undergraduate program but has not successfully completed the second year of an undergraduate program, the total amount the student may borrow for any academic year of study under the Federal Direct Loan Program may not exceed the following:

- \$4,500, for a program of study of at least a full academic year in length.
- for a program of study with less than a full academic year remaining, an amount that is the same ratio to \$4,500, with a proration to be performed as follows:

Number of semester, trimester, quarter, or clock hours enrolled
Number of semester, trimester, quarter, or clock hours in academic year

Noncompliance: DSU failed to prorate a Direct Loan Program award for a student who was in her final period of enrollment, which was less than an academic year. The student (#17) was registered for nine credits in the Fall 2012 semester in order to complete the courses required for the Associates Degree objective. This represented the student's final period of enrollment. DSU certified a subsidized Direct Loan in the amount of \$2,250 for this semester. This represents 50% of the annual loan limit for a second year student. The maximum amount the student was eligible for during this payment period was \$1,710. This amount represents 38% (nine credits enrolled divided by 24 semester credits in the institution's academic year) of the annual loan limit for a second year student. DSU disbursed Direct Loan Program funds in the amount of \$2,250, while the

student was only eligible for Direct Loan Program funds in the amount of \$1,710. This represents an ineligible Direct Loan disbursement in the amount of \$540.

Required Action: DSU is liable for the improperly disbursed Direct Loan Program funds in the amount of \$540. In addition, DSU may be liable for interest charges that are attributable to this overaward. In response to this finding, DSU must develop and implement procedures to ensure that Direct Loan Program awards are prorated correctly when the remaining period of study is shorter than an academic year. A description of such procedures must be provided with DSU's response to this report.

3. Improper Certification of Direct Loan Program Funds

Citation: In the case of an undergraduate student who has not successfully completed the first year of an undergraduate program the student may qualify for up to \$3,500 in subsidized Direct Loan Program funds for a program of study that is at least a full academic year in length. 34 C.F.R. § 685.203(a)(i). In the case of a dependent undergraduate student the student may borrow an additional \$2,000 in unsubsidized loans for a program of study that is at least a full academic year in length. 34 C.F.R. § 685.203(b)(1)(i).

The intent of the regulatory requirements for the Direct Loan Program is the same as the requirements for the Federal Family Education Loan Program. As stipulated under 34 C.F.R. § 682.201(a)(2): "In the case of any student who seeks an unsubsidized Stafford loan for the cost of attendance at a school that participates in the Stafford Loan Program, the student must -

- (i) Receive a determination of need for a subsidized Stafford loan; and
- (ii) If the determination of need is in excess of \$200, have made a request to a lender for a subsidized Stafford loan;"

Noncompliance: In the 2012/13 award year DSU certified a grade level one unsubsidized Direct Loan in the amount of \$730 for Student #22. This loan was certified for the Fall 2012 semester. This represented the only Direct Loan Program funds that were awarded to this student during the 2012/13 award year. During this loan period the student had remaining eligibility for *subsidized* loan funds. As a result, the student should have been packaged with a subsidized loan, as opposed to an unsubsidized loan.

Required Action: In response to this finding, DSU must attempt to reclassify the unsubsidized loan funds as subsidized loan funds. Additionally, DSU must develop and implement Direct Loan Program certification procedures to ensure

that the eligibility of all applicants is carefully reviewed, so that loans are certified properly, and to enable borrowers to take advantage of the benefits offered by a subsidized loan, if they are eligible. A description of such procedures must be provided with DSU's response to this report.

4. **Crime Awareness Requirements Not Met - Inadequate Policy Statements/
Missing Persons Notification**

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 receiving 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) which contains, at a minimum, all of the statistical and policy elements enumerated in *34 C.F.R. § 668.46(b)*.

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

Specifically, the Clery Act and the Department's regulations require institutions to 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)*.

In addition, the ASR must include several policy statements. These disclosures are intended to inform the campus community about the institution's security policies, procedures, and the availability of programs and resources, as well as channels for victims of crime to seek recourse. In general, these policies include topics such as the law enforcement authority and practices of campus police and security forces, incident reporting procedures for students and employees, and policies that govern the preparation of the report itself. Institutions are also required to disclose alcohol and drug policies and educational programs. Policies pertaining to sexual assault education, prevention, and adjudication must be disclosed. Institutions also must provide detailed policies of the issuance of timely warnings and emergency notifications as well as its emergency response and evacuation procedures. All required statistics and policies must be included in a single comprehensive document, known as an ASR. With the exception of certain drug and alcohol program information, cross referencing to other publications is not sufficient to meet the publication and distribution requirements of the Act. 34 C.F.R. § 485(f) of the HEA; 34 C.F.R. § 668.46(b).

As stipulated under *34 C.F.R. § 668.46(h)(1)*, for students who reside in on-campus student housing an institution must include a statement of policy regarding the institution's missing student notification procedures in its ASR. The statement must include the following information:

- 1) A list of titles of the persons or organizations to which students, employees, or other individuals should report that a student has been missing for 24 hours;
- 2) Require that any missing student report must be referred immediately to the institution's police or campus security department, or, in the absence of an institutional police or campus security department, to the local law enforcement agency that has jurisdiction in the area;
- 3) An option for each student to identify a contact person or persons whom the institution shall notify within 24 hours of the determination that the student is missing, if the student has been determined missing by the institutional police or campus security department, or the local law enforcement agency;
- 4) Advise students that their contact information will be registered confidentially, that this information will be accessible only to authorized campus officials, and that it may not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation;
- 5) Advise students that if they are under 18 years of age and not emancipated, the institution must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student; and
- 6) Advise students that, regardless of whether they name a contact person, the institution will notify the local law enforcement agency of the determination

that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing.

As stipulated under *34 C.F.R. § 668.46(h)(2)*, the procedures that an institution must follow when a student who resides in on-campus housing is determined to have been missing for 24 hours must be publicized in writing and must include the following:

- If the student has designated a contact person, the institution will notify that contact person within 24 hours that the student is missing;
- If the student is under 18 years of age and is not emancipated, the institution will notify the student's custodial parent or guardian and any other designated contact person within 24 hours that the student is missing; and
- Regardless of whether the student has identified a contact person, is above the age of 18, or is an emancipated minor, the institution will inform the local law enforcement agency that has jurisdiction in the area within 24 hours that the student is missing.

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)*.

Non-Compliance: DSU failed to publish an accurate and complete a 2011 ASR and a 2012 ASR. DSU provides on-campus housing for its students and is required by the Clery Act to implement appropriate policies and procedures. The institution's campus security policy addresses "missing persons," however, it does not contain all of the required notification components. Specifically, a statement indicating that regardless of whether or not a student names a contact person, unless the local law enforcement agency was the entity that made the determination that a student is missing, the institution will notify the local law enforcement agency that the student is missing. Additionally, the institution's policy does not contain a statement indicating that regardless of whether or not a student has identified a contact person, is above the age of 18, or is an emancipated minor, the institution will inform the local law enforcement agency that has jurisdiction in the area within 24 hours of the time that the student is reported missing.

Failure to publish an accurate and complete ASR in accordance with the Clery Act deprives students of important security information while placing students and employees at increased risk. This failure deprives the campus community of important security information that can empower its members to make informed decisions and play an active role in their own safety and security.

Required Action: As a result of this violation, DSU must review and revise its existing policies. If policy statements are missing or have not met Clery Act requirements, new policies and procedures must be established, ensuring that all aspects of the preparation, publication, and distribution of the ASR are carried out in a manner that complies with the requirements of the Clery Act.

At a minimum, DSU must perform the following corrective action:

- Develop and implement missing person policies and procedures and disclose all required information related to this policy, in accordance with the requirements of the Clery Act, in its ASR.

DSU must ensure that the appropriate disclosures are published in its ASR, and that the ASR is distributed to all current students and employees in accordance with *34 C.F.R. § 668.41(e)*. A copy of DSU's new and revised policies and procedures and its 2014 ASR (in draft form) must accompany the institution's response to this program review report. Once the ASR is evaluated and approved by the review team, DSU must actively distribute it to all current students and employees in accordance with *34 C.F.R. § 668.41(e)(1)*. Additionally, DSU must provide documentation to the Department evidencing the distribution as well as a statement of certification attesting to the fact that the materials were distributed in accordance with the Clery Act. This certification must also affirm that DSU understands its Clery Act obligations and that it will take all necessary corrective actions to ensure that this violation does not recur.

DSU 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*.

The exceptions identified in this finding constitute serious violations of the Clery Act that by their nature cannot be cured. DSU must develop, publish and distribute a materially complete ASR, and in doing so, will begin to bring its overall campus security program into compliance with the Clery Act, and its Program Participation Agreement. However, DSU is advised that these remedial measures cannot and do not diminish the seriousness of these violations, nor does it eliminate the possibility that the Department will impose an adverse administrative action and/or other corrective measures.

Based on an evaluation of all available information including the institution's response, the Department will advise DSU on the next course of action regarding

this serious issue of non-compliance. This information will be provided in the Department's Final Program Review Determination letter.

5. **Drug and Alcohol Abuse Prevention Program Requirements Not Met**

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

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

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

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

Noncompliance: DSU violated multiple provisions of the DFSCA. Specifically, DSU failed to develop and implement a comprehensive DAAPP and also failed to publish a materially-complete DAAPP disclosure that included all required

elements in the 2011-2012 and 2012-2013 award years. DSU's DAAPP disclosures failed to provide the following required information:

- A written description of legal sanctions imposed under local, state or federal law for unlawful possession or distribution of illicit drugs and alcohol; and
- A written description of health risks associated with the use of illicit drugs and the abuse of alcohol.

Based on the violations identified above, the Department finds that DSU has failed to fully implement the DFSCA during the 2011-2012 and 2012-2013 award years.

Failure to comply with the DFSCA's DAAPP requirements deprives students, faculty and staff of important information regarding the educational, disciplinary, health, and legal consequences of illegal drug use and alcohol abuse. This lack of information may contribute to increased drug and alcohol abuse, as well as an increase in drug and alcohol-related violent crime.

Required Action: DSU is required to take all necessary corrective actions to resolve this violation and to ensure that it does not recur. At a minimum, DSU must develop and implement a comprehensive DAAPP that includes all of the required elements found in the DFSCA and the Department's Part 86 regulations.

DSU must provide a draft copy of its DAAPP with its response to this program review report. Once the DAAPP is evaluated and approved by the review team, DSU must distribute it in accordance with part 86 regulations and provide documentation evidencing the distribution, as well as a statement of certification attesting to the fact that the materials were distributed in accordance with the DFSCA. This certification must also affirm that the institution understands all of its DFSCA obligations and that it has taken all necessary corrective actions to ensure that these violations do not recur.

The exceptions identified in this finding constitute serious violations of the DFSCA that by their nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. DSU will be given an opportunity to develop and distribute and accurate and complete DAAPP disclosure and to otherwise begin to bring its drug and alcohol programs into compliance with the DFSCA, as required by its Program Participation Agreement. However, DSU 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.

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