July 22, 2014

Richard K. Shepard
President
Heritage College
4704 Harlan Street, Suite 420
Denver, CO 80212-7413

UPS: Tracking #
1Z A87 964 02 9164 8480

RE: **Final Program Review Determination**
OPE ID: 02611004
PRCN: 201210727727

Dear Mr. Shepard:

The U.S. Department of Education's (Department's) School Participation Division –Kansas City issued a program review report on September 10, 2012, covering Heritage College's (Heritage) 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 2009-10, 2010-11, and 2011-12 (year to date) award years. Heritage's final response was received on January 29, 2013. A copy of the program review report (and related attachments) and Heritage's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by Heritage upon request. Additionally, this Final Program Review Determination (FPRD), related attachments, and any supporting documentation may be subject to release under the Freedom of Information Act (FOIA) and can be provided to other oversight entities after this FPRD is issued.

Purpose:

Final determinations have been made concerning all of the outstanding findings of the program review report. The purpose of this letter is to: (1) identify liabilities resulting from the findings of this program review report, (2) provide instructions for payment of liabilities to the Department, (3) notify the institution of its right to appeal, (4) close the review, and (5) notify Heritage of a possible adverse action. Due to the serious nature of one or more of the enclosed findings, this FPRD is being referred to the Department's Administrative Actions and Appeals Service Group (AAASG) for its consideration of possible adverse action. Such action may include a fine, or the

limitation, suspension or termination of the eligibility of the institution. Such action may also include the revocation of the institution's program participation agreement (if provisional), or, if the institution has an application pending for renewal of its certification, denial of that application. If AAASG initiates any action, a separate notification will be provided which will include information on institutional appeal rights and procedures to file an appeal.

This FPRD contains one or more findings regarding Heritage's failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) in Section 485(f) of the HEA, 20 U.S.C. § 1092(f), and the Department's regulations in 34 C.F.R. §§ 668.41, 668.46, and 668.49. Since a Clery Act finding does not result in a financial liability, such a finding may not be appealed. If an adverse administrative action is initiated, additional information about Heritage's appeal rights will be provided under separate cover.

The total liabilities due from the institution from this program review are **$17,470.25.**

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 B, C, and D also contain PII.

Appeal Procedures:

This constitutes the Department's FPRD with respect to the liabilities identified from the September 10, 2012, program review report. If Heritage 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 Heritage receives this FPRD. An original and four copies of the information Heritage submits must be attached to the request. The request for an appeal must be sent to:

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

Heritage'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 Heritage'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 Roy Chaney at (816) 268-0426. Questions relating to any appeal of the FPRD should be directed to the address noted in the Appeal Procedures section of this letter.

(b)(6)

Ralph A. LoBosco
Division Director

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

cc: Larry Cartmill, President, Heritage College - Kansas City Campus
Angie Kelso, FA Administrator, Heritage College - Kansas City Campus
Carol A. Moneymaker, Executive Director, Accrediting Bureau of Health Education Schools
Director, Missouri Coordinating Board for Higher Education

Federal Student Aid
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Prepared for
Heritage College - Kansas City

OPE ID 02611004
PRCN 201210727727

Prepared by
U.S. Department of Education
Federal Student Aid
Kansas City School Participation Division

Final Program Review Determination

July 22, 2014

Kansas City School Participation Division
1010 Walnut Street Suite 336, Kansas City, MO 64106-2147
www.FederalStudentAid.ed.gov

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A. Institutional Information

Heritage College – Kansas City
1200 East 104th, Suite 300
Kansas City, MO 64131-4203

Type: Proprietary

Highest Level of Offering: Associate's Degree

Accrediting Agency: Accrediting Bureau of Health Education Institutions (ABHES)

Current Student Enrollment: 804 (Fall 2011)

Percentage of Students Receiving Title IV: 91.49% (2010-11 award year)

Title IV Participation for OPE ID 02611004 (from institutional records):

	2010-11 Award Year
Federal Pell Grant Program (Pell)	$3,509,884 (5/10 to 12/11)
Federal Supplemental Educational Opportunity Grant (FSEOG)	$50,048
Federal Work Study Program (FWS)	Undetermined
Federal Direct Loan Program (Direct Loans)	$6,306,747
Federal Academic Competitiveness Grant (ACG)	$19,667
National Science and Mathematics Access to Retain Talent (SMART) Grant	Undetermined

Default Rate Direct Loans:	2011	8.3%
(for OPE ID 02611000)	2010	11.3%
	2009	14.0%

B. Scope of Review

The U.S. Department of Education (the Department) conducted a program review at Heritage College—Kansas City (Heritage) from November 14, 2011 to November 18, 2011. The review was conducted by Mr. Roy Chaney, Ms. Kathy Feith, and Ms. Rhonda Puffer.

The focus of the review was to determine Heritage's compliance with the statutes and federal regulations as they pertain to the institution's administration of Title IV, HEA programs. The review consisted of, but was not limited to, an examination of Heritage'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 24 files was identified for review from the 2009-10, 2010-11, and 2011-12 (year to date) award years. The files were selected from a sampling of the total population receiving Title IV, HEA program funds for each award year. In addition, 31 files were selected based on various characteristics, including Title IV credit balances, FSEOG awards, leaves of absence, and enrollment in distance education programs. Appendix A lists the names and partial Social Security numbers of the students whose files were examined during the program review. A program review report was issued on September 10, 2012.

Disclaimer:

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

Heritage has taken the corrective actions necessary to resolve Findings 2, 3, 5, 6, 7, and 8 of the program review report (PRR). Therefore, these findings may be considered closed. The narrative portion of the institution's written response is included in Appendix H.

Findings requiring further action by Heritage are discussed below.

Findings with Final Determinations

The program review report finding(s) requiring further action are summarized below. At the conclusion of each finding is a summary of Heritage's response to the finding, and the Department's final determination for that finding. A copy of the program review report issued on September 10, 2012 is attached as Appendix E.

Finding 1. Incorrect Return of Title IV Funds Calculations

Citation Summary: *Federal regulations state that when a recipient of Title IV grant or loan assistance withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the institution must determine the amount of Title IV grant or loan assistance (not including Federal Work Study (FWS) or the non-Federal share of FSEOG awards if an institution meets its FSEOG matching share by the individual recipient method or the aggregate method) that the student earned as of the student's withdrawal date.*

If the total amount of Title IV grant or loan assistance, or both, that the student earned is less than the amount of Title IV grant or loan assistance that was disbursed to the student or on behalf of the student in the case of a PLUS loan, as of the date of the institution's determination that the student withdrew, the difference between these amounts must be returned to the Title IV programs. If the total amount of Title IV grant or loan assistance, or both, that the student earned is greater than the total amount of Title IV grant or loan assistance, or both, that was disbursed to the student or on behalf of the student in the case of a PLUS loan, as of the date of the institution's determination that the student withdrew, the difference between these amounts must be treated as a post-withdrawal disbursement (PWD). 34 C.F.R. § 668.22(a)

Beginning July 1, 2006, Federal regulations require an institution to calculate and return Title IV refunds no later than 45 days after the date of the institution's determination that the student withdrew 34 C.F.R. § 668.22(j)

Institutions that are required to take attendance are expected to have a procedure in place for routinely monitoring attendance records to determine in a timely manner when a student withdraws. 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. The institution is not required to administratively withdraw a student who has been absent for 14 days. However, after 14 days, it is expected to have determined whether the student intends to return to classes or to withdraw. In addition, if the students eventually determined to be a withdrawal, the end of the 14-day period begins the timeframe for completing a Return calculation.

This requirement does not affect a student's withdrawal date. At an institution that is required to take attendance, a student's withdrawal date is always the last date of attendance as determined by the institution from its attendance records. 2010-11 Federal Student Aid Handbook, Volume 5, Chapter 2

The institutional charges used in the Return of Title IV Funds calculation usually are the charges that were initially assessed the student for the entire payment period or period of enrollment as applicable. Initial charges may only be adjusted by those changes the institution made prior to the student's withdrawal (for example, for a change in enrollment status unrelated to the withdrawal). If, after a student withdraws, the institution changes the amount of institutional charges it is assessing a student, or decides to eliminate all institutional charges, those changes affect neither the charges nor aid earned in the calculation. Any adjustment made to student charges should be unrelated to the student's withdrawal. 2010-11 Federal Student Aid Handbook, Volume 5, Chapter 2; Dear Colleague Letter GEN-00-24

In a distance education context, documenting that a student has logged into an online class is not sufficient, by itself, to demonstrate academic attendance by the student, for the purposes of determining a withdrawal date. A school must demonstrate that a student participated in class or was otherwise engaged in an academically related activity, such as by contributing to an online discussion or initiating contact with a faculty member to ask a course-related question.

A school must document a student's withdrawal date and maintain that documentation as of the date of the school's determination that the student withdrew. A school must determine the attendance records that most accurately support its determination of a student's withdrawal date and the school's use of one date over another if the school has conflicting information. The determination of a student's withdrawal date is the responsibility of the school. A student's certification of attendance that is not supported by institutional documentation is not acceptable. If a school is required to take attendance, it is up to the school to ensure that accurate attendance records are kept for purposes of identifying a student's last date of academic attendance. As with other Title IV program records, documentation must be retained and available for examination in accordance with the regulatory provisions for recordkeeping. 34 C.F.R. §§ 668.22(b), 668.24; 2011-12 Federal Student Aid Handbook, Volume 5, Chapter 2

Noncompliance Summary: *In five respects, Heritage improperly performed Return of Title IV Funds calculations.*

Incorrect number of scheduled clock hours: *In one of 24 2009-10, 2010-11, and 2011-12 Return of Title IV Funds calculations reviewed, Heritage incorrectly calculated the number of hours scheduled in the payment period at the point where the student withdrew.*

Student #22 *The financial aid file indicates that the student withdrew on 7/16/11. A Return of Title IV Funds calculation performed on 8/5/11 reflects that, as of the date the student withdrew, 48 calendar days had been completed in the 167-calendar day payment period, resulting in a completion percentage of 28.7 percent. However, institutional attendance records indicate that as of 7/16/11 55 calendar days had been completed in the 167-calendar day payment period. Consequently, the correct completion percentage was 32.9 percent.*

Incorrect withdrawal date: *In one of 24 Return of Title IV Funds calculations reviewed, Heritage incorrectly determined a student's withdrawal date for the purposes of identifying the percentage of the payment period completed.*

Student #7 *The financial aid file indicates that the withdrawn student's last date of attendance was 5/30/11, and Heritage performed a Return of Title IV Funds calculation on 5/18/11 (sic) using 5/30/11 as the LDA. Institutional attendance records reflect that the student's attended four hours of class on that date. However, 5/30/11 was a Federal holiday and, according to Heritage's calendars and catalogs, no classes were held on that day.*

Incorrect number of days in payment period: *In three of 24 2009-10, 2010-11, and 2011-12 Return of Title IV Funds calculations reviewed, Heritage incorrectly identified the number of days in the payment period.*

Student #6 *The Return calculation worksheet for the student's 4/5/11 withdrawal indicates that Heritage used 122 as the number of days in the payment period. However, the listed start and end dates of the payment period, combined with a scheduled break of eight days within the payment period, indicate that there were 123 days in the payment period. Consequently, the percentage of the payment period completed by the student was 18.7 percent, rather than the 18.9 percent calculated by Heritage.*

Student #12 *The Return calculation worksheet for the student's 12/3/10 withdrawal indicates that Heritage used 164 as the number of days in the payment period. However, the listed start and end dates of the payment period, combined with a scheduled break of 15 days, indicate that there were 165 days in the payment period. Consequently, the percentage of the payment period completed by the student was 31.5 percent, rather than the 31.7 percent calculated by Heritage.*

It is noted that the student's file also includes a second Return calculation that incorrectly identifies the number of days in the payment period as 167, and the completion percentage as 31.1 percent. It appears that Heritage returned Title IV funds based on the first calculation.

Student #16 *The Return calculation worksheet for the student's 12/3/10 withdrawal indicates that Heritage used 124 as the number of days in the payment period. However, the listed start and end dates of the payment period, combined with a scheduled break of 15 days, indicate that there were 151 days in the payment period. Consequently, the percentage of the payment period completed by the student was 26.5 percent, rather than the 32.3 percent calculated by Heritage.*

Incorrect institutional charges: *On a systemic basis Heritage has incorrectly identified the amount of institutional charges for the payment period for the purposes of performing Return of Title IV Funds calculations by including fees related to a student's withdrawal.*

For example, the financial aid file of student #4 indicates that the student withdrew on 4/23/10, and Heritage performed a Return of Title IV Funds calculation on 6/15/10. The Return calculation worksheet indicates that Heritage identified the institutional charges for the payment period as $7,571, including $6,535 in tuition, $557 in books, $379 in supplies, and $100 in fees. However, the $100 fee was assessed as a "withdrawal fee." As such, it should not have been included in the institutional costs.

As a further example, the financial aid file of student #12 indicates that the student withdrew on 9/8/10, and Heritage performed a Return of Title IV Funds calculation on 10/1/10. The Return calculation worksheet indicates that Heritage identified the institutional charges for the payment period as $7,014, including $6,535 in tuition, $379 in supplies, and $100 in fees. However, the $100 fee was assessed as a "withdrawal fee." As such, it should not have been included in the institutional costs.

Undocumented Last Dates of Attendance: *In three of four financial aid files for distance education students who withdrew in the 2009-10, 2010-11, and 2011-12 award years, Heritage failed to properly document the last date of attendance.*

Student #22 The financial aid file indicates that the student withdrew on 7/16/11, and Heritage performed a Return of Title IV Funds calculation on 8/5/11. However, the supporting documentation for Heritage's determination of the student's last date of attendance is a computer tracking record that indicates the student logged in to the institution's distance education software at 9:38 AM on 7/16/11, and logged out at 9:46 AM. The fact that Heritage can document that the student was logged in for eight minutes does not establish that the student participated in class or was otherwise engaged in an academically-related activity.

Student #29 The financial aid file indicates that the student withdrew on 9/17/11, and Heritage performed a Return of Title IV Funds calculation on 10/4/11. However, the supporting documentation for Heritage's determination of the student's last date of attendance is a computer tracking record that indicates the student logged in to the institution's distance education software on 9/24/11 (sic). In addition to a discrepant withdrawal date, the computer tracking record indicates that although the student logged in, the system automatically logged the student out after 45 minutes of non-activity. The documentation does not reflect that the student participated in class or was otherwise engaged in an academically-related activity.

Student #31 The financial aid file indicates that the student withdrew on 2/18/10, and Heritage performed a Return of Title IV Funds calculation on 2/23/10. The supporting documentation for Heritage's determination of the student's last date of attendance is a computer tracking record that indicates only that the student logged in to the institution's distance education software on 2/18/10 at 12:13 PM, and that the system automatically logged the student out after 45 minutes of non-activity. Consequently, the documentation does not reflect that the student participated in

class or was otherwise engaged in an academically related activity and, therefore, cannot be used to establish an LDA.

Required Action Summary: *Heritage was directed to review all Title IV recipients who officially or unofficially withdrew from the institution during the 2009-10, 2010-11, 2011-12, and 2012/13 award years, and all Title IV recipients for whom a Return of Title IV Funds calculation was performed or should have been performed. For Returns that were found to have been paid late, not paid, improperly paid, improperly calculated, or not calculated, Heritage was directed to provide comprehensive information and supporting documentation, in a spreadsheet format.*

Heritage was also tasked with engaging an Independent Public Accountant (IPA) to test the completed file review and prepare a report in accordance with the American Institute of Certified Public Accountants (AICPA) Attestations Standards that identifies any exceptions noted during its testing.

Additionally, Heritage was directed to review and revise its internal policies and procedures to ensure that Returns of Title IV Funds are performed properly and in a timely manner in the future, and provide a copy of those procedures with its response.

Heritage's Response: Regarding the issue of *incorrect numbers of scheduled clock hours* employed in Return calculations, Heritage states that student #22 attended the structured learning format hybrid distance education program in 2011. The student could therefore attend class on every day except when a break was scheduled. In addition, the student was scheduled to physically attended class on Saturdays.

As a distance education student, student #22 did not attend class during one Saturday of the scheduled summer break period. Heritage also published a break schedule, stating that the summer break ran from 7/3/11 to 7/10/11. However, that break schedule document was published primarily with residential students in mind and did not specifically account for and define the dates when distance education students would be on break. As a result, the single "Saturday off" referenced in the institutional catalog for distance education students occurred on Saturday, 7/2/12. The institution chose this as the beginning of the scheduled break for distance education students because it was closer in time to the July 4th holiday than the following Saturday, July 9.

The break schedule does not delineate that distance education students were expected to return to school and resume classroom attendance on Saturday, 7/9/11. Attendance records confirm that student #22 attended class for six hours on that date.

Heritage calculated the break as beginning for distance education (or structured learning format) students on Saturday, 7/2/12 because those students did not attend class on that Saturday. The break extended from July 2 through July 8, a period of seven days. The break concluded as of July 9 because distance education students (unlike their residential counterparts) did attend class on Saturday, 7/9/12. Heritage calculated seven days needed to be excluded from the Return calculation to account for "all days between the last scheduled day of classes before a scheduled

break [which occurred on Friday, 7/1/12] and the first day classes resume [which occurred on Saturday, 7/9/12]." This is consistent with institutional procedures.

Heritage went on to state, however, that in retrospect the institution's break schedule document would be clearer if it included additional detail about the summer break dates. Based in part upon the KCSPD's input, Heritage has begun publishing an online announcement defining the specific break schedule applicable for distance education students. This will ensure no future confusion arises over the date(s) when Heritage distance education students are on break, as well as the guidance cited in the KCSPD's 10/22/12 correspondence.

Regarding the issue of *incorrect withdrawal dates*, the KCSPD concluded that Heritage incorrectly determined a student's withdrawal date for the purposes of identifying the percentage of the payment period completed for student #7. Heritage, in response, stated that it had accurately calculated the student's withdrawal date for Return calculation purposes based upon the information available, and that any clerical error in the attendance information upon which the institution relied had no impact upon those Title IV funds disbursed or returned to the Department. Heritage agreed that its registrar mistakenly entered 4.1 hours of attendance for student #7 as having occurred on 5/30/11 when, in fact, the student actually completed those hours on 5/27/11.

Heritage went on to state that the registrar's error was a harmless one: the student had passed the sixty percent point in the payment period in either case and, consequently, there was no impact upon Title IV funds that were disbursed to the student. Heritage believes that when it completed the Return calculation for student #7, it did so accurately and in a manner consistent with the information in its database.

Regarding the issue of *incorrect number of days in payment period*, Heritage noted that the KCSPD, in its correspondence of 10/22/12, had agreed to rescind the finding as it pertained to students #6 and #16. In the case of student #12, Heritage states that the program review team was incorrect in identifying 1/15/11—a Saturday— as the last day of the student's payment period, rather than the 1/14/11 date—a Friday—used by Heritage to perform the students Return calculation.

Heritage states that the pertinent payment period began on 7/19/10 and ended on 1/14/11, a total of 180 calendar days. Because of the scheduled winter break, Heritage excluded 16 days from the payment period, in accordance with the Department's requirements concerning scheduled breaks and Return calculations. The institution subtracted 16 days from the 180 days comprising the second payment period, for a total of 164 days.

Heritage believes that the confusion arose based upon the KCSPD review team's review and analysis of an unofficial evaluation transcript, as opposed to an official one. Heritage agrees that because of Information Technology issues related to computer codes and the manner in which classes are "loaded" into Heritage's database, such classes appear, on unofficial documents, as though they could have ended on a Saturday. Heritage further agrees that a print-out of unofficial information might lead a program review team to conclude a course ends on a Saturday, when in fact it does not.

Heritage asserts that its institutional policies preclude financial aid office personnel from using any day other than a Friday as the last day of a payment period for residential students because their classes are always scheduled to conclude on Fridays. The fact that all residential student classes end on a Friday is an outgrowth of the intentional manner in which Heritage builds its academic calendar. The purpose is to ensure that whenever a residential student attends Heritage his or her academic schedule has classes ending on a Friday, which in turn ensures the corresponding payment period end date also falls on a Friday. (The payment period always ends on a Friday unless the student attends via the structured learning format (i.e., hybrid distance education) because those students are required to physically attend on Saturdays.) Heritage believes this policy creates continuity on the campus and assists staff members in making accurate and timely determinations of student status.

Heritage asserts that when a financial aid office staff member completed the initial Return calculation and saw that student #12's payment period appeared to end on 1/17/11 (sic)—a Monday—the staff member knew that was not correct, because payment periods for residential students end on Fridays.

Heritage concludes that, in accordance with the policy described above, the incorrect Return worksheet for student #12 was revised by a financial aid office staff member during the original Return process to ensure that an accurate payment period end date of 1/14/11 was used. Thus, Heritage maintains that it completed an accurate Return calculation for student #12 and made appropriate returns consistent with this calculation.

Heritage states that to ensure that this problem does not recur in the future, Heritage has instituted a policy which requires that, whenever a student's status changes (e.g., from "active" to "withdrawn"), all future classes which a student did not begin attending are removed from the transcript.

Regarding the issue of *incorrect institutional charges*, Heritage stated that in response to the PRR it has discontinued the policy of including any withdrawal fee in "Box L" of the Department's standard Return of Title IV Funds Calculation Worksheet when it completes a Return calculation. This ensures that Title IV funds are not applied to cover any such withdrawal fee. Second, Heritage completed its review of all Return calculations made during those relevant award years, as required by the PRR of 9/10/12. Heritage identified any student for whom it may arguably have assessed an improper withdrawal fee and removed that fee from its recalculation.

Regarding the issue of *incorrect last dates of attendance*, Heritage noted that the KCSPD had rescinded its PRR requirements in relation to the Return of Title IV Funds calculations for students #22 and #29. Heritage went to state that it had properly determined the last date of attendance (LDA) for student #31 based on existing documentation and then-existing regulations. It also performed an accurate Return of Title IV Funds calculation using a proper LDA for this student.

Comment logs pulled from Heritage's database system demonstrate student #31 engaged in substantive interactions with several Heritage staff members on 2/28/10. For instance, staff

member "pennyhkcm" left a message for student #31 expressing "concern about her as she has not logged on or completed any online activities." In response to this communication, student #31 contacted Heritage and staff member "PamD" noted, "[Student #31] having trouble logging in and I transferred her to Jeanine who is walking her through the process." Staff member "jeanineo" noted that "[student #31] had many problems logging on today—she did get logged on."

Student #31 logged into Heritage's distance education software on 2/18/10 at 12:13 p.m. At some point prior to the 45-minute mark (when the system would log out a student for 45 consecutive minutes of non-activity), the student closed her browser, had a computer crash, or encountered some other issue. Heritage knows this is the case because there is no logout date or time. Instead, that detail is displayed as "1/1/1900 0:00." That error code (i.e., 1/1/1900 0:00) appears whenever a student does not click on the "logout" button before exiting the browser or operating system.

The student subsequently logged back into the system at 12:46 p.m. which is, of course, less than 45 minutes after she initially logged in at 12:13 p.m. During this period, the above-referenced comment logs demonstrate the student engaged in "substantive interaction" with the institution. This included not only obtaining assistance with the software itself (which allowed her to log back in) but also agreeing to "be here Monday morning" for purposes of completing make-up work.

This academically-related activity constitutes the type of "substantive interaction" a school could use to justify 2/18/10 as student #31's LDA. Specifically, the regulations in effect at that time provided that "'[a]n academically-related activity' includes, but is not limited to ...academic counseling [or] academic advisement." Heritage staff members provided academic counseling and advisement to this student. Staff members discussed problems student #31 had logging on to and using the electronic academic system, "walk[ed] her through the process" of logging on, ensured she was able to log on properly, and also encouraged her to come to the school Monday for further discussion (which student #31 agreed to do). This substantiates the fact that the student engaged in an "academically related activity" on 2/18/10.

Of course, the Secretary has since revised the regulation at issue. Heritage made its determination of student #31's LDA based upon the existence of an academically related event occurring 2/18/10. Subsequently, beginning with regulations implemented 7/1/11, the Secretary precluded use of academic advisement or counseling as a basis to establish a student's LDA. After the revised regulation and guidance took effect on 7/1/11, Heritage adjusted its policies accordingly to require more than evidence of academic advisement or counseling to support its LDA determinations. As a result, the institution currently determines LDA for structured learning students based upon evidence of completion of academic activity other than academic advisement or counseling.

The KCSPD's response cites the regulations and guidance issued prior to 7/1/11 for the proposition that distance education courses "must display regular and substantive interaction in each course." However, this language defines how a distance education program must function as a general matter. The regulation cited at 34 C.F.R. § 600.2 also recites the definition of a

distance education program generally. There is no doubt Heritage's distance education system complied with this requirement and, as implemented, "support[ed] regular and substantive interaction between students and the instructor, whether asynchronously or 'real-time." But, and as stated above, the regulations in effect at the time allowed institutions to determine LDA based upon student participation in an academically-related activity...[such as] academic counseling [or] academic advisement."

Here, it seems that the Department seeks to retrospectively apply regulatory language implemented at a later date on the topic at issue (i.e., how to calculate the LDA for students enrolled in a distance education program). Such language was not applicable to Heritage prior to its implementation by the Department on 7/1/11. Heritage acted properly and pursuant to regulations and the Department's guidance when it made its determination of student #31's LDA based upon participation in an academically-related event, which in this case was academic counseling and advisement.

Regarding Heritage's review of its entire Return calculations for the 2009-10, 2010-11, 2011-12, and 2012-13 award years, the institution stated that it had completed its review of the Return calculations and associated supporting documentation, and had obtained the necessary auditor attestation.

The review identified 22 Return of Title IV Funds calculations totaling $14,800.29 that had either not been paid or were underpaid.

The narrative portion of the institution's written response is included in Appendix H.

Final Determination: No further action is required regarding the issues raised in the PRR relating specifically to students #12 and #31. However, it is unclear why Heritage was unable to provide the documents referenced in its PRR response to the program review team during the on-site portion of the review.

Regarding the issue of the incorrect withdrawal date relating to student #7, Heritage must review and revise its policies and procedures for identifying withdrawn students and performing timely and correct Return of Title IV Funds calculations. Heritage must have these updated policies and procedures attested by its auditor during its next regularly-scheduled Title IV audit.

Regarding the results of Heritage's reconstruction of its Return of Title IV Funds activity in the 2009-10, 2010-11, 2011-12, and 2012-13 award years, the institution identified 22 Return of Title IV Funds transactions that were either not paid or underpaid. The total amount of unpaid or underpaid Returns is calculated at $14,800.29, and includes **$3,540** in Pell Grant funds, **$5,493.78** in Direct Subsidized Stafford Loan funds, and **$5,766.51** in Direct Unsubsidized Stafford Loan funds. A complete listing of the Return of Title IV Funds calculations that were unpaid or underpaid as of the date of the PRR in Appendix B.

As of the date of the FPRD the Returns had not been paid, in accordance with the directions provide to Heritage in the PRR of 9/10/12.

Heritage is also liable for the Cost of Funds associated with the late and unmade Returns of Title IV Funds. The government incurs a cost when it makes funds available for an institution

because those funds are borrowed from the U.S. Treasury. Interest is charged to the Department on those funds as a simple interest calculation. The Cost of Funds is determined using the U.S. Treasury Current Value Funds Rate (CVFR) to calculate simple interest on the principal amount only. (The CVFR can be found at the U.S. Treasury website at the following link: http://fms.treas.gov/ cvfr/index.html.)

The total Cost of Funds liability as a result of the 22 unpaid or underpaid Returns of Title IV Funds identified in Heritage's file review for Finding 1 is $523, with the full amount of the liability due to the Department. The total liability includes **$188** in Direct Subsidized Stafford Loan Cost of Funds, **$179** in Direct Unsubsidized Stafford Loan Cost of Funds, and **$156** [$156.38 *rounded*] in Pell Grant Cost of Funds.

Heritage must notify all students and/or borrowers in writing regarding payments made on their behalf. This notification must include the amount and date of the payments.

A complete listing of the Cost of Funds liability associated with each late or unmade return appears in Appendix C. Instructions for repayment of this liability appear in Section E of this FPRD letter.

Finding 4. Improper Interest Charges Derived From Title IV Funds

Citation Summary: *By entering into a program participation agreement, an institution agrees that it will not impose any penalty, including, but not limited to, the assessment of late fees, the denial of access to classes, libraries or other institutional facilities, or the requirement that the student borrow additional funds for which interest or other charges are assessed, on any student because of the student's inability to meet his or her financial obligations to the institution as a result of the delayed disbursement of the proceeds of a Title IV, HEA program loan due to compliance with statutory and regulatory requirements of or applicable to the Title IV, HEA programs, or delays attributable to the institution. 34 C.F.R. § 668.14(b)(21)*

Noncompliance Summary: *On a systemic basis, Heritage has charged students interest on tuition debt balances that are scheduled to be paid, in part or fully, by disbursements of Title IV funds.*

Heritage employs a standard installment tuition payment agreement to contract with students for repayment of tuition and fee costs that are not covered by financial aid. However, Heritage's installment payment agreements are not routinely corrected to accurately reflect the student's award of Title IV funds. This practice leads to situations where students are charged compound interest on the contracted tuition debt even though the debt has decreased because of the application of Title IV funds. In this manner, Heritage students have, in effect, paid interest on future charges that will be paid with Title IV funds.

For example, the financial aid file and account card for student #50 indicate that the student enrolled at Heritage on 7/2/09. The total amount of tuition and fee charges for the student's two-academic year program were $21,750. The student's account card reflects that over the course of the two-year program the student received $16,710 in Subsidized and Unsubsidized Direct Stafford Loan funds, all of which was applied to the student's outstanding tuition and fee debt.

It is also noted that on 7/2/09 the student signed a "Retail Installment Contract" with Heritage. The contract covered the repayment of $6,003 in principal debt at a 14 percent interest rate to cover the amount of tuition and fee charges that would not be paid by financial aid funding. Heritage began charging the student monthly compound interest on that amount in August 2009. On 5/18/10—halfway through the student's academic program—a revised "Retail Installment Contract" with Heritage was signed by the student. This second contract covered the repayment of $4,604.32 in principal debt at a 14 percent interest rate.

However, a review of the supporting documentation for the student's tuition and fee debt reflects that when Title IV funds are factored in, the student was responsible for paying $5,040. Nevertheless, the student paid compound interest on the $6,003 debt identified in the first-year installment contract for a ten-month period. Consequently, the student paid interest on tuition and fee debt that would ultimately be paid by Title IV funds.

Likewise, the financial aid file and account card for student #48 indicate that the student enrolled at Heritage on 8/19/09. The total amount of tuition and fee charges for the student's two-academic year program were $21,750. The student's account card reflects that over the course of the two-year program the student received $16,711 in Subsidized and Unsubsidized Direct Stafford Loan funds, all of which was applied to the student's outstanding tuition and fee debt.

It is also noted that on 8/24/09 the student signed a "Retail Installment Contract" with Heritage. The contract covered the repayment of $5,955 in principal debt at a 14 percent interest rate to cover the amount of tuition and fee charges that would not be paid by financial aid funding. Heritage began charging the student compound monthly interest on that amount in October 2009.

However, a review of the supporting documentation for the student's tuition and fee debt reflects that when Title IV funds are factored in, the student was responsible for paying $5,039. Nevertheless, the student paid compound interest on the $5,955 debt identified in the installment contract beginning in October 2009 and working forward to the dates of the program review. Consequently, the student paid interest on tuition and fee debt that would ultimately be paid by Title IV funds.

As a further example, the financial aid file and account card of student #47 indicate that the student enrolled at Heritage on 8/27/09. The total amount of tuition and fee charges for the student's two-academic year program were $23,250. The student's account card reflects that over the course of the two-year program the student received $17,291 in Subsidized and

Unsubsidized Direct Stafford Loan funds, all of which was applied to the student's outstanding tuition and fee debt.

It is also noted that on 8/27/09 the student signed a "Retail Installment Contract" with Heritage. The contract covered the repayment of $7,455 in principal debt at a 14 percent interest rate to cover the amount of tuition and fee charges that would not be paid by financial aid funding. Heritage began charging the student monthly compound interest on the $7,455 principal debt in October 2009.

However, a review of the supporting documentation for the student's tuition and fee debt reflects that when Title IV funds are factored in, the student was responsible for paying $5,959. Nevertheless, the student paid interest on the $7,455 debt identified in the installment contract beginning in September 2009 and working forward to June 2010. Consequently, the student paid compound interest on tuition and fee debt that would ultimately be paid by Title IV funds.

Also noteworthy is the fact that, on 6/14/10, student #47 signed a "corrected" installment payment agreement at a 14 percent interest rate for $6,618.04. The components of the debt figure in the revised contract included the correct $4,582 tuition and fees charge for the student's first academic year, the $1,376 tuition and fees charge for the student's second academic year, and $660 to—as noted in the narrative of the contract—cover the amount of interest that the student owed for the period September 2009 to May 2010. However, the student had already paid the owed interest to Heritage over the course of the preceding nine months, as evidenced by the student's account card. Consequently, at the time of the June 2010 contract Heritage billed the student a second time for interest charges the student had already paid.

The program review team noted that although Heritage does not appear to routinely revise an installment tuition payment agreement in cases where the original tuition and fees debt is incorrect, the institution does appear to review student account cards to ensure that the payment agreement is satisfied once the charges on the account have been paid, regardless of whether the original debt figure is met. In this manner, Heritage appears to avoid the problem of a student paying twice for the same charges at the end of their repayment process, although it does not correct the discrepancies that occur earlier in a student's repayment process.

Required Action Summary: *Heritage was directed to review the student accounts of all Title IV recipients in the 2009-10, 2010-11, 2011-12, and 2012-13 award years who were charged interest as a result of an installment tuition payment agreement with the institution. Heritage was tasked with identifying all cases where a Title IV recipient paid interest on an amount that was greater than the amount of tuition and fee charges owed after awarded Title IV funds are subtracted. For each instance, Heritage was directed to provide comprehensive information and supporting documentation in a spreadsheet format.*

Heritage was also tasked with engaging an IPA to test the completed file review and prepare a report in accordance with the AICPA Attestations Standards that identifies any exceptions noted during its testing.

Heritage was also directed to review and revise its policies and procedures to ensure that students are not penalized monetarily, or in any other manner, when Title IV funds are scheduled

to pay future charges but the institution carries a current debt balance. The policies and procedures should also disclose in detail how Heritage monitors its student account cards to ensure that students do not overpay tuition and fee debt owed to the institution as a result of improperly calculated installment payment agreements.

Heritage's Response: Heritage completed the process of reviewing the necessary information as directed by the Department. As requested by the KCSPD, a spreadsheet prepared by the institution delineates instances of overpaid interest in the 2009-10, 2010-11, 2011-12, and 2012-13 award years. In addition, the supporting documentation the Department requested for such instances is also provided.

In addition and as required by the Department, Heritage engaged an IPA to test the completed file review. The IPA verified the accuracy of information provided by Heritage. It confirmed only one exception, where a student should have been included in the cohort but was not. Heritage then revised its spreadsheet to ensure that the additional student was properly included. The IPA conducted its review consistent with the agreed-upon procedures previously provided to the Department, as required by the PRR.

In addition, Heritage revised its internal policies and procedures. Effective August 2012, all new students requesting to enter into an installment contract with Heritage shall have that contract originated at zero percent interest throughout the length of their program. Additionally, increased monitoring will occur at the campus level to identify additional resources made available to students after the original "gap" amount was financed. These procedures will ensure all installment contracts will be calculated accurately and according to regulatory requirements.

The narrative portion of the institution's written response is included in Appendix H.

Final Determination: Heritage is liable for the **$2,084.96** in overpaid interest paid by the eight students identified in its review of institutional Retail Installment Contracts entered into with Title IV recipients in the 2009-10, 2010-11, 2011-12, and 2012-13 award years. Heritage must repay the full amount of the overpayments to each student, and provide proof of repayment to the Department.

A complete listing of the students and interest overpayment amounts appears in Appendix D. Instructions for repayment of this liability appear in Section E of this FPRD letter.

Finding 9. Leave of Absence Exceeds Allowable Timeframe

Citation Summary: *Federal regulations state that an institution does not have to treat a leave of absence as a withdrawal if it is an approved leave of absence. A leave of absence (LOA) is an approved leave of absence if:*

(1) The institution has a formal policy regarding leaves of absence;
(2) The student followed the institution's policy in requesting the leave of absence;

(3) The institution determines that there is a reasonable expectation that the student will return to the school;
(4) The institution approved the student's request in accordance with the institution's policy;
(5) The leave of absence does not involve additional charges by the institution;
(6) 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;
(7) 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
(8) 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.

If a student does not resume attendance at the institution at or before the end of a leave of absence that meets the requirements of this section, the institution must treat the student as a withdrawal. The number of days in a leave of absence is counted beginning with the first day of the student's initial leave of absence in a 12-month period. 34 CFR § 668.22(d)

Noncompliance Summary: *In one instance, Heritage granted a student a combination of LOAs that, taken together, exceeded the maximum allowable LOA timeframe.*

Student #28 The financial aid file includes an institutional "Leave of Absence Request Form" for an LOA extending 7/1/10 to 1/17/11, a period of 201 days. The given reason for the LOA is the unavailability of certain classes in the student's program. The request form was approved by various school officials, including the registrar, financial aid director, and school director, between 7/9/10 and 7/14/10. It was also signed by the student on 2/18/11, 32 days after he had presumably returned from the LOA.

The financial aid file also contains an institutional "Withdrawal Form" that indicates that Heritage officials requested that the student be withdrawn because his LOA exceeded 180 days. The withdrawal form carries no primary date, but it was signed by the institution's director of education on 1/7/11, the registrar on 1/12/11, and the financial aid director and the school director on 1/28/11. However, there is no indication in other institutional records that the student was ever withdrawn. The student returned from the LOA and attended two courses beginning on 1/31/11 without going through a reenrollment process.

It is further noted that although the student had already been on an LOA for 201 days within the previous nine months, Heritage granted the student a second LOA for the period 4/25/11 to 7/25/11. The given reason was a change in the student's academic schedule. The LOA request was approved on 4/25/11 by Heritage's financial aid director, registrar, and school director.

In sum, during the 12-month period between 7/1/10 and 6/30/11, student #28 remained on leaves of absence for 268 days—88 days longer than Federal regulations allow.

Required Action Summary: *Heritage must develop and implement an institutional LOA policy that conforms to Federal regulations in all respects, including the requirement that a student not exceed 180 days of leave of absence within any 12-month period. Heritage must also make arrangements to have the updated policy disseminated to students and employees. A copy of the revised leave of absence policy, as well as a discussion of how the new policy was disseminated, must be included with Heritage's response to this PRR.*

Heritage's Response: Heritage disagrees with this finding and asserts that it properly implemented and observed an institutional LOA policy that precludes a student from remaining on an LOA for more than 180 days during any 12-month period. With regard to student #28, Heritage claims that the student was placed on four LOAs between 4/2/07 and 10/19/11:

(1) LOA no. 1: for 84 days, from 4/2/07 until 6/25/07;
(2) LOA no. 2: for 41 days, from 10/20/09 through 11/29/09;
(3) LOA no. 3(part 1): for 110 days, from 7/1/10 to 10/19/10;
(4) LOA no. 3(part 2): for 89 days, from 10/20/10 through 1/16/11;
(5) LOA no. 4: for 91 days, from 4/25/11 to 7/24/11.

Heritage goes on to state that because the 12-month period associated with LOA no.3 (part 2) and LOA no. 4 began on 10/20/10 and ended on 10/19/11, and because the first portion of LOA no. 3 occurred in what Heritage considers a previous "LOA year", student no. 28 was not on an approved LOA exceeding 180 days during any 12-month period associated with the various LOAs approved by the institution.

Heritage went on to state that, in light of the KCSPD's concerns, Heritage revised its LOA policy to ensure staff members remain aware of the restrictions on the length of requested LOAs. The revised policy will ensure that no student's LOA lasts more than 180 days during the 12-month period beginning the first day of the LOA.

The narrative portion of the institution's written response is included in Appendix H.

Final Determination: Heritage's calculation of student #28's leaves of absence wrongly concludes that an arbitrary 12-month framework is issued to calculate the number of days of leave taken. Heritage is incorrect in this assumption. Federal regulations state that a student must not exceed "a total of 180 days in any 12-month period." Among other characteristics, this stipulation effectively places a maximum of 180 days on any one leave of absence. By definition, a leave of absence that extends beyond 180 days—such as student #28's LOA no. 3—exceeds the allowable period for leaves of absence.

It is noted that, in spite of its arguments regarding student no. 28, Heritage indicates that it has revised its leave of absence policy to conform to federal regulations. However, Heritage response does not indicate the manner in which this revised policy was disseminated to its staff and its students.

Heritage must have the proper dissemination of its corrected LOA policy to its students and employees attested to in its next regularly-scheduled FSA audit.

Finding 10. Improper FSEOG Disbursements

Citation Summary: *Federal regulations state that for the purpose of awarding FSEOG funds, an institution shall select students with the lowest expected family contribution (EFC) who will also receive Pell Grants in that year. 34 C.F.R. § 676.10(a)(1)*

An institution shall pay in each payment period a portion of an FSEOG awarded for a full academic year. Except if a student incurs uneven costs or estimated financial assistance amounts during an academic year and needs additional needs additional funds in a particular payment period, the institution may pay FSEOG funds to the student for those uneven costs. 34 C.F.R. § 676.16(b)

The Federal share of the FSEOG award made by an institution may not exceed 75 percent of the amount of FSEOG awards made by that institution. The non-Federal share of SEOG awards must be made from the institution's own resources, which include for this purpose: (1) Institutional grants and scholarships; (2) Tuition or fee waivers; (3) State scholarships; and (4) Foundation or other charitable organization funds. 34 C.F.R. § 676.21

When awarding FSEOG funds for an award year, an institution must first select students with the lowest expected family contributions (EFC) who will also receive Pell Grants in that award year. This group is known as the FSEOG first selection group. If the institution has remaining FSEOG funds after making awards to all Pell Grant recipients for that award year, it must next select students with the lowest EFCs who are not receiving Pell Grants. This group of students is known as the FSEOG second selection group. A student who will also receive a Pell Grant in that award year is a student who has demonstrated Pell Grant eligibility for the same award year based upon an EFC that the institution has calculated for the student, or the EFC on the student's valid SAR or ISIR.

An institution must keep documentation of the eligible EFC that was calculated for the student, and it must confirm Pell Grant eligibility prior to disbursement of the FSEOG. If the FSEOG recipient does not actually receive a Pell Grant during the award year, but the documentation shows that the FSEOG award and disbursement was made in good faith, the institution is not required to recover the FSEOG funds. If the student loses Pell Grant eligibility prior to disbursement of the FSEOG, the institution must cancel the FSEOG award. 2011-12 Federal Student Aid Handbook, Volume 3, Chapter 6

Noncompliance Summary: *In two respects, Heritage incorrectly administered FSEOG funds.*

Incorrect matching: *It is Heritage's practice to match the Federal Capital Contribution (FCC) portion of FSEOG funds with the required Institutional Capital Contribution (ICC) portion at the time the funds are disbursed to the student's account. However, in one instance, Heritage failed to properly match disbursements of FCC funds with ICC funds.*

<u>Student #55</u> *The account card indicates that Heritage posted FSEOG FCC funds to the student's account on 2/24/09 for $188, on 4/23/09 for $188, on 9/9/09 for $187, and on 12/11/09*

for $187. On 9/11/09 one payment of $187 was removed from the student account card. Consequently, the total amount of FSEOG FCC posted as of that date was $563.

The account card also reflects that Heritage posted FSEOG ICC funds to the student's account on 2/24/09 for $63, on 4/23/09 for $63, and on 12/11/09 for $62. On 9/11/09 one payment of $62 was removed from the student account card. Consequently, the total FSEOG ICC disbursed to the student's account was $126, a figure that is $62 less than the minimum required ICC match of $188.

***Incorrect disbursements**: In one instance, Heritage failed to award and disburse FSEOG funds first to students who display the lowest EFCs.*

Student #53 For the 2010/2011 award year, the student's EFC was 4735. On 11/19/10 Heritage disbursed $188 in FSEOG FCC and $62 in FSEOG ICC funds to the student's account. However, institutional records reflect that in the 2010-11 award year not all students who displayed a zero EFC were awarded SEOG. Consequently, the FSEOG disbursement to student #53 falls outside of the regulatory FSEOG awarding policies.

***Required Action Summary:** First, Heritage must make the necessary payment of FSEOG ICC funds to student #55's account, and provide a copy of the updated account statement with its response. If the disbursement results in a Title IV credit balance, Heritage must submit documentation indicating how and when the credit balance was paid to the student.*

Also, Heritage must review and, as necessary, revise its procedures for administering the FSEOG program to ensure that funds were awarded and disbursed to students in the manner prescribed by federal regulations. A detailed discussion of these updated policies and procedures should accompany Heritage's response.

Heritage's Response: First, Heritage stated that it had repaid $62 in FSEOG ICC funds to student #55's account. Heritage provided an updated student ledger card reflecting this disbursement, which occurred on 9/18/12. Because this 9/18/12 transaction created a credit balance, Heritage issued a hard-copy check to student #55.

Second, Heritage has revised its policies and procedures related to the administration of FSEOG program funds to ensure that funds [are] awarded and disbursed to students in a manner compliant with Federal regulations and that "errors involving the disbursement of FSEOG funds do not recur."

The narrative portion of the institution's written response is included in Appendix H.

Final Determination: Heritage is liable for the repayment of the **$62** in FSEOG funds owed to student #55.

It is noted that intuitional account records submitted with Heritage's response reflect that the $62 represents a credit balance that should be paid directly to the student. Instructions for repayment of this liability appear in Section D of this FPRD letter.

Finding 11. Failure to Comply with the Drug and Alcohol Prevention Regulations

Citation Summary: *The Department's regulations and the Drug Free Institutions and Campus Act require participating institutions of higher education to conduct a biennial review of its program to (1) determine its effectiveness and implement changes to the program if they are needed; and (2) ensure that the disciplinary sanctions described in paragraph (a)(5) of this section are consistently enforced. 34 C.F.R. § 86.100(b)(1)(2)*

In addition, an institution's drug prevention program must include an annual distribution in writing to each employee and to each student who is taking one or more classes for any type of academic credit. 34 C.F.R. § 86.100(a)

Noncompliance Summary: *In five respects, Heritages administration of its drug and alcohol prevention programs was insufficient.*

First, Heritage's drug and alcohol prevention program did not include a biennial review.

Second, although Heritage does have a policy which discusses disciplinary sanctions for drug and/or alcohol offenses, Heritage does not do further review to ensure that the policies are effective and disciplinary sanctions described for law violations are consistently enforced.

Third, a review of Heritage's current policies concerning drug and alcohol prevention counseling appears only in academic material intended for students. Consequently, current employees are not advised of the policies.

Fourth, in its drug policies Heritage mentions that employees or students can request referrals for assistance. However, as it is characterized in Heritage's consumer information, such requests are an option only for those who are being subjected to random drug and alcohol testing, rather than an option for anyone seeking assistance.

Fifth, in its policy statements Heritage does not discuss all possible options for students or staff in need of counseling.

Required Action Summary: *Heritage must review and, as necessary, revise its policies and procedures for administering its drug and alcohol prevention program to ensure that those policies and procedures meet all of the Department's regulatory requirements, including the issues discussed above.*

Second, Heritage must distribute the updated policies and procedures to all staff and students to ensure that the entire campus body is aware of the policies. A copy of the revised policies and procedures for administering the drug and alcohol prevention program, as well as a discussion of what changes were made and how the updated policy was disseminated to students and staff, must accompany the institution's response to this report.

Third, Heritage must conduct a biennial review of its drug prevention program. A copy of the completed biennial review must accompany the institution's response.

Heritage's Response: In its response, Heritage concurred with the finding and indicated that the College revised and improved its drug and alcohol abuse prevention program (DAAPP) to ensure that it included all mandatory disclosures of policy and to ensure that disciplinary standards are effective and enforced consistently. In addition, Heritage asserted that the DAAPP materials were enhanced to specifically address the availability of counseling resources and to clarify how the referral process for drug and alcohol counseling works and to affirm that those resources will be made available to anyone seeking assistance. Heritage also indicated that the new DAAPP disclosure was distributed to current employees and enrolled students, as required and that this information will be made available on the institution's website. Finally, Heritage stated that its first biennial review was conducted and that supporting documentation was submitted with the response.

Final Determination: Finding #11 cited Heritage for multiple violations of the DFSCA regarding deficiencies in its DAAPP and its failure to distribute DAAPP materials and to conduct biennial reviews. As a result of these violations, Heritage was required to review and enhance its DAAPP and then publish and distribute accurate and complete program materials in accordance with the Department's regulations. In addition, the institution was required to conduct a biennial review and prepare a report of findings and recommendations for improvements. Finally, Heritage was also required to submit appropriate documents to support its claims that the violations were addressed.

In its response, Heritage concurred with the finding and stated that adequate corrective action was taken on most of the deficiencies and stated further that additional action on the disclosure and biennial review violations would be taken "in the near future." The Department viewed this initial inaction as reflecting a failure to address significant violations as required by the terms and conditions of Heritage's Program Participation Agreement (PPA). However, the institution provided additional information showing that a biennial review was conducted in September 2013. Based on the review team's evaluation of all of the information submitted by Heritage and Heritage's representations that it has addressed these violations and their underlying causes, the Department considers this finding to be closed for purposes of this program review.

Although this finding is now closed, Heritage is reminded that the exceptions identified above constitute very serious and persistent violations of the DFSCA that by their nature cannot be cured. Heritage was required to initiate substantive remedial actions and in so doing, has begun the process of addressing the conditions that led to these DFSCA violations. While this is an important first step, Heritage officials must understand that compliance with the DFSCA are essential to maintaining a safe and healthy learning environment, especially in light of the fact that more than 90 percent of all violent campus crimes are drug and alcohol-related. The compliance failures documented in this report deprived students and employees of important information regarding the educational, financial, health, and legal consequences of alcohol abuse and illicit drug use.

Heritage's failure to conduct comprehensive biennial reviews also deprived the institution of important information about the effectiveness of any drug and alcohol programs that were in place during the review period. Such failures may contribute to increased drug and alcohol

abuse on-campus as well as an increase in drug and alcohol-related violent crime. For these reasons, Heritage officials are reminded that corrective measures cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective measures as a result.

Finding 12. Incomplete Annual Security Report

Citation Summary: *An institution's annual security report must include a statement of policy regarding the campus' sexual assault programs, including a description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and non-forcible sex offenses. 34 C.F.R. § 668.46(b)(11)(i).*

An institution must report, by category of prejudice, any crime it reports pursuant to 34 C.F.R. § 668.46(c)(1)(i) through (vii), and any other crime involving bodily injury reported to local police agencies or to a campus security authority, that manifests evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability. 34 C.F.R. § 668.46(c)(3)

Noncompliance Summary: *In two respects, Heritage's annual security report does not meet regulatory requirements.*

First, Heritage's annual security report does not include information regarding educational programs which are conducted on-campus to promote the awareness of rape, acquaintance rape, and other forcible and non-forcible sex offenses.

Second, a review of Heritage's 2011 annual security report disclosed that the institution has not reported on hate crimes, by category of prejudice or in any other manner.

Required Action Summary: *Heritage must reference in its 2012 annual security all educational programs conducted to promote awareness of sexual assault offenses, as required by federal regulations. Heritage must also make reference in its 2012 annual campus security report or note hate crimes of any type which occurred in calendar years 2009, 2010, and 2011. This may be accomplished by a listing of hate crime statistics by category of prejudice.*

Additionally, Heritage must provide, with its response to the PRR, evidence that it has distributed the 2012 security report to all currently enrolled students and employees, and that it will be made available to all prospective students and employees. Heritage must also develop and implement procedures for collecting and classifying the information included in its annual campus security report, including information relating to hate crimes and educational programs conducted to promote awareness of sexual assault offenses. A discussion of Heritage's dissemination of the 2012 campus security report and its updated procedures for producing one must be included with the institution's response to this PRR.