



JUL 31 2015

Mr. Yuriy Prakhin  
President  
Elite Academy of Beauty Arts  
426 Kings Highway  
Brooklyn, NY 11223

**Certified Mail Return Receipt Requested**  
Tracking # 7006 0810 0004 0470 6425

RE: **Final Program Review Determination**  
OPE ID: 03941400  
PRCN: 201140227650

Dear Mr. Prakhin:

The U.S. Department of Education's (Department's) School Participation Division – New York/Boston issued a program review report on 3/31/2014 covering Elite Academy of Beauty Arts's (ELITE) 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 2009/2010 through 2012/2013 years reviewed. Elite's final response was received on 11/14/2014. A copy of the program review report (and related attachments) and ELITE's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by ELITE 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, and (3) notify the institution of its right to appeal.

Due to the serious nature of one or more of the enclosed findings, in the normal course, this FPRD would have been referred to the Department's Administrative Actions and Appeals Service Group (AAASG) for its consideration of possible adverse action (e.g. Fine). Since ELITE is no longer participating in the Title IV programs, this FPRD will not be referred at this

**Federal Student Aid**

An OFFICE of the U.S. DEPARTMENT of EDUCATION

School Participation Division – New York/Boston

Financial Square, 32 Old Slip, 25<sup>th</sup> Fl., New York, NY 10005

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time; however, should ELITE apply for reinstatement in the future, in addition to meeting all other requirements, this matter will need to be addressed. Please note that the appeal instructions contained herein apply only to the appeal of the financial liabilities established in this final program review determination.

The total liabilities due from the institution from this program review are **\$1,284,497.00**.

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

**Protection of Personally Identifiable Information (PII):**

PII is any information about an individual which can be used to distinguish or trace an individual's identity (some examples are name, social security number, date and place of birth). The loss of PII can result in substantial harm, embarrassment, and inconvenience to individuals and may lead to identity theft or other fraudulent use of the information. To protect PII, the findings in the attached report do not contain any student PII. Instead, each finding references students only by a student number created by Federal Student Aid. The student numbers were assigned in Appendix A, Student Sample. In addition, Appendices D2, E3, F4, and G12 also contain PII.

**Appeal Procedures:**

This constitutes the Department's FPRD with respect to the liabilities identified from the 3/31/2014 program review report. If ELITE 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 ELITE receives this FPRD. An original and four copies of the information ELITE 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

ELITE'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 ELITE'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 Lydia Gonzalez at (646) 428-3743. Questions relating to any appeal of the FPRD should be directed to the address noted in the Appeal Procedures section of this letter.

Sincerely,

  
Betty Coughlin  
Division Director

Enclosure:

Protection of Personally Identifiable Information

Program Review Report (and appendices)

Final Program Review Determination Report (and appendices)

cc: Financial Aid Administrator  
New York State Department of Education, Bureau of Proprietary School Supervision  
National Accrediting Commission of Arts and Sciences

Prepared for  
**Elite Academy of Beauty Arts**

**Federal Student Aid**  
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OPE ID 03941400  
PRCN 201140227650

Prepared by  
U.S. Department of Education  
Federal Student Aid  
School Participation Division – New York/Boston

# Final Program Review Determination

JUL 31 2015

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**A. Institutional Information**

Elite Academy of Beauty Arts  
426 Kings Highway  
Brooklyn, NY 11223

Type: Proprietary

Highest Level of Offering: Non-Degree 1 Year

Accrediting Agency: School lost accreditation 1/6/2015  
Current Student Enrollment: 68 (2011)

% of Students Receiving Title IV: School is no longer participating in the Title IV, HEA Programs

Source: School Records

Title IV Participation by Program:

| <b>Award Years 2011/2012</b>                      | <b>Amount Disbursed</b> |
|---|-------------------------|
| Federal Pell Grant                                | \$ 230,891              |
| Federal Direct Loan Program Subsidized Stafford   | 251,682                 |
| Federal Direct Loan Program Unsubsidized Stafford | 164,167                 |
| Federal Direct Loan Program PLUS                  | 1,720                   |
| <b>Total</b>                                      | <b>\$ 768,460</b>       |

Source: U.S. Department of Education

Default Rate FFEL/DL:      2011 13.3%  
   2010 8.5%  
   2009 12.5%

Source: U.S. Department of Education

## **B. Scope of Review**

The U.S. Department of Education (the Department) conducted a program review at Elite Academy of Beauty Arts (Elite) from 9/12/2011 to 9/16/2011. Subsequent follow up visits were made on 7/16/2013, and 2/19/2014. The review was conducted by Lydia Gonzalez and Judith Ortiz Velazquez.

The focus of the review was to determine Elite's compliance with the statutes and federal regulations as they pertain to the institution's administration of Title IV programs. The review consisted of, but was not limited to, an examination of Elite'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 2009/2010 and 2010/2011 (year to date) award year. The files were selected randomly from a statistical sample of the total population receiving Title IV, HEA program funds for each award year. In addition, 3 files were selected from award years 2010/2011, to determine whether or not the institution was complying with Ability to Benefit (ATB) regulations.

On July 16, 2013, program reviewers obtained an additional 36 student files covering award years 2010/2011 through 2012/2013. The files were selected using a judgmental sample in order to conduct further research as a result of a referral received from the U.S. Office of Inspector General (OIG) Investigation Services. A program review report was issued on **3/31/2014**.

Elite lost Title IV, HEA eligibility on January 6, 2015.

### **Disclaimer:**

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning Elite'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 Elite 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 5, 6, 7, 8, 9, 10, 11,

Elite has taken the corrective actions necessary to resolve Findings 5, 6, 7, 8, 9, 10, and 11 of the program review report. Therefore, these findings may be considered closed. The institution's written responses related to these findings are included in Appendix C. Findings requiring further action by Elite are discussed below.

### **Finding With No Liability**

#### **1. Lack of Administrative Capability**

The Department expects institutions participating in the Title IV programs to act in the capacity of a fiduciary and maintain the highest standards of care and diligence in administering those programs. 34 C.F.R. §§ 668.82(a),(b). In this regard, an institution must, among other things, meet Title IV standards of administrative capability. 34 C.F.R. § 668.16. As set forth in the program review report and below, Elite failed to meet those standards. Although there are no liabilities associated with this finding, it is a serious matter. Should Elite ever apply for reinstatement in the Title IV programs, it will have to address all areas of noncompliance identified during the review as a precondition of regaining eligibility.

### **Findings with Final Liability Determinations**

The program review report findings requiring further action are summarized below. At the conclusion of each finding is a summary of Elite's response to the finding, and the Department's final determination for that finding. A copy of the program review report issued on March 31, 2014 is attached as Appendix B.

#### **2. Attendance Records- Inaccurate/Conflicting/Missing**

##### **Noncompliance:**

An institution must maintain on a current basis all records necessary to establish its proper administration of the Title IV, HEA programs and its application for any Title IV, HEA program funds. 34 C.F.R. § 668.24(a). In addition, an institution must maintain all

records needed to properly account for its receipt and expenditure of Title IV, HEA funds including all source documents used to support Title IV, HEA disbursements. See 34 C.F.R. §§ 668.24(b),(c). To satisfy this requirement, institutions are required to maintain source documentation to validate the entry of hours into computer systems or other summary formats. Attendance records are required to establish academic payment periods, to determine the timing of subsequent disbursements of Title IV, HEA funds, to establish the last date of attendance for a student who withdraws or stops attending, as well as to establish whether or not a student is meeting the institution's SAP standards. **2010-2011 Federal Student Aid Handbook, Volumes 2 at 123-12, 3 at 1-31.**

In order to receive Federal Pell Grants at a school such as Elite, a student must be in a program that requires at least 600 clock hours of instruction. 34 C.F.R. § 668.8(d)(1)(ii). For purposes of the Title IV program a clock hour is defined as 50 or 60 minutes of class, lecture, faculty supervised lab, shop training or externship in a 60 minute period. 34 C.F.R. § 600.2 (definition of clock hour).

For students enrolled in an eligible program that is more than one academic year in length and measured in clock hours, the first payment period is the period of time in which the student successfully completes half of the clock hours, as applicable, in the academic year and half of the number of weeks of instructional time in the academic year. The second payment period is the period of time in which the student successfully completes the academic year. 34 C.F.R. § 668.4(c)(2)(i).

The reviewers found that Elite's procedures to monitor students' attendance for the purpose of disbursing Title IV funds are not adequate. Elite uses the attendance information from its computerized system to disburse Title IV funds. However, the reviewers found that the attendance entered in the system did not always match the attendance source documents (teachers' attendance rosters). The attendance discrepancies found bring into question whether the students met Title IV eligibility, whether or not the students were eligible for subsequent Title IV disbursements, and whether or not the students completed the required hours to graduate, and received proper certification to take the Cosmetology State Board Examination.

In addition, the teachers' attendance rosters establish that Elite added the students' full 30 minute lunch break when determining the hours completed each day. Consistent with the Title IV definition of a clock hour, an institution may only include breaks of up to 10 minutes within each discrete 60 hour period in the total attendance time considered for Title IV purposes.

Inaccuracies/discrepancies were found for the following students:

Student 2- This student began the Cosmetology 1000 hour program on 3/23/09. The student's attendance records indicate a difference of 26 hours between the numbers of

Hours in instruction the student completed in the computer system and the completed hours documented in the teachers' attendance rosters. The student was either absent or no teachers' rosters were provided for the following dates: 4/28/09, 7/1/09, 7/22, 8/21/09, 8/31, and 3/23/10. In addition, according to the teachers' roster, the student was present on 10/30/09 from 10:30am to 2:45pm but was not credited the 4 hours in the system. On 3/23/09, the student was late for an hour and fifteen minutes but the system showed 5 hours present. On 4/20/09, the student was one hour late but the system shows 5 hours, and on 4/24/09 the student was again a half hour late but was credited 5 hours in the system. The system showed that the student had a total of 1000 hours present as of 4/17/10 but the teachers' attendance rosters indicate that she only completed 974 hours. The student was listed as a graduate from the Cosmetology program.

Student 3 – This student began the Cosmetology 1000 hour program on 3/23/09. The student's attendance records indicate a difference of 74 hours between the system's attendance and the teachers' attendance rosters. The student was either absent or no teachers' rosters were provided for the following dates: 4/28/09, 7/13/09, 7/14, 7/16, 7/17, 7/22, 7/23, 7/27, 9/3/09, 9/4, 3/9/10, and 5/10/10. In addition, the following discrepancies were noted:

| Date    | Attendance        | # hours in rosters | Credited in system | Difference |
|---------|-------------------|--------------------|--------------------|------------|
| 3/26/09 | 9am to 12pm       | 3                  | 5                  | (2)        |
| 5/15/09 | 9am to 1:30pm     | 4.5                | 5                  | (.5)       |
| 6/1/09  | 9:30am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 6/2     | 9:45am to 1:45pm  | 4                  | 5                  | (1)        |
| 6/4     | 9:35am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 6/12    | 9:25am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 6/15    | 9:30am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 6/23    | 9:40am to 1:45pm  | 4                  | 5                  | (1)        |
| 6/24    | 9:25am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 7/29/09 | 9:20am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 8/3/09  | 9:30am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 9/8/09  | 9:20am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 10/7/09 | 10:30am to 2:45pm | 4.5                | 5                  | (.5)       |
| 10/16   | 11:30am to 2:45pm | 3.5                | 4                  | (.5)       |
| 11/5/09 | 10:30am to 2:45pm | 4.5                | 5                  | (.5)       |
| 11/16   | 10am to 1:45pm    | 4                  | 5                  | (1)        |

The system showed that the student had a total of 1000 hours present as of 8/17/10 but the teachers' attendance rosters indicate that she only completed 926 hours. This student also had full lunch breaks included in the total hours attended.

Similar attendance problems were noted for the following cosmetology students: 5, 8, 9, 11, 14, 16, 19, 32, 33, 6, 10, 12, 17, 18, 20, 23, 24, 26, 28, and 30.

The teachers' attendance records for the Esthetic 600 hour program indicate that the students attending the Esthetic program were not offered sufficient hours for the program as follows:

Student 13- The student's attendance records indicate a difference of 64 hours between the system's attendance and the teachers' attendance rosters. The system's attendance showed that the student had 600 hours as of 11/17/10. However the teachers' attendance records indicate that she only completed 536 hours. The student is listed as a graduate from the Esthetics program.

Student 15- The student's attendance records indicate a difference of 61 hours between the system and the teachers' attendance rosters. The system's attendance indicates that the student completed 600 hours as of 11/18/10. However the teachers' attendance records indicate that she only completed 539 hours. The student is listed as a graduate from the Esthetics program.

Student 22- The student's attendance records indicate a difference of 68 hours between the system's attendance and the teachers' attendance rosters. According to the enrollment agreement, the student was scheduled to graduate from the Esthetician 600 hour program on 9/30/11. The student had 481 hours in the system as of 8/31/11. However, the teachers' attendance rosters indicated that she only attended 413 hours.

Since student attendance is a requirement of the New York State Department of Education, Bureau of Proprietary School Supervision (BPSS) for the programs approved, and offered at the institution, Elite was required to adhere to these approval requirements, as well as Title IV program eligibility requirements in order for its enrolled students to be eligible for Title IV assistance. Elite's attendance policy requires students to complete the required number of hours as approved in order to receive certification for licensing requirements in the State of New York. Interviews conducted with Elite's academic officials disclosed that students can be absent up to 20% of the hours; however all absent hours must be made up prior to graduation. Therefore, students are required to attend 100% of the required hours in order to graduate and qualify for the state license application.

The students identified above did not meet these standards.

#### **Directives From Program Review Report:**

Elite was required to research its files to determine whether it has any further documentation that could substantiate that any of the missing program hours were offered by Elite, and completed by the students identified for this finding. The attendance records should specifically identify the classes being offered to students on any given day. Any documentation found that would substantiate completion of the missing hours by the students was required to be submitted to this office.

Additionally, the school was required to perform a file review of all Title IV recipients who graduated, separated by program, including the students identified as graduate students in this finding from award years 2009/2010 through the date of the report in

order to determine the effect on student eligibility for Title IV awarded and disbursed to students that have graduated without completing the required number of hours. Due to high number of discrepancies between Elite's system for tracking attendance, and actual teachers' rosters, the institution was required to use the teachers' rosters to complete the required file review. Amounts paid in excess of allowable amounts were required to be identified for each of these students by reducing the aid for the program by the percentage of hours that the student was missing.

The result of the institution's review was required to be submitted to this office in spreadsheet format to this office with auditor's verification.

In addition to these requirements, Elite was required to devise and implement procedures that will prevent reoccurrence of this finding and provide copies of those procedures in its response.

### **Final Determination:**

In its response, Elite stated that it disagrees with the Department's finding claiming that even though there were discrepancies in the attendance record keeping, the errors were unintentional. The institution claims that it was recording attendance in three (3) different ways in order to comply with BPSS, NACCAS and Title IV rules and regulations, and that it relied on computerized summary of attendance in order to compute total number of hours completed by the student.

In its response, Elite provided a summary of its methods for recording attendance. It claims that it follows BPSS's requirements to maintain class register for each course or curriculum, as a check and balance practice, that Elite utilizes sign in sheets for everyday attendance, and that it converts the initial teacher attendance records into summary attendance records. However, it also claims that this method does not replace a daily register or attendance. It claims that the summary of attendance records are reserved for effortless record keeping and time savings, that Elite gave preference and priority to computerized attendance record keeping to calculate the number of hours, and that this method was approved by BPSS's supervisor. Elite also claims that when it calculated the hours using sign in sheets and checking them against computerized attendance sheets, it was clear that the errors were unintentional because the errors were done on both sides, some hours were over and some were under.

Elite stated that in view of the fact that school was notified by the reviewers on 9/16/11 that the institution is not allowed to combine more than 20 minutes in two hours into one break, and that it may not allow students to leave earlier in lieu of the break, Elite discontinued that practice by allowing a combination of no more than 20 minute breaks, and it devised and implemented new procedures following the visit to prevent reoccurrence of this finding. Elite admitted that its catalog, and more specifically, attendance and SAP policies, were not defined clearly nor were they followed correctly.

As required, Elite conducted a full file review to identify all Title IV recipient students, including the students cited in this finding from award years 2008/2009 through 2012/2013 in order to determine the effect on student eligibility for Title IV awarded and disbursed to students that have graduated without being offered the required number of hours using the teacher's attendance rosters.

The results of the file review, included in Appendices D2, disclosed that Elite disbursed ineligible Title IV funds to 99 of 208 graduated students who were not offered all hours in the program as required from 7/1/2008 through 6/30/2013, representing 47%. The number of missing hours ranged anywhere between 1 to 240 hours. The amount of ineligible disbursement disclosed is as follows:

| Program      | 08/09             | 09/10              | 10/11             | 11/12             | 12/13           | Total              |
|--------------|-------------------|--------------------|-------------------|-------------------|-----------------|--------------------|
| Pell Grant   | \$4,133.23        | \$11,823.56        | \$4,019.24        | \$1,657.81        | \$70.89         | \$21,704.73        |
| Direct Sub   | 3,242.69          | 8,127.83           | 2,239.78          | 1,211.08          | 69.62           | \$14,891.00        |
| Direct Unsub | 2,267.99          | 5,288.52           | 1,714.65          | 867.09            | 51.61           | \$10,189.86        |
| <b>Total</b> | <b>\$9,643.91</b> | <b>\$25,239.91</b> | <b>\$7,973.67</b> | <b>\$3,735.98</b> | <b>\$192.12</b> | <b>\$46,785.59</b> |

The Department accepts Elite's file review response, and corrective action plan. The total Pell Grant amount due the Department is **\$21,704.73**. The Pell grant interest due the Department for this finding is **\$1,359.78**, included as **Appendix D2**.

In lieu of requiring the institution to assume the risk of default by purchasing the ineligible loans, the Department has asserted a liability not for the ineligible Direct Loan amount of **\$25,080.86**, but rather for the estimated actual or potential loss that the government may incur with respect to the ineligible loans or loan amounts.

The estimated actual loss for the ineligible loans is **\$791.91**. A copy of the result of that calculation is included as **Appendix D2**. Repayment instructions are provided at the end of this letter.

### 3. Ability to Benefit Violations

#### Noncompliance:

During the award years under review a student could meet Title IV student eligibility requirements by passing an independently administered ATB test. 34 C.F.R. § 668.32(e)(2)(2011). The Secretary considers that a test is independently administered if the test is—

- (1) Given at an assessment center by a test administrator who is an employee of the center; or
- (2) Given by a test administrator who—
  - (i) Has no current or prior financial or ownership interest in the institution, its affiliates, or its parent corporation, other than the interest obtained through its agreement to administer the test, and has no controlling interest in any other educational institution;
  - (ii) Is not a current or former employee of or consultant to the institution, its affiliates, or its parent corporation, a person in control of another institution, or a member of the family of any of these individuals;
  - (iii) Is not a current or former member of the board of directors, a current or former employee of or a consultant to a member of the board of directors, chief executive officer, chief financial officer of the institution or its parent corporation or at any other institution, or a member of the family of any of the above individuals; and
  - (iv) is not a current or former student of the institution.

34 C.F.R §§ 668.142(definition of independent test administrator); 668.151(a)(1).

During the school recertification application research process, the Department found that the person administering the ATB exam was an employee of a law firm where the president/owner of Elite is a partner. School officials informed the reviewers that Elite was no longer accepting ATB students. Since the ability to benefit test administrator does not meet the regulatory definition of an independent test administrator, the ATB tests to establish eligibility for Title IV funds for Students **28, 31, 32, and 33** are not valid. As a result, these students are not eligible for Title IV, HEA funds.

#### **Directives From Program Review Report:**

In response to this finding, Elite was required to determine the exact amount of institutional liability associated with this finding. The institution was required to perform a full **file review** including the students cited in this finding to identify all Title IV recipient students who were admitted as ATB students for whom their tests were not independently administered for award years 2008/09, 2009/10 and 2010/11.

#### **Final Determination:**

In its response, Elite stated that it performed the file review requested, included in Appendix C, and found that there were no additional students admitted as ATB because it discontinued admitting ATB students upon receipt of the May 31, 2011 letter from the Department indicating that the test administrator did not meet the requirements of an independent test administrator.

Elite submitted the following summary of the ineligible Title IV, HEA funds disbursed as a result of the institution's failure to establish a student's eligibility for Title IV, HEA program funds, included in Appendix C, is as follows:

| Program      | AY 10/11           | AY 11/12        | Total              |
|--------------|--------------------|-----------------|--------------------|
| Pell Grant   | \$ 8,850.00        | \$617.00        | \$ 9,467.00        |
| Direct Sub   | 10,500.00          | 0               | 10,500.00          |
| Direct Unsub | 9,100.00           | 0               | 9,100.00           |
|              | 1,100.00           | 0               | 1,100.00           |
| <b>Total</b> | <b>\$29,550.00</b> | <b>\$617.00</b> | <b>\$30,167.00</b> |

The Department accepts Elite's response and corrective action plan submitted for this finding. The total Pell Grant liability for award years 2010/2011 through 2011/2012 due the Department is **\$9,467.00**, and the interest liability due the Department is **\$287.45**. The total Direct Loan Subsidized liability due the Department is **\$10,500.00**, and the interest liability due the Department is **\$365.00**. The total Direct Unsubsidized loan due the Department is **\$9,100.00**, and the interest liability due the Department is **\$320.00**. The total Direct loan PLUS due the Department is **\$1,100.00**, and the interest liability due the Department is **\$38.00**. As a result, the total liability being assessed for this finding is **\$31,177.45, included in Appendix E3**. Repayment instructions are included at the end of this letter.

**\$72.60** of the total Pell liabilities being assessed in this finding are duplicated in finding 2; therefore, those liabilities will be removed in the summary of liabilities table.

#### **4. Incorrect Return of Title IV Calculations**

##### **Noncompliance:**

When a recipient of Title IV funds withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, it must perform a Return of Title IV Funds calculation to determine the amount of Title IV grant or loan assistance the student earned as of the student's withdrawal date. The calculation should incorporate all of the elements of a refund calculation identified in pertinent Federal regulations, including the identification of proper payment periods, the correct calculation of the number of days completed by the student and the number of days in payment period, and the inclusion in the Return calculation of all pertinent Title IV disbursements. 34 C.F.R. § 668.22.

The institution incorrectly calculated the return of Title IV funds for Students 4, 7, 21, 25, 41, 56, and 59. The following inconsistencies were noted:

1. Elite was unable to consistently determine whether to use payment period or period of enrollment. At times the information was left blank but Elite would sometimes complete the form using the payment period and sometimes the enrollment period.
2. When determining the percentage of the period completed, Elite did not round to three decimal places.
3. Elite failed to complete page 2 of the student's return of Title IV (R2T4) calculation worksheet. Step 5 on page 2 of the calculation worksheet allows the institution to include institutional charges for the period, such as tuition, room and board, books, registration, lab fees, etc. This step allows the institution to compare the amount of Title IV to be returned (box K) on page 1 to amount of earned charges (box N) on page 2 to enter the lesser amount to be returned.
4. Elite did not always include the correct number of hours scheduled to complete or the total hours in the period
5. Elite did not always follow the order of return by Title IV program. There were instances where the Pell grant was refunded before the Direct Subsidized loan.

As a result, the amount of Title IV funds returned for the students are incorrect.

Student 41 is an example of the effect of Elite's failure to incorporate all the elements of a refund calculation.

Student 41- This student's withdrawal date was 7/21/11. Elite entered 111 scheduled hours completed in a 450 hour payment period, thereby retaining 25% of the student's Title IV funds received per Elite's calculation. The attendance records provided indicate that the total schedule hours offered as of her last date of attendance was 105 hours. Therefore, the amount of Title IV earned was 23.3%. In addition, the student's ledger incorrectly shows that Elite refunded \$1742 to the Direct Subsidized loan program. However, Elite failed to complete page 2 of the R2T4 calculation. After completion of the first page of the R2T4 calculation worksheet noting the amount of Title IV to be refunded, it retained \$100 for the application fee and \$250 for books totaling \$350. Elite improperly deducted the \$350 from the student's required \$1742 DL Subsidized loan refund and refunded \$1392 instead.

#### **Directives From Program Review Report:**

The institution was required determine the exact amount of institutional liability associated with this finding. The institution was required to perform a full **file review** to identify all Title IV recipient students, in the award years **2009/2010 forward** that withdrew from or stopped attending the institution for which a return of Title IV calculation was required. Elite was required to complete the attendance file review cited in Finding 2 to determine the correct hours offered before completing the file review for this finding.

In response to this finding, the institution was required to provide the results in spreadsheet format with auditor's verification. Elite was also required to devise and implement procedures that will ensure that returns of Title IV funds will be calculated correctly, and submit a copy of those procedures.

**Final Determination:**

In its response, Elite stated that before completing the file review, the staff was required to complete a workshop on return of Title IV calculations. It also stated that as requested, it completed the attendance file review cited in finding 2 in order to determine the correct hours offered before completing the file review for this finding. Once the forms were completed, they were sent to the third party servicer, ECM, for review and corrections, if required. It further stated that the institution has updated its policy to specify that all R2T4 calculations should be completed on a payment period basis, rounding to three decimal places, complete page 2, use correct number of hours and follow the order of return.

As required, Elite performed a full file review to identify all Title IV recipients in award year 2009/2010 to present, including students cited in this finding who officially withdrew from and/or unofficially stopped attending the institution, and for whom a return of Title IV payment was required. The incorrect return of Title IV file review reports, included in the school's response under Appendix C, disclosed 18 of 56 instances of incorrect R2T4 calculations which represents 32 percent calculation error rate, resulting in 11 instances of under refunds to Title IV, HEA programs totaling \$1,266.48 and 7 instances of over refunds totaling \$781.24.

The Department accepts Elite's response to this finding. The additional unmade Pell Grant refund liabilities as a result of incorrect calculations due the Department for award year 2009/2010 through 2012/2013 is **\$913.34** and the Pell Grant interest liability due the Department is \$21.84. The Direct Subsidized loan liability due the Department is \$190.00 and the subsidized interest is \$4.00. The Direct Loan Unsubsidized liability due the Department is \$399.42 and the interest liability is \$12.00. As a result, the total liability being assessed for this finding is **\$1540.60**, included in **Appendix F4**. Repayment instructions are included at the end of this letter.

**12. Conflicting Information in Student Files- Foreign High School Diploma**

The ability of an institution to coordinate the information it collects and to resolve discrepancies are critical elements in an evaluation of administrative capability. Institutions are required to develop an adequate system to ensure consistency of information related to a student's application for Federal student aid, regardless of the source of information. The institution is responsible for reconciling all information received. 34 C.F.R. §§ 668.16(a),(f)

During the award years in question, a student was eligible to receive Title IV, HEA program assistance if the student had a high school, its recognized equivalent, or passed an independently administered ATB test. 34 C.F.R. § 668.32(e)(2011). In general, if the student did not meet one of these eligibility standards he/she was ineligible to receive Title IV assistance.

The Department's Office of the Inspector General (OIG) Investigation Services, referred a complaint to this office from a former student on 1/15/2013. In the complaint, a student alleged that Elite admitted ineligible students who did not have a high school diploma, GED or pass an ATB exam. OIG's inquiry revealed that a former secretary at Elite may have directed at least two students to have obtained sworn statements that they had foreign high school diplomas when they did not. These notarized statements were placed in students' financial aid files and used as a basis for admission and eligibility for Title IV funds.

OIG requested ten random student files on 12/10/2012 and discovered that that nine out of ten student files contained a sworn statement of student's graduation from a foreign high school. Since the Federal Student Aid had an open program review, the matter was referred to this office for further action. The information obtained by OIG from Students 56 and 59 confirms that neither student graduated from high school in their country as follows:

Student 56- During the student interview conducted by OIG, the student claimed that she explained to the Spanish speaking secretary at Elite that she had an expired cosmetology license from Puerto Rico, and that she did not have a high school diploma. In response, the student claimed that the Spanish speaking secretary advised her that "they will fix that." She claims that the Spanish speaking secretary helped her fill out the forms and directed her to go across the street to a pharmacy to have some documents notarized, but she could not remember the content of those documents. The student further stated that she did not know that a high school diploma or its equivalent was required to receive federal student aid. The highest level of education achieved was equivalent to the 11<sup>th</sup> grade. It appears that the "Sworn Statement of Student's Graduation From a Foreign High School" was completed by someone other than the student. The school's representative attesting to the validity of the statement was the school director, who does not speak Spanish. In addition, there is no indication of any efforts taken by Elite to obtain the educational records for this student. As a result, the Sworn Statement of High School Graduation used as the basis for admission and Title IV eligibility is not valid.

Student 59- During the student interview conducted by OIG, the student claimed that Elite's secretary informed her over the telephone that she just needed the 2011 income tax returns to enroll at the school. The student claimed that she informed the Spanish speaking secretary that she did not have a high school diploma but that the secretary continued to complete the paperwork and told her that it was okay. She further stated that the secretary gave her a paper described as a statement advising that her high school

diploma from the Dominican Republic had been misplaced, and was directed to the pharmacy across the street to be notarized for \$2.00. The student stated that she started high school in the Dominican Republic but never finished. The highest level of education achieved was that of an 8<sup>th</sup> grade. It appears that the “Sworn Statement of Graduation from a Foreign School” was completed by someone other than the student because under the reason why diploma or transcript cannot be obtained, the written response was “Left Diploma in Her Country Santo Domingo”, and under the heading “efforts undertaken by the student and or the school to obtain these educational records”, the written response was “Nobody send me my diploma”. The school official attesting to the validity of the statement was the school director, who does not speak Spanish, and was also the licensed agent who signed the enrollment agreement on 3/8/2012. In addition, there is no indication of any efforts taken by Elite to obtain the educational records for this student. As a result, the Sworn Statement used as the bases for Title IV eligibility is not valid.

These allegations bring into question Elite’s admissions practices, specifically, that of admitting ineligible students who did not have a high school diploma, GED or passed an ATB test, and falsifying documentation to make it appear that students did. As a result, on 07/16/2013, reviewers from this office visited the school to obtain 36 additional student files from award years 2010/2011, 2011/2012, and 2012/2013 using a judgment sample, in order to conduct further research.

A review of the 36 additional student files obtained disclosed that a total of 25 of the 36 students selected for additional testing were admitted with a “Sworn Statement of Student’s Graduation From a Foreign High School” during the relevant award years. This represents 69.4% of the students.

The “Sworn Statement of Student’s Graduation From a Foreign High School” form is a NYSED BPSS-115 issued form which requires both the student’s attestation and the director’s attestation be signed before a Notary Public. The form must be completed in English and in the student’s native language, and efforts must be undertaken by the student and/or the school to obtain these educational records. In all cases, the form only contained the notary’s signature for the student’s signature. None of the forms contained the School Director’s notary’s signature which is considered a violation of Section 126.1(g) of the Commissioner’s Regulations. In addition, none of the forms were translated to the student’s native language and no efforts were undertaken by the school to obtain the educational records. Discrepancies were noted and/or disclosed for the following students:

Student 41- The student’s 2010/2011 ISIR indicates that she has a high school diploma. However, the “Sworn Statement of Student’s Graduation from a Foreign High School” falsely indicates that she graduated from Hogar Masonico, Santo Domingo on 6/30/1986, when she was nine (9) years old. The student’s date of birth is 9/7/1977. It appears that the Sworn Statement was completed by someone other than the student. The school’s

representative attesting to the validity of the statement was the school director, who does not speak Spanish, and she is also the admission agent who signed the enrollment agreement. In addition, there is no indication of any efforts taken by Elite to obtain the educational records for this student. As a result, the student is not eligible for Title IV, HEA funds.

Student 46- This student's 2011/2012 ISIR indicates that he has a high school diploma. Instead, there is a copy of a sworn statement of student's graduation from a foreign high school in Ecuador which appears to have been completed by someone other than the student. During the student interview conducted on 12/3/2013, the student claimed that he told the Spanish speaking official at the school that he has a 9<sup>th</sup> grade education and that she never informed him that a high school diploma was required. When questioned about the information noted in the sworn statement, he stated that is the school where he obtained his 9<sup>th</sup> grade education. The affidavit was attested to by the same school agent who signed the enrollment agreement. The student does not have a high school diploma or its equivalent. Therefore, the student is not eligible for Title IV, HEA funds.

Student 52- This student's 2011/2012 ISIR indicates that she has a high school diploma. There is a copy of a sworn statement of student's graduation from a foreign high school in Pakistan. The affidavit, which appears to have been completed by someone other than the student shows that the student attended the school before she was born. The student was born on 4/14/1990 and the dates of attendance are indicated as 8/25/1986 to 5/10/1990. The affidavit was attested to by the same school agent who signed the enrollment agreement. As a result, the Sworn Statement used as the basis for admission is not valid and the student is not eligible for Title IV, HEA funds.

Student 57 – This student's 2011/2012 ISIR indicates that she has a high school diploma. There is a copy of a sworn statement of student's graduation from a foreign school in the Dominican Republic which appears to have been completed by someone other than the student. The person who completed the affidavit misspelled "Dominican". The dates of attendance noted on the sworn statement from 9/10/1993 to 6/25/1995 are highly questionable because the student became a permanent resident of the United States on 11/15/1992. The affidavit was attested to by the same school agent who signed the enrollment agreement. In addition, there is no indication of any efforts taken by Elite to obtain the educational records for this student. As a result, the sworn statement of high school graduation used as the basis for admission if not valid and the student is not eligible for Title IV, HEA funds.

The following students' ISIRs indicated that they have a high school diploma. However, the students were admitted using a "Sworn Statement of Student's Graduation from a Foreign High School." As shown above, the veracity of these statements is highly questionable. There are instances where the form was partially or fully completed by someone other than the student. The sworn statement was attested to by the same school admission agent who signed the enrollment agreement. There was at least one instance

where the school owner notarized the statement. In addition, the review indicates that the school failed to undertake any efforts in obtaining the educational records as required by New York State Education Department Bureau of Proprietary School Supervision. The students are 38, 42, 45, 47, 48, 49, 50, 51, 53, 54, 55, 58, 60, 62, and 64.

Additional discrepancies were noted which further brings into question Elite's admissions practices as it pertains to the validity of high school graduation credentials for the following students:

Student 40- This student's 2010/2011 ISIR indicates that she has a high school diploma. However, the English translation of her high school credentials indicates that she obtained a junior high school education in Russia. The translation specifically states that she finished an eight-year education. As a result, the basis for admission is not valid and the student is not eligible for Title IV, HEA funds.

Student 44- This student's 2011/2012 ISIR indicates that she has a high school diploma. However, the English translation of her academic transcript states that she obtained a certificate of basic education in the year 2000 at the age of 15. There is no indication that this represents completion of high school or secondary education. As a result, the basis for admission is not valid and the student is not eligible for Title IV, HEA funds.

Student 65- The student's 2012/2013 ISIR indicates that she has a high school diploma. Instead, there is a copy of a sworn statement of student's graduation from a foreign school name H/S La Reforma, Santo Domingo, Dominican Republic. The dates of attendance noted are 9/25/93 to 7/30/98. During an interview with the student, Department officials requested a copy of the student's high school diploma to be faxed to the office. Contrary to the information that appears in the sworn statement, the copy of the diploma received by this office which appears to be a GED has a completion date of 1/15/2002 issued by the Secretary of Education, The National Council of Education, Santo Domingo, Dominican Republic. The affidavit was attested to by the same school agent who signed the enrollment agreement. In addition, there was no indication of any efforts taken by Elite to obtain the educational records for this student prior to the reviewers requesting the information. This confirms that students are told to write the name of the foreign high school but it doesn't necessarily mean that the student actually obtained a diploma from that school, as indicated in this case.

Student 66- This student's 2012/2013 ISIR indicates that she has a high school diploma. Instead, there is a copy of a sworn statement of student's graduation from a foreign school name H/S La Reforma, Santo Domingo, Dominican Republic. The dates of attendance noted are 9/25/88 to 7/25/95. During an interview with the student, Department officials requested a copy of the student's high school diploma to be faxed to the office. The copy provided which was faxed from EABA on 12/11/13 shows that it is a certification from the Ministry of Education, but reviewers were unable to read the remaining information. A legible copy obtained during a recent visit to the school

indicates a certificate in technical nursing from an educational region of Cotui in the Dominican Republic which has absolutely nothing to do with H.S. La Reforma. The affidavit was attested to by the same school agent who signed the enrollment agreement. In addition, there was no indication of any efforts taken by Elite to obtain the educational records for this student.

**Directives From Program Review Report:**

The cases discussed in this finding indicate significant deficiencies with Elite's admissions practices, including apparent falsification of records. In response to this finding, Elite was required to conduct a full file review in order to identify all Title IV recipients who were admitted by accepting a "Sworn Statement of Student's Graduation from a Foreign High School" as the basis for admission, beginning with award year 2009/2010 through present. For these students, including the students cited in this finding, Elite was required to obtain the student's high school diploma and or the high school academic transcript confirming that the student did in fact graduate from the foreign high school listed, and provide a copy of the high school diploma and or the academic transcript to this office for every student.

In addition to providing a copy of the foreign high school diploma or high school academic transcript, Elite was also required to provide an official English translation and validation of the diploma and or the high school academic transcript for all students admitted with a "Sworn Statement of Student's Graduation form a Foreign High School."

Elite's employees involved in this finding such as Director, Admission Representative, and the Spanish speaking secretary had to be excluded from working on completing this file review.

Elite was required to inform this office of the procedures it has implemented to ensure no reoccurrence of this finding.

**Final Determination:**

In its response, Elite stated that it partially admits to this finding claiming that it admitted students with sworn statements, which were only in English language; however, it asserted that the information was translated to the Russian and Spanish students verbally. It stated that to its knowledge and based on the sworn affidavits from Spanish speaking secretary, Spanish speaking teachers and Russian speaking director, no employee of the school has coached any of the potential students to provide false information in order to receive Title IV Federal Student Aid. Additionally, it asserted that it contacted Spanish speaking interpreter/secretary, who has prepared an affidavit for review, denying said allegations.

It further stated that students cited by the Department and other students admitted to the school with the sworn statements indicated to the school's officials (to the best of Elite's knowledge) that they have completed high school in their countries, and gave the example of Students 40, 65 and 66. For student 40, the student's 2010/2011 ISIR indicates that she has a high school diploma. However, the English translation of her high school credentials indicates that she obtained a junior high school education in Russia. The translation specifically states that she finished an eight-year education. As a result, the basis for admission is not valid and the student is not eligible for Title IV, HEA funds. Elite stated that it had spoken to the student, who has stated that she did graduate from high school in her country and she will attempt once again to obtain her diploma.

For Students 65 and 66, Elite stated that both students had stated that La Romana is a high school that they attended in the Dominican Republic and that in order to graduate the last years of high school each student must choose a trade or specialty.

Elite further stated that the actions taken include making numerous telephone calls, written emails, assessed facebook pages and websites of the ministry of education in Pakistan, Russia, Bulgarai, Georgia, Dominican Republic, Mexico, Ecuador, Lithuania and other countries in order to obtain copies of the diplomas, however, that none of those ministries were able to provide copies of the diplomas. It also contacted several schools, but received no responses.

In its response, as required, Elite submitted the required list of students who were admitted with a sworn statement consisting of 131 students.

Elite's response to this finding is not acceptable. The file review report submitted by Elite indicates that it accepted 131 students using an invalid sworn statement that he or she graduated from a foreign high school. In its response, Elite was only able to submit valid documentation of high school completion for six students, representing 4.58 percent of the students. Elite was unable to resolve conflicting information of high school completion for 125 of the 131 students, representing 95.42%.

During the completion of this final program review determination for this finding, on January 30, 2015, the reviewer contacted Elite's FAA in order to determine if the institution was able to secure any additional supporting high school completion documentation, which was five months after its program review response was received by the Department. Elite's FAA responded via e-mail that no further documentation had been received from any of the foreign high schools listed in the sworn statements.

Elite was unable to obtain high school completion documentation for 125 of its 131 students admitted with invalid sworn statements. As a result, the Department determined that the 125 students from award years 2008/2009 through 2013/2014, for whom Elite was unable to resolve the conflicting high school information, are not eligible for the

Title IV, HEA programs. The Department used the National Student Loan Data System to make the determination of ineligible disbursements amounts by Title IV, FSA programs as follows:

| Program      | 08/09           | 09/10            | 10/11            | 11/12            | 12/13            | 13/14           | Total              |
|--------------|-----------------|------------------|------------------|------------------|------------------|-----------------|--------------------|
| Pell Grant   | \$22,860        | \$82,314         | \$94,318         | \$208,418        | \$127,361        | \$20,237        | \$555,508          |
| Direct Sub   | 31,500          | 26,833           | 60,083           | 112,040          | 53,083           | 11,667          | \$295,206          |
| Direct Unsub | 22,850          | 24,808           | 27,950           | 54,180           | 34,883           | 7,475           | \$172,146          |
| PLUS         | -               | -                | -                | 520              | -                | -               | 520                |
| <b>Total</b> | <b>\$77,210</b> | <b>\$133,955</b> | <b>\$182,351</b> | <b>\$375,158</b> | <b>\$215,327</b> | <b>\$39,379</b> | <b>\$1,023,380</b> |

The total ineligible Pell Grant amount due the Department for this finding is **\$555,508.00**. The Pell Grant interest due the Department is **\$15,654.40**, included as **Appendix G12**.

The total ineligible Direct Loan amount due the Department for this finding is **\$467,872.00**. The Direct Loan interest due the Department is **\$17,707.00**, included as **Appendix G12**.

A total of **\$4,109.60** of the Pell Grant total liabilities being assessed in this finding are duplicated in finding 2. A total of \$190 of the DL Subsidized being assessed in this finding is duplicated in finding 4. Therefore, those liabilities will be removed in the summary of liabilities table.

### 13. Incentive Compensation Violation

#### Noncompliance:

In order to participate in the Title IV programs, an institution must agree to abide by numerous requirements regarding its administration of the programs. The institution agrees to these requirements by signing a Program Participation Agreement (PPA) with the Department. 20 U.S.C. § 1094; 34 C.F.R. § 668.14. Among these requirements is the guarantee that it will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any individual or entity engaged in recruiting or admission activities or in making decisions regarding the awarding of FSA program funds. 20 U.S.C. § 1094(a)(20); 34 C.F.R. § 668.14(b)(22).

A recent review of Elite’s compliance with the provisions regarding incentive compensation indicates that the institution failed to comply with the regulation by awarding incentive payment “bonuses” to some of its employees, based directly on

success in securing enrollments. During the review of payroll records, reviewers noted that there were no payroll records for a former admission representative. Upon questioning the School Director, who is also the current Admission Representative for the school, the reviewers were informed that the former admission representative was not on the payroll records because she chose not to have taxes withheld for personal reasons, and a 1099 form was issued during 2011 and 2012. Upon review of the 2012 1099 form, the reviewers noted a difference of \$2,800.00 between the paycheck amounts (\$8268.82) and 1099 amounts (\$11,068). When the Director was questioned about the discrepancy, she responded by stating that "[REDACTED]" (school president/owner) gave the former admission representative bonus checks in addition to her biweekly salary. She stated that he paid her \$100 for every student that enrolls, begin classes, and the school receives financial aid. When questioned about what happens if the student does not enroll, she stated that she would not get the \$100, only when the student enrolls. As a result, she provided a list of 33 students with corresponding payments totaling \$3300.00 for students that enrolled and began classes during calendar year 2011 and 2012.

In addition, during the payroll review, a discrepancy in payments was noted for two teachers as follows:

For the first teacher, a discrepancy in payment was noted, and the Director provided a 1099 form. Upon request for an explanation, the Directors stated that "[REDACTED]" pays \$100 bonus for translating for Spanish speaking prospective students, but only if the prospective student enrolls. "No matter how many translations, if there is no enrollment there is no bonus". As a result, she provided a list totaling \$2700.00 for 26 students (\$200 was paid for one of the students) for 2012 and 2013. The teacher also received \$1100 (noted on the 1099) during 2011, but the corresponding checks and names were not available.

For the second teacher, the explanation given by the Director for the 1099 form was that the teacher works at home on weekends, taking calls and calling prospective students, and that "[REDACTED]" pays her \$100 bonus for every student who enrolls. Again, when questioning the Director regarding payments for hours worked on weekends, she restated that if there is no enrollment, there is no bonus no matter how many hours the teacher works on weekends. As a result, she provided a list totaling \$5600.00 for 56 students during 2012 and 2013.

In addition, there was an extra payroll check in the amount of \$880.43 issued 12/17/13 to the school Director/Admission Representative to cover a working period from 12/2/13 to 12/17/13, which was already covered during pay period 12/2/13 to 12/13/13 and 12/9/13 to 12/27/13 (overlapping dates). There was another paycheck in the amount of \$653.95 issued to the School Director/Admission Representative on 12/20/12 to cover pay period from 12/17/12 to 12/21/13 which was also covered from 12/17/12 to 12/28/12, issued 12/31/2012. Upon questioning the School Director/Admission Representative, she stated that she was not sure but she believes that it was a payment for vacation because she was

unable to take vacation. This statement is inconsistent with the other information obtained by reviewers.

Finally, during the review of payroll for 2011, there was a copy of a "Services Contract" between [REDACTED] and the School Director/Admission Representative dated May 10, 2009 for answering the phones on weekends, performing client intake services (which will involve the employee going to prospective clients and having them fill out necessary intake forms), and performing translation for clients and office staff. Upon questioning the Director about signing a contract, she denied ever signing any contract. However, the services contract appears to have been signed by both [REDACTED] and [REDACTED].

**Directives From Program Review Report:**

In response to this finding, Elite was required to perform a and submit a full **file review** including the employee name, title, and amount of bonus received for securing enrollments beginning with calendar year 2009 through the time of the report.

In addition, Elite was required to provide copies of corresponding 1099s, corresponding lists of students, a list of all employees from calendar year 2009 forward with corresponding benefits such as vacation, sick leave, etc. In addition, Elite was to provide an explanation as to the reason or justification for the Director's denial of ever signing the "Services Contract" dated May 10, 2009.

**Final Determination:**

In its response, Elite stated that it discontinued "incentive compensation", no longer pays incentives for enrollments, and that it hired a full time admission representative who will be a full time salary employee. It also stated that as a preventive measure, it is including an addendum "Code of Conduct" as part of its annual consumer information disclosure.

As required, Elite provided the required information with independent auditor's attestation as follows:

1. Elite provided a list of 28 students for whom the admission representative received \$2800 (\$100 per student) bonuses for securing enrollment.
2. Elite provided a list of 29 students for whom the Spanish speaking teacher received \$2900 (\$100 per student) bonuses for securing enrollment.
3. Elite provided a list of 62 students for whom the Russian speaking teacher received \$6200 (\$100 per student) bonuses for securing enrollment.

Regarding the Director's "Services Contract" between her and EABA's owner, signed on 5/10/2009, the institution stated that the contract was executed for the purpose of performing secretarial duties for the law office of Yuriy Prakhin (owner) and that the

contract had no relevance to Elite Academy. It provided copies of the contract and 1099-Misc forms issued to the Director by the Law Office of Yuriy Prakhin, P.C.

Elite's response confirms that it improperly paid employees to secure enrollments in violation of the Title IV statute, regulations, and its PPA.

Since Elite improperly paid bonuses for the recruitment of students in violation of its PPA, the Department considers the Title IV awards to those students invalid. As a result, Elite must repay **\$317,388.00** in Federal Pell Grant funds, and **\$1,926.00** in interest on those funds, included as Appendix H13. With respect to the \$311,795.00 invalid loans, the Department is assessing only the estimated loss to the Department which totals **\$17,929.00**. The estimated loss formula is included as Appendix H13. Students related to this finding are included as Appendix H13.

A total of **\$161,651** of the Pell Grant total liabilities being assessed in this finding are duplicated in finding 2 and 12; therefore, those liabilities will be removed in the summary of liabilities table.

**D. Summary of Liabilities**

The total amount calculated as liabilities from the findings in the program review determination is as follows. The liability amount in the first chart below reflects duplicated **and unduplicated** liabilities because some students appear in more than one finding. This information is provided so that the institution understands the liabilities associated with each finding. Duplicate liabilities have been removed in the second chart. The payment instructions in Section E have been adjusted to reflect the unduplicated liabilities.

**Actual Liabilities by Finding-including Duplicate Liabilities**

| Liabilities  | Pell (Closed Award Year) | DL Sub              | DL Unsub            | DL PLUS            | EALF DL             |
|--------------|--------------------------|---------------------|---------------------|--------------------|---------------------|
| Finding 2    | \$ 21,704.73             | \$0                 | \$ 0                | \$0                | \$ 791.91           |
| Finding 3    | 9,467.00                 | 10,500.00           | 9,100.00            | 1,100.00           | 0                   |
| Finding 4    | 913.34                   | 190.00              | 163.64              | 0                  | 0                   |
| Finding 12   | 555,508.00               | 295,206.00          | 172,146.00          | 520.00             |                     |
| Finding 13   | 317,388.00               |                     |                     |                    | \$ 17,929.00        |
| <b>Total</b> | <b>\$904,981.07</b>      | <b>\$305,896.00</b> | <b>\$181,409.64</b> | <b>\$ 1,620.00</b> | <b>\$ 18,720.91</b> |

**Established Liabilities- Duplicate Liabilities Removed**

| Findings           | Pell (Closed Award Year) | DL Sub              | DL Unsub            | DL PLUS           | EALF DL             |
|--------------------|--------------------------|---------------------|---------------------|-------------------|---------------------|
| Finding 2          | \$ 21,704.73             | \$0                 | \$0                 | \$0               | \$ 791.91           |
| Finding 3          | 9,394.40                 | 10,500.00           | 9,100.00            | 1,100.00          | 0                   |
| Finding 4          | 913.34                   | 190.00              | 399.42              | 0                 | 0                   |
| Finding 12         | \$551,398.40             | 295,016.00          | 172,146.00          | 520.00            | 0                   |
| Finding 13         | \$155,737.00             | 0                   | 0                   | 0                 | \$17,929.00         |
| <b>Subtotal 1</b>  | <b>\$739,147.87</b>      | <b>\$305,706.00</b> | <b>\$181,645.42</b> | <b>\$1,620.00</b> | <b>\$18,720.91</b>  |
| Interest/SA        | \$ 19,210.77             | 11,524.00           | 6,690.00            | 232.00            | 0                   |
| <b>Subtotal 2</b>  | <b>\$ 19,210.77</b>      | <b>\$11,524.00</b>  | <b>\$ 6,690.00</b>  | <b>\$ 232.00</b>  | <b>\$0</b>          |
| <b>Payable To:</b> |                          |                     |                     |                   |                     |
| Department         | \$758,358.64             | \$317,230.00        | \$188,335.42        | \$1,852.00        | \$18,720.91         |
| <b>Total</b>       |                          |                     |                     |                   | <b>\$ 37,656.77</b> |
|                    |                          |                     |                     |                   | <b>1,284,497.00</b> |

## **E. Payment Instructions**

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

#### **Liabilities Owed to the Department \$100,000 or More**

ELITE owes to the Department **\$1,284,497.00**. This liability must be paid using an electronic transfer of funds through the Treasury Financial Communications System, which is known as FEDWIRE. ELITE must make this transfer within **45 days of the date of this letter**. This repayment through FEDWIRE is made via the Federal Reserve Bank in New York. If ELITE's bank does not maintain an account at the Federal Reserve Bank, it must use the services of a correspondent bank when making the payments through FEDWIRE.

Any liability of \$100,000 or more identified through a program review must be repaid to the Department via FEDWIRE. The Department is unable to accept any other method of payment in satisfaction of these liabilities.

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

Instructions for completing the electronic fund transfer message format are included on the attached FEDWIRE form, included as Appendix I.

#### **Terms of Payment**

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

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

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

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

**Direct Loan Closed Award Years (Request Extended Processing)**

Findings: 3, 4, and 12  
Appendices: E3, F4 and G12

ELITE must repay the following Direct Loan liabilities:

| <b>DL Closed Award Year</b> |                    |                      |
|-----------------------------|--------------------|----------------------|
| Amount Original             | Amount Interest    | Award Year           |
| \$488,971.42                | 18,446.00          | AY 10/11-<br>AY13/14 |
| Total Principal             | Total Interest     | Total                |
| <b>\$488,971.42</b>         | <b>\$18,446.00</b> | <b>\$507,417.42</b>  |

The disbursement record for each student identified in the appendices listed above must be adjusted in the Common Origination and Disbursement (COD) system based on the recalculated amount identified in these appendices. A copy of the adjustment to each

student's COD record must be sent to [REDACTED] **within 45 days of the date of this letter.**

COD adjustments are necessary for the closed award years listed above. Before any student level adjustments can be processed, ELITE must immediately request extended processing through the COD Website (<http://cod.ed.gov>).

\* Click on the Request Post Deadline/Extended Processing link under the School menu.

\* On the request screen, the institution should indicate in their explanation that the request is based on a program review, and provide the program review control number.

\* The institution will be notified of the status of the request at the time of submission, and will also be notified by email to the FAA and President when extended processing has been authorized. At that time, the school must transmit student/borrower level adjustments to COD for the closed award years.

**Direct Loan Estimated Actual Loss**

Findings: 2 and 13

Appendices: D2 and H13

| <b>DL Estimated Actual Loss</b> |                             |
|---------------------------------|-----------------------------|
| Amount                          | Award Year                  |
| \$18,720.91                     | 2008/2009 through 2013/2014 |
| <b>Total \$18,720.91</b>        |                             |

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

**Pell Closed Award Year- COD Adjustments Required**

Findings: 2, 3, 4, 12, and 13

Appendices: D2, E3, F4, G12, and H13

ELITE must repay:

| Pell Closed Award Year |                       |                      |
|------------------------|-----------------------|----------------------|
| Amount Principal       | Amount Interest       | Award Year           |
| \$621,101.21           | 11,356.14             | AY 10/11-<br>AY13/14 |
| <b>Total Principal</b> | <b>Total Interest</b> | <b>Total</b>         |
| <b>\$621,101.21</b>    | <b>\$11,356.14</b>    | <b>\$632,457.35</b>  |

The disbursement record for each student identified in **Appendices D2, E3, F4, and G12** to the applicable findings must be adjusted in the Common Origination and Disbursement (COD) system based on the recalculated amount identified in the Appendices.

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

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

**Pell Cancelled Award Year**

Findings: 2, 3, 4, and 12

Appendices: D2, E3, F4 and G12

ELITE must repay:

| Pell Closed Award Year |                       |                     |
|------------------------|-----------------------|---------------------|
| Amount Principal       | Amount Interest       | Award Year          |
| \$ 26,329.90           | \$4,062.05            | 2008/2009           |
| 91,716.76              | 3,792.58              | 2009/2010           |
| <b>Total Principal</b> | <b>Total Interest</b> | <b>Total</b>        |
| <b>\$118,046.66</b>    | <b>\$7,854.63</b>     | <b>\$125,901.29</b> |

The liability above is for award years y years and student adjustments in the Common Origination and Disbursement (COD) system are no longer possible. Instead, the funds will be returned to the general program fund for the applicable Title IV program.

**F. Appendices** - Appendices A through I are attached to this report.

FINAL PROGRAM REVIEW DETERMINATION

PRCN #: 201140227650

ELITE ACADEMY OF BEAUTY ARTS

APPENDIX B

COPY OF PROGRAM REVIEW REPORT



MAR 31 2014

Mr. Yuriy Prakhin  
President  
Elite Academy of Beauty Arts  
426 Kings Highway  
Brooklyn, NY 11223

**Certified Mail Return Receipt Requested**  
7006 2760 0002 1734 9208

RE: Program Review Report  
OPE ID: 03941400  
PRCN: 201140227650

Dear Mr. Prakhin:

From September 12, 2011 through September 16, 2011, Lydia Gonzalez and Judith Ortiz Velazquez conducted a review of Elite Academy of Beauty Arts's (EABA) administration of the programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs). Subsequent follow up visits were made on 7/16/2013, and 2/19/2014. The findings of that review are presented in the enclosed report.

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

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

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

<sup>1</sup> A "preliminary" program review report is the program review report. The Department's final program review report is the Final Program Review Determination (FPRD).

**Federal Student Aid**

An OFFICE of the U.S. DEPARTMENT of EDUCATION

School Participation Division – New York/Boston

Financial Square, 32 Old Slip, 25<sup>th</sup> Fl., New York, NY 10005

The Department considers the institution's response to be the written narrative (to include e-mail communication). Any supporting documentation submitted with the institution's written response will not be attached to the FPRD. However, it will be retained and available for inspection by EABA upon request. Copies of the program review report, the institution's response, and any supporting documentation may be subject to release under the Freedom of Information Act (FOIA) and can be provided to other oversight entities after the FPRD is issued.

The institution's response should be sent directly to Lydia Gonzalez of this office within 90 calendar days of receipt of this letter.

**Protection of Personally Identifiable Information (PII):**

PII is any information about an individual which can be used to distinguish or trace an individual's identity (some examples are name, social security number, date and place of birth). The loss of PII can result in substantial harm, embarrassment, and inconvenience to individuals and may lead to identity theft or other fraudulent use of the information. To protect PII, the findings in the attached report do not contain any student PII. Instead, each finding references students only by a student number created by Federal Student Aid. The student numbers were assigned in Appendix A, Student Sample. If institution's response will contain PII- Please see the enclosure Protection of Personally Identifiable Information for instructions regarding submission to the Department of required data / documents containing PII.

**Record Retention:**

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

We would like to express our appreciation for the courtesy and cooperation extended during the review. Please refer to the above Program Review Control Number (PRCN) in all correspondence relating to this report. If you have any questions concerning this report, please contact Lydia Gonzalez at (646) 428-3743.

Sincerely,



Christopher Curry  
Compliance Manager

cc: Financial Aid Administrator

**Enclosure:**

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

bcc: Reading file file, Correspondence file, Lydia Gonzalez, Judith Ortiz-Velazquez,  
Chris Curry, ERM

Prepared for

**Elite Academy of Beauty Arts**

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START HERE  
GO FURTHER  
FEDERAL STUDENT AID

OPE ID 03941400

PRCN 201140227650

Prepared by

U.S. Department of Education

Federal Student Aid

School Participation Team – New York/Boston

# Program Review Report

## 3/31/2014

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**A. Institutional Information**

Elite Academy of Beauty Arts  
426 Kings Highway  
Brooklyn, NY 11223

Type: Proprietary

Highest Level of Offering: Non-Degree 1 Year

Accrediting Agency: National Accrediting Commission of Cosmetology Arts and  
Sciences

Current Student Enrollment: 68 (2011)

% of Students Receiving Title IV: 90% (2011)  
Source: School Records

Title IV Participation by Program:

| <b>Award Years 2011/2012</b>                      | <b>Amount Disbursed</b> |
|---|-------------------------|
| Federal Pell Grant                                | \$ 230,891              |
| Federal Direct Loan Program Subsidized Stafford   | 251,682                 |
| Federal Direct Loan Program Unsubsidized Stafford | 164,167                 |
| Federal Direct Loan Program PLUS                  | 1,720                   |
| <b>Total</b>                                      | <b>\$ 768,460</b>       |

Source: U.S. Department of Education

Default Rate FFEL/DL:      2011 13.3%  
   2010 8.5%  
   2009 12.5%

Source: U.S. Department of Education

## **B. Scope of Review**

The U.S. Department of Education (the Department) conducted a program review at Elite Academy of Beauty Arts (EABA) from 9/12/2011 to 9/16/2011. Subsequent follow up visits were made on 7/16/2013, and 2/19/2014. The review was conducted by Lydia Gonzalez and Judith Ortiz Velazquez.

The focus of the review was to determine EABA's compliance with the statutes and federal regulations as they pertain to the institution's administration of Title IV programs. The review consisted of, but was not limited to, an examination of EABA'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 2009/2010 and 2010/2011 (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. In addition, 3 files were selected from award years 2010/2011, to determine whether or not the institution was complying with Ability to Benefit (ATB) regulations.

On July 16, 2013, program reviewers obtained an additional 36 student files covering award years 2010/2011 through 2012/2013. The files were selected using a judgmental sample in order to conduct further research as a result of a referral received from the U.S. Office of Inspector General (OIG) Investigation Services.

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 EABA'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 EABA 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 EABA to bring operations of the financial aid programs into compliance with the statutes and regulations.

#### **1. Lack of Administrative Capability**

**Citation:** The Department expects institutions participating in the Title IV programs to maintain the highest standards of care and diligence in administering those programs. In order to meet these standards, an institution must maintain accurate and complete records supporting the Title IV payments made to each student. An institution's maintenance and submission of accurate student eligibility records is critical to the Department's oversight responsibilities. The Department relies on those records when determining, as outlined below, the initial eligibility of a student for Title IV assistance and his/her eligibility for subsequent payments. 34 C.F.R. §668.16(d), §668.24

In addition, the institution must use an adequate number of qualified persons to administer the Title IV, HEA programs in which the institution participates. The institution must also have written procedures or written information indicating the responsibility of the various offices with respect to the approval, disbursement, delivery of Title IV, HEA funds, and the preparation and submission of reports to the Department. 34 C.F.R. §668.16

An institution is considered to have administrative capability if it administers Title IV, HEA programs with adequate checks and balances in its system of internal controls; and divides the functions of authorizing payments and disbursing or delivery of funds so that no office has responsibility for both functions with respect to any particular student aided under programs. 34 C.F.R. §668.16(c)

Small schools are not exempt from this requirement even though they may have limited staff. Individuals working in either authorization or disbursements may perform other functions as well, but not both authorization and disbursements. Please refer to the 2011/2012 Federal Student Aid Handbook, Volume 2, and Chapter 3 for further guidance.

**Non-Compliance:** During the program review process, the school director informed the reviewers that in addition to her responsibilities as the school director, she is also the

admission representative, the educational director, the registrar, the bursar and also provides prospective students with financial aid information, including assisting with completion of the FAFSA when the part-time financial aid administrator is not available. It was also disclosed that the school director submits the list of eligible students to the school's third party servicer, Educational Compliance Management (ECM) to process the authorization in the system. The school director then draws the funds, and would also post the funds to the student's account.

A recent review of EABA's separation of duties requirements disclosed that the school Director is the only employee handling all matters regarding admissions, overseeing education, financial aid intake, awarding, disbursing and posting Title IV funds. As a result, there is no separation of duties. The name of the Financial Aid Administrator listed in our system did not appear in EABA's payroll records during 2012 or 2013.

The institution's impaired administrative capability causes the institution to disburse Title IV funds to ineligible students, which creates a financial burden for the U.S. Department of Education. The following serious findings, which are included in this report, indicate that EABA has a lack of administrative capability:

2. Attendance Records- Inaccurate/Conflicting/Missing
3. Ability to Benefit Violations
4. Incorrect Return of Title IV Calculations
5. Incomplete Verification
9. Untimely Processing of Student Withdrawals
10. Satisfactory Academic Progress Deficiencies
12. Information in Student Files Conflicting- Foreign High School Diploma
13. Incentive Compensation Violation

**Required Action:** The ability of an institution's Financial Aid and Business Office staff to coordinate the information it collects and to resolve discrepancies are critical elements in an evaluation of the institution's administrative capability. The regulation requires institutions to develop an adequate system to ensure consistency of information related to a student's application for Federal student aid, regardless of the source of information. The institution is responsible for reconciling all information received. In order to meet administrative capability requirements, it is essential that EABA has an appropriate number of staff to handle the day-to-day administration of the Title IV, HEA programs. In addition, all staff handling the day-to-day processes should be cognizant of policies and procedures in order to maintain compliance with Title IV, HEA regulations and should receive appropriate training on changes to the programs. In response to this finding, EABA must prepare a training plan for its staff to ensure it develops adequate internal controls to properly administer the Title IV programs. EABA must submit details of that plan to this office with the response to this report.

The information obtained during the review and investigation disclosed severe breaches of EABA's fiduciary duty to the Department, serious violations of Title IV regulations, and questionable actions of school officials that call into question their abilities to act as fiduciaries of Federal funds. Based on the findings outlined below, this program review report is being referred to the Administrative Action and Appeal Service Group (AAASG) for any further action deemed necessary.

The institution will be apprised of any further action or requirement.

## **2. Attendance Records- Inaccurate/Conflicting/Missing**

**Citation:** An institution is required to maintain records that document its administration of the Title IV programs in accordance with applicable requirements and delivery of Title IV program funds. As a clock hour school, this includes the maintenance of complete and accurate attendance records, including any make-up hours recorded for the students, since they serve as the basis for all Title IV award determinations. 34 C.F.R. §668.16

Payment periods for an eligible institution that measures progress in clock hours, for students enrolled in an eligible program that is more than one academic year in length, the first payment period is the period of time in which the student successfully completes half of the clock hours, as applicable, in the academic year and half of the number of weeks of instructional time in the academic years; and the second payment period is the period of time in which the student successfully completes the academic year. 34 C.F.R. §668.4(c)(2)(a)(B)

**Noncompliance:** The reviewers found that EABA's procedures to monitor students' attendance for the purpose of disbursing Title IV funds are not adequate. EABA uses the attendance information from its computerized system to disburse Title IV funds. However, the reviewers found that the attendance entered in the system did not always match the attendance source documents (teachers' attendance rosters). The attendance discrepancies found bring into question whether the following students met Title IV eligibility, whether or not the students were eligible for subsequent Title IV disbursements, and whether or not the students completed the required hours to graduate, and received proper certification to take the Cosmetology State Board Examination.

In addition, the teachers' attendance rosters indicate that EABA only offered 4 hours and 45 minutes of instruction instead of 5 hours per day. There was a lunch break from 11:00am to 11:30am and 10 minutes break at the end of the day. Therefore, the total number of hours not offered was 15 minutes per day X 200 days = 50 hours.

**Student #2-** the student began the Cosmetology 1000 hour program on 3/23/09. The student's attendance records indicate a difference of 26 hours between the number of

hours in instruction the student completed in the system and the completed hours documented in the teachers' attendance rosters. The student was either absent or no teachers' rosters were provided for the following dates: 4/28/09, 7/1/09, 7/22, 8/21/09, 8/31, and 3/23/10. In addition, according to the teachers' roster, the student was present on 10/30/09 from 10:30am to 2:45pm but was not credited the 4 hours in the system. On 3/23/09, the student was late for an hour and fifteen minutes but the system showed 5 hours present. On 4/20/09, the student was one hour late but the system shows 5 hours, and on 4/24/09 the student was again a half hour late but was credited 5 hours in the system. The system showed that the student had a total of 1000 hours present as of 4/17/10 but the teachers' attendance rosters indicate that she only completed 974 hours. The student was listed as a graduate from the Cosmetology program.

**Student #3-** the student began the Cosmetology 1000 hour program on 3/23/09. The student's attendance records indicate a difference of 74 hours between the system's attendance and the teachers' attendance rosters. The student was either absent or no teachers' rosters were provided for the following dates: 4/28/09, 7/13/09, 7/14, 7/16, 7/17, 7/22, 7/23, 7/27, 9/3/09, 9/4, 3/9/10, and 5/10/10. In addition, the following discrepancies were noted:

| Date    | Attendance        | # hours in rosters | Credited in system | Difference |
|---------|-------------------|--------------------|--------------------|------------|
| 3/26/09 | 9am to 12pm       | 3                  | 5                  | (2)        |
| 5/15/09 | 9am to 1:30pm     | 4.5                | 5                  | (.5)       |
| 6/1/09  | 9:30am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 6/2     | 9:45am to 1:45pm  | 4                  | 5                  | (1)        |
| 6/4     | 9:35am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 6/12    | 9:25am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 6/15    | 9:30am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 6/23    | 9:40am to 1:45pm  | 4                  | 5                  | (1)        |
| 6/24    | 9:25am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 7/29/09 | 9:20am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 8/3/09  | 9:30am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 9/8/09  | 9:20am to 1:45pm  | 4.5                | 5                  | (.5)       |
| 10/7/09 | 10:30am to 2:45pm | 4.5                | 5                  | (.5)       |
| 10/16   | 11:30am to 2:45pm | 3.5                | 4                  | (.5)       |
| 11/5/09 | 10:30am to 2:45pm | 4.5                | 5                  | (.5)       |
| 11/16   | 10am to 1:45pm    | 4                  | 5                  | (1)        |

The system showed that the student had a total of 1000 hours present as of 8/17/10 but the teachers' attendance rosters indicate that she only completed 926 hours. In addition, the attendance rosters indicate that the EABA only offered 4 hours and forty five minutes of instruction instead of 5 hours per day. There was a lunch break from 11am to 11:30am and 10 minute break at the end of the day. Therefore, the total number of hours not offered was 15 minutes per day X 200 days = 50 hours. The student was listed as a graduate from the Cosmetology program.

Similar attendance problems were noted for the following cosmetology students:

**Student #5-** the system showed that the student had a total of 1000 hours present as of 3/11/10 but the teachers' attendance records indicate that he only completed 906 hours. The student was listed as a graduate from the Cosmetology program.

**Student #8-** the system's attendance showed that the student had 1000 hours as of 9/16/10. However, the teachers' attendance records indicate that she only completed 865 hours. The student was listed as a graduate from the cosmetology program.

**Student #9-** the system's attendance showed that the student had 1000 hours as of 2/24/2011. However, the teachers' attendance records indicate that she only completed 875 hours. The student was listed as a graduate from the cosmetology program.

**Student #11-** the system's attendance showed that the student had 1000 hours as of 11/19/10. However, the teachers' attendance records indicate that she only completed 918.5 hours. The student was listed as a graduate from the cosmetology program.

**Student #14-** the system's attendance showed that the student completed 1000 hours as of 1/25/11. However, the teachers' attendance rosters indicate that she only completed 904 hours. The student is listed as a graduate from the Cosmetology program.

**Student #16-** the system's attendance showed that the student completed 1000 hours as of 6/7/11. However, the teachers' attendance rosters indicate that she only completed 954 hours. The student is listed as a graduate from the Cosmetology program.

**Student #19-** the system's attendance showed that the student completed 1000 hours as of 8/8/11. However, the teachers' attendance rosters indicate that she only completed 845 hours. The student is listed as a graduate from the Cosmetology program.

**Student #32-** the system's attendance showed that the student completed 1000 hours as of 8/2/11. However, the teachers' attendance rosters indicate that she only completed 870 hours. The student is listed as a graduate from the Cosmetology program.

**Student #33-** the system's attendance showed that the student completed 1000 hours as of 6/30/11. However, the teachers' attendance rosters indicate that she only completed 917.5 hours. The student is listed as a graduate from the Cosmetology program.

The following attendance discrepancies were noted for Cosmetology students that were current as of the date of the review:

**Student #6** – the student's attendance records indicate a difference of 53 hours between the system's attendance and the teachers' attendance rosters. The student was absent but credited as present in the system on the following dates: 5/19/2010, 5/20, 6/21/2010, 6/22, 7/12/10, 7/19, 7/21, 8/19/10, 10/18/10, 10/19, and 10/20 and 10/21/10. In addition,

on 9/16/10 the teacher's attendance indicate that she attended from 9am to 2pm but no hours were credited in the system.

**Student #10-** the student's system's attendance record indicates that she had 615 present hours as of 8/31/11. However, the teachers' attendance rosters indicated 463.5 hours present representing 151.5 missing hours. Discrepancies were noted in entering attendance from the teachers' rosters to the system. For example, on 1/12/10, the teacher's roster indicated that the student attended from 5:30pm to 8:30pm. The system shows 5 hours present, instead of 3 hours. From 8/9/10 to 12/23/10, the teachers' rosters indicated that the student was absent for 28 days, however, the student was credited 3 hours present per day in the system.

**Student #12-** the student's attendance record indicates a difference of 35.5 hours between the system and the teachers' attendance rosters. The student was either absent or no rosters were provided for the following dates: 12/21/09, 1/22/10, 2/19/10, 2/24/10, 3/9/10, 3/16/10, 4/15/10, 5/17/10, 3/8/11 and 6/30/11. In addition, on 3/25/10 the student attended from 6:30pm to 8:30pm and was credited 3 hours present in the system, instead of 2 hours, and on 4/5/10, the student attended from 6pm to 8:30pm but was credited 3 hours instead of 2.5 in the system.

**Student #17-** the student began the 1000 hour Cosmetology program on 6/13/11. The following attendance discrepancies were noted: the student was absent on 8/16/11 but credited 7 hours in the system, present on 8/17/11 from 9am to 4pm but 0 hours were credited in the system.

**Student #18-** the student began the Cosmetology 1000 hour program on 11/29/10. The student's attendance records indicate a difference of 25 hours between the system's attendance and the teachers' attendance rosters. The student was listed as an active student as of the date of the review. The system showed that the student had a total of 644 hours present as of 8/31/11 hours present but actual attendance records indicate that she only attended 619 hours.

**Student #20-** the student began the Cosmetology 1000 hour program on 12/6/2010. The attendance records indicate a difference of 62 hours between the system's attendance and the teachers' attendance rosters as of the date of the program review. The student was listed on an authorized leave of absence from 9/3/11 to 10/11/11 as of the date of the review. The system showed that the student had a total of 472 hours present as of 8/31/2011 but actual attendance records indicate that she only had 410 hours.

**Student #23-** the student began the Cosmetology 1000 hour program on 10/13/10. The student's attendance records indicate a difference of 38 hours as of 8/31/11 between the system's attendance and the teachers' attendance rosters. The system showed 510 hours

as of 9/12/11; however, the teachers' attendance rosters indicated that she only attended 472 hours.

**Student #24-** the student began the Cosmetology 1000 hour program on 9/13/10. The student's attendance records indicate a difference of 35 hours between the system's attendance and the teachers' attendance rosters. The system showed that the student had a total of 508 hours present as of 8/31/11 but actual attendance records indicate that she only attended 473 hours.

**Student #26-** a teachers' attendance roster was not provided for 7/28/11, however, the student was credited 7 hours in the system. She was a current Cosmetology student as of the date of the program review; however, missing or discrepant attendance records may negatively affect Title IV subsequent disbursement and or graduation.

**Student #28-** the student began the Cosmetology 1000 hour program on 10/13/10. The following attendance discrepancies were noted: 10/21/10 present from 10am to 2pm, credited 5 hours instead of 4, 11/11/10 absent, credited 5 hours, 12/24/10 absent, credited 5 hours, 3/8/11 no teachers' roster, credited 7 hours, 3/24 present from 9am to 12pm, credited 5 hours instead of 3, and 4/13/11 present from 10am to 2pm, credited 6 hours instead of 4. The student was missing 22 hours as of his last date of attendance. A notice of termination due to excessive absences was sent to the student with a termination date of 8/3/11.

**Student #30-** the student began the Cosmetology 1000 hour program on 4/20/10. The student's attendance records indicate a difference of 52 hours between the system's attendance and the teachers' attendance rosters. The student was either absent or no teachers' rosters were provided for the following dates: 1/3/11, 1/4, 1/12, 1/18, 1/19, 1/20, 1/26, 2/8/11, 2/9, 2/10, 2/17, 2/24, 3/8/11, 8/3/11, 8/8, and 8/11. The system showed that the student had a total of 655 hours present as of 8/31/11 but the teachers' attendance records indicate that she only attended 603 hours.

To be eligible for Pell grant students are required to attend at least 600 clock hours. The teachers' attendance records for the Esthetic 600 hour program indicate that the students attending the Esthetic program were not offered sufficient hours to complete 600 hours as follows:

**Student #13-** the student's attendance records indicate a difference of 64 hours between the system's attendance and the teachers' attendance rosters. The system's attendance showed that the student had 600 hours as of 11/17/10. However the teachers' attendance records indicate that she only completed 536 hours. The student is listed as a graduate from the Esthetics program.

**Student #15-** the student's attendance records indicate a difference of 61 hours between the system and the teachers' attendance rosters. The system's attendance indicates that the student completed 600 hours as of 11/18/10. However the teachers' attendance records indicate that she only completed 539 hours. The student is listed as a graduate from the Esthetics program.

**Student #22-** the student's attendance records indicate a difference of 68 hours between the system's attendance and the teachers' attendance rosters. According to the enrollment agreement, the student was scheduled to graduate from the Esthetician 600 hour program on 9/30/11. The student had 481 hours in the system as of 8/31/11. However, the teachers' attendance rosters indicated that she only attended 413 hours.

**Required Action:** Since student attendance is a requirement of the New York State Department of Education, Bureau of Proprietary School Supervision for the programs approved, and offered at the institution, EABA must adhere to these approval requirements, as well as Title IV program eligibility requirements in order for its enrolled students to be eligible for Title IV assistance. EABA's attendance policy requires students to complete the required number of hours as approved in order to receive certification for licensing requirements in the State of New York. Interviews conducted with EA's academic officials disclosed that students can be absent up to 20% of the hours, however that all absent hours must be made up prior to graduation. Therefore, students are required to attend 100% of the required hours in order to qualify for the state license application.

EABA must research its files to determine whether it has any further documentation that could substantiate that any of the missing program hours were offered by EABA, and completed by the students identified for this finding. The attendance records source should specifically identify the classes being offered to students on any given day. Any documentation found that would substantiate completion of the missing hours by the students must be submitted to this office.

Additionally, the school must perform a file review of all Title IV recipients who graduate, separated by program, including the students identified as graduate students in this finding from award years 2009/2010 through present in order to determine the effect on student eligibility for Title IV awarded and disbursed to students that have graduated without completing the required number of hours. Due to high number of discrepancies between EABA's system for tracking attendance, and actual teachers' rosters, the institution must use the teachers' rosters to complete the required file review. Amounts paid in excess of allowable amounts must be identified for each of these students by reducing the aid for the program by the percentage of hours that the student is missing.

The result of the institution's review must be submitted to this office in spreadsheet format identifying the following information:

1. Student name;
2. Student social security number;
3. Academic Program
4. Dates of Attendance
5. Total number of hours required in program;
6. Total number of instructional hours offered;
7. Total number of hours completed
8. Percentage of hours completed (total number of hours completed divided by 1000, or 600);
9. Total amount of aid by Title IV program that the student received;
10. Amount of eligible payments (percentage of hours offered times total Title IV received);
11. Total ineligible payments (total Title IV aid received less eligible payments).

For example, student X enrolled in a 1000 hour cosmetology program, scheduled to attend 5 hours a day. Instead, the school only offered 4.5 hours per day. As a result the student was not offered 100 hours ( $.5 \times 5 \text{ days} \times 40 \text{ wks}$ ). If student X received \$5550 in Pell, the school must return \$555 to the Department ( $100/1000 = 10\% \times \$5500 = \$555$ ) and the same percentage is use for the loans ( $\$3500 \text{ DL Sub} \times 10\% = \$350$ )

Another example, student Y was scheduled to complete 450 hours during the first payment period. EABA disbursed the first and 2<sup>nd</sup> Pell grant disbursements totaling \$5550 ( $\$2775 + \$2775$ ). However, student Y only completed 400 of the 450 scheduled hours, and then stopped attending school. The school must return the 2<sup>nd</sup> Pell disbursement totaling \$2775 because the student failed to complete the 1<sup>st</sup> payment period.

This information must be provided to this office with auditor's verification within ninety (90) days of receipt of this letter to the address below. We define auditor verification as a confirmation statement that a corrective action was accurately taken by the institution in accordance with the Department's instructions (which includes the confirmation of documents, liabilities paid, file reviews, projection sampling, and formulas used to calculate liabilities).

In addition to these requirements, EABA must devise and implement procedures that will prevent reoccurrence of this finding. A copy of those procedures must accompany the institution's response.

Instructions for the repayment of liabilities arising from this finding will be provided in the final program review determination letter.

### 3. Ability to Benefit Violations

**Citation:** To establish a student's eligibility for Title IV, HEA program funds under this subpart, if a student has not passed an approved state test, under § 668.143, an institution must select a certified test administrator to give an approved test. (2) An institution may use the results of an approved test it received from an approved test publisher or assessment center to determine a student's eligibility to receive Title IV, HEA programs funds if the test was independently administered and properly administered. (b) The Secretary considers that a test is independently administered if the test is— (1) Given at an assessment center by a test administrator who is an employee of the center; or (2) Given by a test administrator who— (i) Has no current or prior financial or ownership interest in the institution, its affiliates, or its parent corporation, other than the interest obtained through its agreement to administer the test, and has no controlling interest in any other educational institution; (ii) Is not a current or former employee of or consultant to the institution, its affiliates, or its parent corporation, a person in control of another institution, or a member of the family of any of these individuals; (iii) Is not a current or former member of the board of directors, a current or former employee of or a consultant to a member of the board of directors, chief executive officer, chief financial officer of the institution or its parent corporation or at any other institution, or a member of the family of any of the above individuals; and (1i) is not a current or former student of the institution. 34 C.F.R § 668.151 (a)(1)

**Noncompliance:** During the school recertification application research process, the Department found that the person administering the ability to benefit exam was an employee of a law firm where the president/owner of the EABA is a partner. School officials informed the reviewers that EABA is no longer accepting ATB students. Since the ability to benefit test administrator does not meet the regulatory definition of an independent test administrator, the ATB tests to establish eligibility for Title IV funds for students # 28, 31, 32, and 33 is not valid. As a result, these students are not eligible for Title IV, HEA funds.

**Required Action:** In response to this finding, EABA must determine the exact amount of institutional liability associated with this finding. The institution is required to perform a full **file review** including the students cited in this finding to identify all Title IV recipient students who were admitted as ATB students for whom their tests were not independently administered for award years 2008/09, 2009/10 and 2010/11. EABA must submit the results of the file review in spreadsheet format with the following information:

1. Student's Name;
2. Student's Social Security Number;
3. Award Year;
4. Amount of Title IV, HEA programs disbursements by program(s)
5. Date of disbursement (s)

This information must be provided to this office with auditor verification within ninety (90) days of receipt of this letter to the address below. We define auditor verification as a confirmation statement that a corrective action was accurately taken by the institution in accordance with the Department's instructions (which includes the confirmation of documents, liabilities paid, file reviews, projection sampling, and formulas used to calculate liabilities).

EABA must devise and implement procedures that will prevent reoccurrence of this finding. A copy of those procedures must accompany the institution's response.

Instructions for repayment of liabilities, including any interest, will be provided in the Final Program Review Determination (FPRD) letter.

#### **4. Incorrect Return of Title IV Calculations**

**Citation:** When a recipient of Title IV funds withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, it must perform a Return of Title IV Funds calculation to determine the amount of Title IV grant or loan assistance the student earned as of the student's withdrawal date. The calculation should incorporate all of the elements of a refund calculation identified in pertinent Federal regulations, including the identification of proper payment periods, the correct calculation of the number of days completed by the student and the number of days in payment period, and the inclusion in the Return calculation of all pertinent Title IV disbursements. 34 C.F.R. §668.22

**Noncompliance:** The institution incorrectly calculated the return of Title IV funds for students # 4, 7, 21, 25, 41, 56, and 59. The following inconsistencies were noted:

1. EABA was unable to consistently determine whether to use payment period or period of enrollment. At times the information was left blank but EABA would sometimes complete the form using the payment period, and sometimes the enrollment period.
2. When determining the percentage of the period completed, EABA did not round to three decimal places.
3. EABA failed to complete page 2 of the student's return of Title IV (R2T4) calculation worksheet. Step 5 on page 2 of the calculation worksheet allows the institution to include institutional charges for the period, such as tuition, room and board, books, registration, lab fees, etc. This step allows the institution to compare the amount of Title IV to be returned (box K) on page 1 to amount of earned charges (box N) on page 2 to enter the lesser amount to be returned.

4. EABA did not always include the correct number of hours scheduled to complete or the total hours in the period
5. EABA did not always follow the order of return by Title IV program. There were instances where the Pell grant was refunded before the Direct Subsidized loan.

As a result, the amount of Title IV funds returned for the students are incorrect. Student #41 is an example of the effect of EABA's failure to incorporate all the elements of a refund calculation.

**Student #41-** the student's withdrawal date was 7/21/11. EABA entered 111 scheduled hours completed in a 450 hour payment period, thereby retaining 25% of the student's Title IV funds received per EABA's calculation. The attendance records provided indicate that the total schedule hours offered as of her last date of attendance was 105 hours. Therefore, the amount of Title IV earned was 23.3%. In addition, the student's ledger incorrectly shows that EABA refunded \$1742 to the Direct Subsidized loan program. However, EABA failed to complete page 2 of the R2T4 calculation. After completion of the first page of the R2T4 calculation worksheet noting the amount of Title IV to be refunded, it retained \$100 for the application fee and \$250 for books totaling \$350. EABA deducted the \$350 from the student's required \$1742 DL Subsidized loan refund and refunded \$1392 instead.

**Required Action:** The institution must determine the exact amount of institutional liability associated with this finding. The institution is required to perform a **full file review** to identify all Title IV recipient students, in the award years **2009/2010 to present** who withdrew from or stopped attending the institution for which a return of Title IV calculation was required. EABA must complete the attendance file review cited in finding 2 to determine the correct hours offered before completing the file review for this finding.

In response to this finding, the institution must provide the results in spreadsheet format with the following information:

- (1) Student's Name;
- (2) Student Social Security Number;
- (3) Award year;
- (4) Original amounts of Title IV aid awarded and disbursed for the applicable award year, organized by Title IV program and disbursement date;
- (5) Date of student's withdrawal;
- (6) Date of the institution's withdrawal determination;
- (7) Amount of return of Title IV paid, by program
- (8) Date the amount was paid
- (9) Additional return of Title IV due the Department as a result of recalculation, if any, by program

This information must be provided with auditor verification within ninety (90) days of receipt of this letter to the address below. We define auditor verification as a confirmation statement that a corrective action was accurately taken by the institution in accordance with the Department's instructions (which includes the confirmation of documents, liabilities paid, file reviews, projection sampling, and formulas used to calculate liabilities).

EABA must devise and implement procedures that will ensure that Returns of Title IV Funds will be calculated correctly. A copy of those procedures must accompany the institution's response.

Instructions for repayment of any liabilities, including interest, will be provided in the final program review determination letter.

## **5. Incomplete Verification**

**Citation:** An institution shall require each applicant whose application is selected for verification on the basis of edits specified by the Secretary, to verify all the applicable items specified in 34 C.F.R. § 668.56, except that no institution is required to verify the application of more than 30 percent of its total number of applicants for assistance under the Federal Pell Grant, Federal Direct Stafford Loan, Campus-based, and Federal Stafford Loan programs in an award year. 34 C.F.R. §668.54

The purpose of verification is to ensure accuracy in determining eligibility. An institution is responsible for resolving conflicting information related to a student's application for federal student aid. There are five required data elements that must be verified. These five items are: 1) household size, 2) number enrolled in college, 3) adjusted gross income, 4) U.S. income tax paid, and 5) other untaxed income and benefits. Supporting documentation collected from the student/parents is compared to the information that was reported on the student's Institutional Student Information Record (ISIR). Verification documentation collected must be retained in the student's file as evidence that the process was completed. 34 C.F.R §§ 668.16(f), 668.56.

Further guidance is provided under the Department's 2009/2010, 2010/2011, 2011/2012 Student Financial Aid Handbook, Application and Verification Guide, Chapter 2.

**Noncompliance:** The institution failed to verify necessary information required during the verification process for the following students:

**Student #17-** the student's 2010/11 ISIR indicates that she is married; however, her husband was not included in the household size on the verification worksheet. His income for 2009 was also not included.

**Student #24-** the student's 2010/11 verification worksheet indicates that there are two people attending college, however, only 1 person was listed as attending college on the ISIR. The student had an EFC of \$1,342. If the student's information on the verification worksheet was correct, the student might have been eligible for additional funds.

**Student # 27-** the student's 2010/11 ISIR indicates that the parents have untaxed income in the amount of \$9600. However, the student's file did not contain documented evidence of the income, and the verification worksheet did not have the income information.

**Student #30-** the student's 2010/11 verification worksheet indicates that there are two people attending college, however, only 1 person was listed as attending college on the ISIR. The student had an EFC of \$1,168.

**Student #41-** the student's 2010/2011 ISIR indicates \$0 income tax paid and \$0 untaxed income. However, the student's 2009 1040 income tax returns indicate \$365 income tax was paid, and \$800 untaxed income (making work pay credit earned) was not reported.

**Required Action:** The cases discussed in this finding appear to indicate significant deficiencies with EABA's verification process of ensuring accuracy in determining students' eligibility. The institution is required to perform a file review for all 2010/2011 recipients selected for verification to determine the full extent of error for the award year. If completion of verification results in a change to the student's eligibility, and/or if the institution should discover that it is unable to complete verification for any student, the institution must identify the ineligible Title IV amounts paid as a liability, and report the results to the office in spreadsheet format with the following information:

1. Student name
2. Student social security number
3. Amount of ineligible Title IV disbursement for award years 2010/2011, by program, if any.

This information must be provided to this office with auditor verification within ninety (90) days of receipt of this letter to the address below. We define auditor verification as a confirmation statement that a corrective action was accurately taken by the institution in accordance with the Department's instructions (which includes the confirmation of documents, liabilities paid, file reviews, projection sampling, and formulas used to calculate liabilities).

EABA must devise and implement procedures that will prevent reoccurrence of this finding. A copy of those procedures must accompany the institution's response.

The institution also has the option to review a statistical sample of students instead of performing a full file review for this finding.

Instructions for repayment of liabilities, if any, including any interest, will be provided in the Final Program Review Determination (FPRD) letter.

#### **6. Borrower Not Notified of Right to Cancel All or Part of Loan Disbursement (s)**

**Citation:** If an institution credits a student's account with Direct Loan, FFEL or Federal Perkins Loan Program funds, the institution must notify the student, or parent of the date and amount of the disbursement, and the student's right to cancel all or a portion of that loan or loan disbursement and have the loan proceeds returned to the holder of that loan. The notice must be sent in writing no earlier than 30 days before, and no later than 30 days after, crediting the student's account at the institution.  
34 CFR § 668.165(a)(2)(i)(ii)

**Noncompliance:** The reviewers noted that although Federal Direct loans were credited to student accounts, they were unable to verify that student loan disbursement notifications were sent to students allowing them the opportunity to cancel all or a portion of the loan disbursement and have the loan proceeds returned to the holder of the loan. When the reviewers questioned school officials, the response was that the third party servicer, Educational Compliance Management Inc. (ECM) would prepare the letter of notification but that the school did not know that the letters of notification had to be mailed or e-mailed to the students.

**Required Action:** There are no liabilities associated with this finding, however, in response to this finding, EABA must provide all current Federal Direct loan recipients with their Direct loan disbursement and right to cancel notification information. The school is also required to develop procedures that will ensure the prompt notification of Direct loan disbursements, and right to cancel all or a portion of the loan(s) to students in the future. Details of those procedures must be provided with the response to this report.

#### **7. Federal Direct Loan Exit Counseling Deficiencies**

**Citation:** A school must conduct exit counseling with each Federal Direct loan borrower whether in person, by audiovisual presentation, or by interactive electronic means. In each case, the school must conduct this counseling shortly before the student borrower ceases a

least half-time study at the school. If the borrower withdraws without the institution's prior knowledge and did not attend an exit interview, the institution must mail written counseling materials to the borrower within 30 days after learning that he borrower has withdrawn. 34 C.F.R. § 685.304(b)

**Non-compliance:** EABA was unable to provide documentation of the required Federal Direct Loan exit counseling for students # 1, 19, 40, 41, 56, and 59.

Failure to conduct exit counseling may result in students being improperly informed concerning their responsibility as borrowers which may, in turn, lead to an increase in the incidents of default. Title IV loans that go into default create increased expense for the Department.

**Required Action:** There are no liabilities associated with this finding. However, EABA must sent exit counseling material to the students, and inform this office of the procedures it has implemented to ensure that all Federal Direct loan exit counseling requirements are met, including the students cited in this finding.

## 8. Student Enrollment Reporting Untimely

**Citation:** A school shall, unless it expects to submit its next student status confirmation report to the Secretary within the next 60 days; notify the Secretary within 30 days if it discovers that a Direct Subsidized, Direct Unsubsidized, or Direct Plus Loan has been made to or on behalf of student who enrolled at that school but has ceased to be enrolled on at least a half-time basis. 34 C.F.R. 685.309 (b)(2)(i)

**Noncompliance:** The institution failed to report the students' enrollment status in a timely manner or failed to report change in status for the following students:

**Student #2-** the student graduated 4/27/10. However, the change in status was not reported to NSLDS until 10/18/10.

**Student #3-** the student's graduation date of 8/17/10 was not reported to NSLDS until 2/17/11.

**Student #12-** the student was on an authorized leave of absence from 10/4/2010 to 3/1/2011, however, EABA did not report the change in status to NSLDS.

**Student #13** the student graduated on 11/17/10. However, EABA incorrectly reported the graduation date as 12/24/10.

**Student #14-** the student's graduation date of 1/25/11 was incorrectly reported as 3/20/11, and was not reported until 8/25/11.

**Student #15-** the student's records indicate that she graduated 11/18/10, however, the change in status was reported late and incorrect to NSLDS with a graduation date of 12/24/10 on 8/25/11.

**Required Action:** There are no liabilities associated with this finding. However, the institution is required to make the necessary status corrections for the students cited in this finding. The institution must provide documentation to indicate that the required changes have been made.

Also, the institution is required to have procedures in place to ensure that student confirmation reports reflect accurate data and that students' change of status are reported in a timely manner. Details of those procedures must be provided with the response to this report.

## 9. Untimely Processing of Student Withdrawals

**Citation:** Regulations require that for a student who ceases attendance at an institution that is required to take attendance, including a student who does not return from an approved leave of absence, the student's withdrawal date is the last date of academic attendance as determined by the institution from its attendance records. 34 CFR § 668.22 (b)(1)

Except in unusual instances, the date of the institution's determination that the student withdrew should be no later than 14 days after the student's last date of attendance as determined by the institution from its attendance records. DLC GEN 04-03, February 2004, DLC GEN 04-12, November 2004

**Noncompliance:** EABA failed to process students' withdrawals in a timely manner for the following students who stopped attending their program of studies without giving formal notification to the school:

**Student #3-** the student's attendance records indicates that she was absent consecutively from 3/18/10 through 5/10/10. There was no authorized leave of absence documentation in the student's file, and a withdrawal was not processed per requirement.

**Student #18-** the student failed to return from an approved leave of absence as scheduled on 3/28/11. There was no documentation in the file from the student requesting an extension to return at a later date. The attendance records indicate that she was absent

consecutively from 3/28/11 to 4/27/11. The school failed to withdraw the student per requirement.

**Student #19-** the student's attendance records indicate that he was absent consecutively from 4/28/11 through 7/19/11. There was no authorized leave of absence documentation in the student's file, and a withdrawal was not processed per requirement.

**Student # 25-** the student's documented last date of attendance was 6/22/2011, however, EABA did not process the student's withdrawal until 7/21/11, 29 days later.

**Required Action:** A delay in processing a student's withdrawal results in delaying the return of unearned Title IV funds to the programs. EABA is required to review all the students who were or are currently on an approved leave of absence, in addition to the students cited in this finding. EABA must complete an R2T4 calculation for the students cited who were absent beyond 14 days without an authorized leave of absence during award years 2009/10 thru present. In addition, the institution must compare its leave of absence policy with the regulations; if it doesn't meet the criteria, EABA must perform a Return of Title IV.

In response to this finding, the institution must submit the results in spreadsheet format with the following information for students for whom EABA was required to perform R2T4 calculations as a result of exceeding 14 days allowable absence and or has an invalid LOA.

1. Student's Name;
2. Student's Social Security Number;
3. Award Year;
4. Amount of Return of Title IV due, organized by award year and Title IV programs
5. Date the student attended beyond the allowable 14 days of absence;
6. Date of the institution's determination that the student was placed on a leave of absence that did not meet the conditions for a leave of absence, or failed to return from an authorized leave of absence.

EABA must also provide this office with a copy of its written procedures for identifying unofficial withdrawals, and the steps it will take to ensure that there is no reoccurrence of this finding.

Instructions for the repayment of any liabilities arising from this finding will be provided in the final program review determination letter.

## 10. Satisfactory Academic Progress Deficiencies

**Citation:** An institution is said to have administrative capability if for purposes of determining student eligibility for Title IV aid, the institution establishes, publishes, and applies reasonable standards for measuring whether an otherwise eligible student is maintaining satisfactory progress in his or her educational program. 34 C.F.R. §668.16(e)

34 C.F.R. §668.32(f) states that a student is eligible to receive Title IV funds if the student maintains satisfactory academic progress in his or her course of study according to the institution's published standards of satisfactory progress that satisfy the provisions of 34 C.F.R. §668.16(e), and, if applicable, the provisions of 34 C.F.R. §668.34.

**Noncompliance:** EABA failed to evaluate students' academic progress per requirement. The Satisfactory Progress/Evaluation Record/Transcript forms used by EABA were not completed as of the date of the review. In addition, EABA failed to provide an academic transcript indicating whether or not the following students were maintaining satisfactory academic progress for subsequent Title IV, HEA disbursements as required. As a result, The subsequent Title IV disbursements for the following students are considered ineligible:

**Student #20-** the student's SAP evaluation records indicate that no evaluation had been performed as of the date of the program review. According to the EABA's SAP policy, the student's academic progress for the Cosmetology program should have been evaluated at 300 hours.

**Student #22** the student's satisfactory progress evaluation record indicates that no evaluation had been done as of date of the program review. According to EABA's SAP policy for the Esthetician program, the student's academic progress should have been checked at least twice, at 200 hours, and again at 350 hours. The student was scheduled to graduate on 9/30/11.

**Student #23-** the student's SAP evaluation records indicates that no evaluation had been performed as of the date of the program review. According to EABA's SAP policy, the student's academic progress for the Cosmetology program should have been checked at least once at 300 hours.

**Student #24-** the student's SAP evaluation records indicates that no evaluation had been performed as of the date of the program review. According to the EABA's SAP policy, the student's academic progress should have been evaluated at 300 hours.

**Student #26-** the student's satisfactory progress evaluation record indicates that no evaluation had been done as of the date of the program review. According to EABA's

SAP policy for the Cosmetology program, the student's academic progress should have been evaluated at least once at 300 hours. Although EABA had not disbursed subsequent Title IV payments, the institution is required to evaluate the student's academic progress prior to disbursing any further Title IV to the student. The student's teachers' attendance rosters indicated that she had completed 409 hours as of the date of the review.

**Required Action:** The institution must provide an explanation as to why SAP is not being evaluated in a timely manner. In addition, EABA must provide the students' current transcript, account card, and satisfactory academic progress determination for the students cited in this finding. Upon review of the information submitted, EABA will be apprised of any further action, if required.

EABA must also provide this office with a copy of its written current procedures for evaluating students' academic progress, and the steps it will take to ensure that there is no reoccurrence of this finding.

Instructions for repayment of liabilities, if applicable will be provided in the final program review determination letter.

## 11. Leaves of Absence Deficiency

**Citation:** A leave of absence is an approved leave of absence if

- (i) The institution has a formal policy regarding leaves of absence
- (ii) The student followed the institution's policy in requesting the leave of absence
- (iii) The institution determines that there is a reasonable expectation that the student will return to the school
- (iv) The institution approved the student's request in accordance with the institution's policy
- (v) The leave of absence does not involve additional charges by the institution
- (vi) The number of days in the approved leave of absence, when added to the number of days in all other approved leaves of absence, does not exceed 180 days in any 12-month period
- (vii) Except for a clock hour or non-term credit hour program, upon the student's return from the leave of absence, the student is permitted to complete the coursework he or she began prior to the leave of absence and
- (viii) If the student is a Title IV, HEA program loan recipient, the institution explains to the student, prior to granting the leave of absence, the effects that the student's failure to return from a leave of absence may have on the student's loan repayment terms, including the exhaustion of some or all of the student's grace period. 34 C.F.R. § 668.22(d)

**Noncompliance:** EABA authorized a leave of absence (LOA) to student #18 from 3/3/11 to 3/28/11, however, the student failed to return on 3/28/11. Instead, she returned a month later, on 4/28/11. The student was required to submit a written request for an extension in order for EABA to extend the LOA or EABA was required to withdraw the student after 14 consecutive absences per regulations for an institution that is required to take attendance.

**Required Action:** EABA must devise and implement procedures that will ensure that the institution's leave of absence procedures are in compliance with its written policy. A copy of those procedures must be submitted with the institution's response.

## 12. Conflicting Information in Student Files- Foreign High School Diploma

**Citation:** The ability of an institution to coordinate the information it collects and to resolve discrepancies are critical elements in an evaluation of administrative capability. The regulation requires institutions to develop an adequate system to ensure consistency of information related to a student's application for Federal student aid, regardless of the source of information. The institution is responsible for reconciling all information received. 34 C.F.R. § 668.16 (a), (f)

A student is eligible to receive Title IV, HEA program assistance if the student has a high school or its recognized equivalent. 34 C.F.R. § 668.32 (e)(1)

A proprietary institution of higher education is an educational institution that admits students who have a high school diploma, have a recognized equivalent of a high school diploma and are beyond the age of compulsory attendance in the state in which it is located. § 600.5(a)(3).

**Noncompliance:** The Department's Office of the Inspector General (OIG) Investigation Services, referred a complaint to this office from a former student on 1/15/2013. In the complaint, a student alleged that EABA admitted ineligible students who did not have a high school diploma, GED or pass an ability to benefit (ATB) exam. OIG's inquiry revealed that a former Secretary at EABA may have directed at least two students to have a Sworn Statement of Student's graduation from a foreign high school containing false information notarized and placed in students' financial aid files. The sworn statements were then used as basis for admission and students' Title IV federal funds eligibility. However, it was determined that neither of the students had a high school diploma, GED, or passed an ATB exam. OIG's request for ten random student files made on 12/10/2012 revealed that nine out of ten student files contained a sworn statement of student's graduation from a foreign high school. Since the Federal Student Aid has an open program review, the matter was referred to this office for further action. The information

obtained by OIG from students **# 56 and 59** confirms that neither student graduated from high school in their country as follows:

**Student #56-** during the student interview conducted by OIG, the student claimed that she explained to the Spanish speaking secretary at EABA that she had an expired cosmetology license from Puerto Rico, and that she did not have a high school diploma. In response, the student claimed that the Spanish speaking secretary advised her that “they will fix that.” She claims that the Spanish speaking secretary helped her fill out the forms and directed her to go across the street to a pharmacy to have some documents notarized, but she could not remember the content of those documents. The student further stated that she did not know that a high school diploma or GED or its equivalent was required to receive federal student aid. The highest level of education achieved was equivalent to the 11<sup>th</sup> grade. It appears that the Sworn Statement of student’s graduation from a foreign school was completed by someone other than the student. The school’s representative attesting to the validity of the statement was the school director, who does not speak Spanish. In addition, there is no indication of any efforts taken by EABA to obtain the educational records for this student. As a result, the Sworn Statement of High School Graduation used as the basis for admission and Title IV eligibility is not valid.

**Student #59-** during the student interview conducted by OIG, the student claimed that EABA’s secretary informed her over the telephone that she just needed the 2011 income tax returns to enroll at the school. The student claimed that she informed the Spanish speaking secretary that she did not have a high school diploma but that the secretary continued to complete the paperwork and told her that it was okay. She further stated that the secretary gave her a paper described as a statement advising that her high school diploma from the Dominican Republic had been misplaced, and was directed to the pharmacy across the street to be notarized for \$2.00. The student stated that she started high school in the Dominican Republic but never finished. The highest level of education achieved was that of an 8<sup>th</sup> grade. It appears that the Sworn Statement of Student’s Graduation from a Foreign School was completed by someone other than the student because under the reason why diploma or transcript cannot be obtained, the written response was “Left Diploma in Her Country Santo Domingo”, and under the heading “efforts undertaken by the student and or the school to obtain these educational records”, the written response was “Nobody send me my diploma”. The school official attesting to the validity of the statement was the school director, who does not speak Spanish, and was also the licensed agent who signed the enrollment agreement on 3/8/2012. In addition, there is no indication of any efforts taken by EABA to obtain the educational records for this student. As a result, the Sworn Statement of High School Graduation used as the bases for Title IV eligibility is not valid.

These allegations bring into question EABA’s admissions practices, specifically, that of admitting ineligible students who did not have a high school diploma, GED or passed an ATB test. As a result, on 07/16/2013, reviewers from this office visited the school to

obtain 36 additional student files from award years 2010/2011, 2011/2012, and 2012/2013 using a judgment sample, in order to conduct further research.

A review of the 36 additional student files obtained disclosed that a total of 25 of the 36 students selected for additional resting were admitted with a sworn statement of graduation from a foreign high school during award years. This represents 69.4%.

The Sworn Statement of Student's Graduation from a Foreign High School form is a NYSED BPSS-115 issued form which requires both the student's attestation and the director's attestation be signed before a Notary Public. The form must be completed in English and in the student's native language, and efforts must be undertaken by the student and/or the school to obtain these educational records. In all cases, the form only contained the notary's signature for the student's signature. None of the forms contained the School Director's notary's signature which is considered a violation of Section 126.1(g) of the Commissioner's Regulations. In addition, none of the forms were translated to the student's native language and no efforts were undertaken by the school to obtain the educational records. The following discrepancies were noted and or disclosed for the following students:

**Student #41-** the student's 2010/2011 ISIR indicates that she has a high school diploma. However, the sworn statement of student's graduation from a foreign high school falsely indicates that she graduated from Hogar Masonico, Santo Domingo on 6/30/1986, when she was nine (9) years old. The student's date of birth is 9/7/1977. It appears that the Sworn Statement of student's graduation from a foreign school was completed by someone other than the student. The school's representative attesting to the validity of the statement was the school director, who does not speak Spanish, and she is also the admission agent who signed the enrollment agreement. In addition, there is no indication of any efforts taken by EABA to obtain the educational records for this student. As a result, the student is not eligible for Title IV, HEA funds.

**Student #46-** the student's 2011/2012 ISIR indicates that he has a high school diploma. Instead, there is a copy of a sworn statement of student's graduation from a foreign high school in Ecuador which appears to have been completed by someone other than the student. During the student interview conducted on 12/3/2013, the student claimed that he told the Spanish speaking official at the school that he has a 9<sup>th</sup> grade education and that she never informed him that a high school diploma was required. When questioned about the information noted in the sworn statement, he stated that is the school where he obtained his 9<sup>th</sup> grade education. The affidavit was attested to by the same school agent who signed the enrollment agreement. The student does not have a high school diploma or its equivalent. Therefore, the student is not eligible for Title IV, HEA funds.

**Student #52-** the student's 2011/2012 ISIR indicates that she has a high school diploma. Instead, there is a copy of a sworn statement of student's graduation from a foreign high

school in Pakistan. The affidavit, which appears to have been completed by someone other than the student shows that the student attended the school before she was born. The student was born on 4/14/1990 and the dates of attendance are indicated as 8/25/1986 to 5/10/1990. The affidavit was attested to by the same school agent who signed the enrollment agreement. As a result, the Sworn Statement of High School Graduation used as the basis for admission is not valid and the student is not eligible for Title IV, HEA funds.

**Student #57** - the student's 2011/2012 ISIR indicates that she has a high school diploma. Instead, there is a copy of a sworn statement of student's graduation from a foreign school in the Dominican Republic which appears to have been completed by someone other than the student. The person who completed the affidavit misspelled "Dominican". The dates of attendance noted on the sworn statement from 9/10/1993 to 6/25/1995 are highly questionable because the student became a permanent resident of the United States since 11/15/1992. The affidavit was attested to by the same school agent who signed the enrollment agreement. In addition, there is no indication of any efforts taken by EABA to obtain the educational records for this student. As a result, the sworn statement of high school graduation used as the basis for admission is not valid and the student is not eligible for Title IV, HEA funds.

The following students' ISIRs indicated that they have a high school diploma. However, the students were admitted using a sworn statement of student's graduation from a foreign high school. There are instances where the form was partially or fully completed by someone other than the student. The sworn statement was attested to by the same school admission agent who signed the enrollment agreement. There was at least one instance where the school owner notarized the statement. In addition, the review indicates that the school failed to undertake any efforts in obtaining the educational records as required by New York State Education Department Bureau of Proprietary School Supervision. The students are #38, 42, 45, 47, 48, 49, 50, 51, 53, 54, 55, 58, 60, 62, and 64.

Additional discrepancies were noted which brings into question EABA's admissions practices as it pertains to the validity of high school graduation credentials for the following students:

**Student #40**- the student's 2010/2011 ISIR indicates that she has a high school diploma. However, the English translation of her high school credentials indicates that she obtained a junior high school education in Russia. The translation specifically states that she finished an eight-year education. As a result, the basis for admission is not valid and the student is not eligible for Title IV, HEA funds.

**Student #44**- the student's 2011/2012 ISIR indicates that she has a high school diploma. However, the English translation of her academic transcript states that she obtained a

certificate of basic education in the year 2000 at the age of 15. There is no indication that this represents completion of high school or secondary education. As a result, the basis for admission is not valid and the student is not eligible for Title IV, HEA funds.

**Student #65-** the student's 2012/2013 ISIR indicates that she has a high school diploma. Instead, there is a copy of a sworn statement of student's graduation from a foreign school name H/S La Reforma, Santo Domingo, Dominican Republic. The dates of attendance noted are 9/25/93 to 7/30/98. During an interview with the student, Department officials requested a copy of the student's high school diploma to be faxed to the office. Contrary to the information that appears in the sworn statement, the copy of the diploma received by this office which appears to be a GED has a completion date of 1/15/2002 issued by the Secretary of Education, The National Council of Education, Santo Domingo, Dominican Republic. The affidavit was attested to by the same school agent who signed the enrollment agreement. In addition, there was no indication of any efforts taken by EABA to obtain the educational records for this student prior to the reviewers requesting the information. This confirms that students are told to write the name of the foreign high school but it doesn't necessarily mean that the student actually obtained a diploma from that school, as indicated in this case.

**Student #66-** the student's 2012/2013 ISIR indicates that she has a high school diploma. Instead, there is a copy of a sworn statement of student's graduation from a foreign school name H/S La Reforma, Santo Domingo, Dominican Republic. The dates of attendance noted are 9/25/88 to 7/25/95. During an interview with the student, Department officials requested a copy of the student's high school diploma to be faxed to the office. The copy provided which was faxed from EABA on 12/11/13 shows that it is a certification from the Ministry of Education, but reviewers were unable to read the remaining information. A legible copy obtained during a recent visit to the school indicates a certificate in technical nursing from an educational region of Cotui in the Dominican Republic which has absolutely nothing to do with H.S. La Reforma. The affidavit was attested to by the same school agent who signed the enrollment agreement. In addition, there was no indication of any efforts taken by EABA to obtain the educational records for this student.

**Required Action:** The cases discussed in this finding indicate significant deficiencies with EABA's admissions practices, including apparent falsification of records. In response to this finding, EABA must conduct a full file review in order to identify all Title IV recipients who were admitted by accepting a Sworn Statement of Student's graduation from a foreign high school as the basis for admission, beginning with award year 2009/2010 through present. For these students, including the students cited in this finding, EABA is required to obtain the student's high school diploma and or the high school academic transcript confirming that the student did in fact graduate from the foreign high school listed, and provide a copy of the high school diploma and or the academic transcript to this office for every student.

1. Student's Name
2. Social Security Number

In addition to providing a copy of the foreign high school diploma or high school academic transcript, EABA is also required to provide an official English translation and validation of the diploma and or the high school academic transcript for all students admitted with a Sworn Statement of Student's Graduation form a Foreign High School.

EABA's employees involved in this finding such as Director, Admission Representative, and the Spanish speaking secretary must be excluded from working on completing this file review.

EABA must inform this office of the procedures it has implemented to ensure no reoccurrence of this finding. Repayment instructions for liabilities will be included in the Final Program Review Determination (FPRD).

This information must be provided to this office within ninety (90) days of receipt of this letter to the address below:

U.S. Department of Education  
Federal Student Aid  
Financial Square  
32 Old Slip, 25<sup>th</sup> Fl.  
New York, NY 10005  
Attention: Lydia Gonzalez

The institution will be apprised of any further action or requirement.

### **13. Incentive Compensation Violation**

**Citation:** An institution may not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any individual or entity engaged in recruiting or admission activities or in making decisions regarding the awarding of FSA program funds. 34 C.F.R. § 668.14(b) (22)

**Noncompliance:** A recent review of EABA's compliance with the provisions regarding incentive compensation indicates that the institution failed to comply with the regulation by awarding incentive payment "bonuses" to some of its employees, based directly on success in securing enrollments. During the review of payroll records, reviewers noted that there were no payroll records for a former admission representative. Upon questioning the School Director, who is also the current Admission Representative for the

school, the reviewers were informed that the former admission representative was not on the payroll records because she chose not to have taxes withheld for personal reasons, and a 1099 form was issued during 2011 and 2012. Upon review of the 2012 1099 form, the reviewers noted a difference of \$2,800.00 between the paycheck amounts (\$8268.82) and 1099 amounts (\$11,068). When the Director was questioned about the discrepancy, she responded by stating that "[REDACTED]" (school president/owner) gave the former admission representative bonus checks in addition to her biweekly salary. She stated that he paid her \$100 for every student that enrolls, begins classes, and the school receives financial aid. When questioned about what happens if the student does not enroll, she stated that she would not get the \$100, only when the student enrolls. As a result, she provided a list of 33 students with corresponding payments totaling \$3300.00 for students that enrolled and began classes during calendar year 2011 and 2012.

In addition, during the payroll review, a discrepancy in payments was noted for two teachers as follows:

For the first teacher, a discrepancy in payment was noted, and the Director provided a 1099 form. Upon request for an explanation, the Directors stated that "[REDACTED]" pays \$100 bonus for translating for Spanish speaking prospective students, but only if the prospective student enrolls. "No matter how many translations, if there is no enrollment there is no bonus". As a result, she provided a list totaling \$2700.00 for 26 students (\$200 was paid for one of the students) for 2012 and 2013. The teacher also received \$1100 (noted on the 1099) during 2011, but the corresponding checks and names were not available.

For the second teacher, the explanation given by the Director for the 1099 form was that the teacher works at home on weekends, taking calls and calling prospective students, and that "[REDACTED]" pays her \$100 bonus for every student who enrolls. Again, when questioning the Director regarding payments for hours worked on weekends, she restated that if there is no enrollment, there is no bonus no matter how many hours the teacher works on weekends. As a result, she provided a list totaling \$5600.00 for 56 students during 2012 and 2013.

In addition, there was an extra payroll check in the amount of \$880.43 issued 12/17/13 to the school Director/Admission Representative to cover a working period from 12/2/13 to 12/17/13, which was already covered during pay period 12/2/13 to 12/13/13 and 12/9/13 to 12/27/13 (overlapping dates). There was another paycheck in the amount of \$653.95 issued to the School Director/Admission Representative on 12/20/12 to cover pay period from 12/17/12 to 12/21/13 which was also covered from 12/17/12 to 12/28/12, issued 12/31/2012. Upon questioning the School Director/Admission Representative, she stated that she was not sure but she believes that it was a payment for vacation because she was unable to take vacation.

Finally, during the review of payroll for 2011, there was a copy of a "Services Contract" between [REDACTED] and the School Director/Admission Representative dated May 10, 2009 for answering the phones on weekends, performing client intake services (which will involve the employee going to prospective clients and having them fill out necessary intake forms), and performing translation for clients and office staff. Upon questioning the Director about signing a contract, she denied ever signing any contract. However, the services contract appears to have been signed by both [REDACTED] and [REDACTED].

**Required Action:** In response to this finding, EABA is required to perform a full **file review** including the employee name, title, and amount of bonus received for securing enrollments beginning with calendar year **2009 through present**. EABA must submit the results of the file review in spreadsheet format with the following information:

1. Employee's Name
2. Employee's Title
3. Calendar Year;
4. Amount of bonus paid by calendar year

In addition, EABA must provide copies of corresponding 1099s, and corresponding lists of students.

EABA must provide a list of all employed from calendar year 2009 through present with corresponding benefits such as vacation, sick leave, etc.

EABA is also required to provide an explanation as to the reason or justification for the Director's denial of ever signing the "Services Contract" dated May 10, 2009.

EABA was informed by the reviewers that incentive compensation based upon securing enrollments is not acceptable. It must also submit a copy of its written procedures it has implemented to ensure it will follow the rules regarding incentive compensation, and no longer pays any incentives based upon securing enrollments.

This information must be provided to this office with auditor verification within ninety (90) days of receipt of this letter to the address below. We define auditor verification as a confirmation statement that a corrective action was accurately taken by the institution in accordance with the Department's instructions (which includes the confirmation of documents, liabilities paid, file reviews, projection sampling, and formulas used to calculate liabilities).

The institution will be apprised of any further action or requirement.