



March 13, 2014

Mr. William Hillard
President/CEO
Institute of Technology
6870 W. 52nd Ave., Suite 207
Arvada, CO 80002-3953

Certified Mail
Return Receipt Requested
#: 70070710000106754373

RE: **Final Program Review Determination**
OPE ID: 03642300
PRCN: 201241028053

Dear Mr. Hillard:

The U.S. Department of Education's (Department's) San Francisco/Seattle School Participation Division issued a program review report on May 15, 2013 covering the Institute of Technology's (IOT's) 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 2010-2011 and 2011-2012 award years. IOT's final response was received on August 14, 2013. A copy of the program review report (and related attachments) and IOT's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by IOT 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 close the review and notify IOT 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 IOT'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.

Federal Student Aid

An OFFICE of the U.S. DEPARTMENT of EDUCATION

50 Beale Street, Suite 9800, San Francisco, CA 94105-1863

StudentAid.gov

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. The student sample was sent to the school with the program review report.

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 Pilar M. Diaz, Institutional Review Specialist, at (415) 486-5368.

Sincerely,

(b)(6); (b)(7)(C)

Martina Fernandez-Rosario
Division Director
San Francisco/Seattle School Participation Division

Enclosures:
Final Program Review Determination
Program Review Report
IOT's Responses to the Program Review Report

cc: Ms. Sharon Fitzpatrick, Financial Aid Director
Mr. Rick Wood, Vice President/Compliance
OR Department of Education Private Career Schools
Accrediting Council for Continuing Education & Training

Institute of Technology

OPE ID: 03642300

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Prepared by

U.S. Department of Education

Federal Student Aid

San Francisco/Seattle School Participation Division

Final Program Review Determination
March 13, 2014

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A. Institutional Information

Institute of Technology
4700 Silverton Road North East
Salem, OR 97305-1373

Type: Proprietary

Highest Level of Offering: Non-Degree 1 Year (900-1799 hours)

Accrediting Agency: Accrediting Council for Continuing Education & Training

Current Student Enrollment: 224

% of Students Receiving Title IV: 87.1%

Title IV Participation according to National Student Loan Data System	<u>2010-2011 Award Year</u>
Federal Pell Grant Program	\$ 1,320,389
William D. Ford Federal Direct Loan Program (Direct Loan)	\$ 2,501,946

Default Rate FFEL/DL:	2009	12.5%
	2008	5.2%
	2007	9.5%

B. Scope of Review

The U.S. Department of Education (the Department) conducted a program review at Institute of Technology (IOT) from August 20, 2012 through August 24, 2012. The review was conducted by Marcia Clark, Adeline Espinosa and Pilar M. Diaz.

The focus of the review was to determine IOT'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 IOT'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 2010-2011 and 2011-2012 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. A program review report was issued on May 15, 2013. Appendix A, listing the names and social security numbers of the students whose files were examined during the program review, was issued with the program review report.

Disclaimer:

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

IOT has taken the corrective actions necessary to resolve findings ## 3, 4, 5, 6, and 7 of the Program Review Report. Therefore, these findings may be considered closed. Please refer to the attached document containing the institution's written response related to the resolved findings.

Findings requiring further action by IOT are discussed below.

Findings with Final Determinations

Finding 1. Annual Security Report (ASR) Not Prepared and Distributed as a Single Comprehensive Document

***Citation Summary:** The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) and the Department's regulations require that all institutions participating in Title IV, HEA financial aid programs prepare a comprehensive annual security report that contains, at a minimum, all of the statistical and policy elements described in 34 C.F.R. § 668.46(b). The ASR must be prepared and distributed as a single document. The only exception to this requirement is that the ASR may cross-reference information regarding the institution's alcohol and other drug abuse prevention programs required by § 120 (a)-(d) of the Higher Education Act. 34 C.F.R. § 668.46 (a)(10).*

Federal regulations also require institutions to actively distribute the ASR to all current students and employees through appropriate publications and mailing. Acceptable means of delivery include regular U.S. Mail, hand delivery, or campus mail distribution to the individual or posting on the institution's website. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all students and employees that includes a statement of the report's availability and its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. 34 C.F.R. § 668.41(e)(1).

The Department's regulations also require participating institutions to provide a notice to all prospective students and employees that includes a statement about the ASR's availability, its contents, and its exact electronic address if posted to a website. This notice must also advise interested parties of their right to request a paper copy of the ASR and to have it furnished upon request. 34 C.F.R. § 668.41(e)(4).

***Noncompliance Summary:** IOT failed to prepare and distribute a comprehensive annual security report by October 1, 2010 and by October 1, 2011. There are three components to this violation. Specifically, 1) no comprehensive ASR was published; and therefore, 2) no comprehensive ASR was actively distributed to current students and employees. Thirdly, no notice regarding the availability of the ASR was provided to prospective students and employees. The review team did ascertain that the IOT did, in fact, provide a link to the Department of Education's "Campus Safety and Security Data Analysis Cutting Tool." However this is not an Annual Security Report. Failure to prepare an accurate and complete ASR and to actively distribute it to current students and employees in accordance with federal regulations deprives the campus community of important security information.*

Required Action Summary: *As a result of the above violations, IOT was required to ensure that it produces a revised 2012 ASR that includes all of the statistical disclosures and policy, procedure, and programmatic information required under 34 C.F.R. § 668.46 (b). A draft of the 2012 ASR was required in response to the program review report. IOT was also required to ensure that it was actively distributed to all current students and employees in accordance with 34 C.F.R. § 668.41 (e).*

Institutional Action Taken to Resolve Noncompliance: *IOT adopted and implemented corrective policies and disclosures during the site visit. If fully implemented and sustained, IOT's substantive and procedural corrective actions should result in improved compliance with the Clery Act going forward.*

IOT was reminded that corrective actions, whether already implemented or planned for the future, do not diminish the seriousness of the violations identified during the program review.

IOT Response: IOT stated its concurrence with the finding. In addition, IOT management submitted four exhibits to show that remedial action was initiated and as evidence of "IOT's ongoing efforts to effect compliance going forward." These documents included a revised ASR Disclosure Form for incoming students and new employees, a screenshot showing that the ASR is posted on the IOT website, a new current employee ASR Disclosure Acknowledgement Form, and a screenshot showing that a new current student ASR Disclosure Form is available on the MyIOT student portal. Finally, IOT stated that an ASR disclosure "is available on the IOT website at www.iot.edu to anyone that wished to review it and is also updated annually when the ASR is updated."

Final Determination: This finding cited IOT for its failure to publish a 2010 and 2011 ASR. As a result of this violation, the Institute also failed to actively distribute these required reports to enrolled students and current employees. In addition, IOT failed to actively notify prospective students and employees about these required publications. As a result of these violations, IOT was required to prepare and publish a materially complete 2012 ASR and to actively distribute the report to all enrolled students and current employees in the required manner. In addition, the Institute was required to review and revise its existing policies and procedures regarding the preparation, publication, and distribution of the ASR and to promulgate any new policies and procedures as needed to ensure that these violations do not recur. In its response, IOT concurred with the finding and provided documentation that purported to show that adequate corrective action was taken. Specifically, the Institute published a 2012 ASR, compiled campus crime statistics, and documented its efforts to distribute the report.

The Department carefully reviewed all information provided in response to the finding. The Institute did produce a report that included most of campus safety policy disclosures required by 34 C.F.R. § 668.46(b). However, significant concerns remain. First, IOT's ASR is included in a larger document entitled "2013/2014 Financial Aid Consumer Information." The cover page of

the larger document does not state that the ASR content is included in this document, as required. While compliance with the Clery Act is a condition of IOT's participation in the FSA programs and is closely associated with the Department's programmatic requirements, students, employees, and other stakeholders are unlikely to reasonably believe that the ASR and other campus safety specific information would be included in such a document. The Department recognizes the unique nature and importance of public safety information disclosures and for that reason, the Clery Act regulations set out specific publication, distribution and notification requirements. An institution may include the ASR as part of a larger publication; however, if an institution elects to do so, the cover page of that document must clearly indicate that the ASR is included therein. Second, the Department notes that some of the policy disclosures required additional development and that IOT did not incorporate its campus crime statistics into the 2012 ASR. All required content must be included in a single comprehensive document.

In addition, the Department noted continuing issues with IOT's distribution policies and procedures. The Institute's response and corrective action plan stated that management developed a revised ASR Disclosure Form for incoming students and new employees, a current employee ASR Disclosure Acknowledgement Form, and a current student ASR Disclosure form. IOT noted that the current student form can be accessed on the MyIOT student portal. Finally, IOT stated that the 2012 ASR and its ASR Disclosure Forms are now "available on the IOT's website at www.iot.edu to anyone that wished to review it and is also updated annually when the ASR is updated." Although the Institute's remedial efforts resulted in some improvement, the processes described in the response do not comply with the ASR active distribution requirements.

Title IV institutions are required to actively distribute the ASR to all enrolled students and current employees. The actual report must be delivered to each recipient or alternatively, the report can be distributed by electronic means, such as by sending an e-mail message that includes a direct link to the full report. The mere distribution of a disclosure and/or acknowledgement form would not be adequate to meet the active distribution requirement. Similarly, the mere posting of the ASR to a website even if it is available to anyone that wished to review it would not be adequate. Based on its review of IOT's response and corrective action plan, the Department has determined that the Institute violated the Clery Act in the manner described in the finding and that those violations also occurred in 2012 due to the failure to adequately address the deficiencies noted in the initial finding.

The San Francisco/Seattle School Participation Division has made a concerted, good faith effort to assist IOT toward full compliance with the Clery Act; however, the review of the response and corrective action plan indicate ongoing violations as described above. For these reasons, this program review finding will be closed and this matter has been referred to the Department's Clery Act Compliance Division (CACD) for additional action. As part of that referral IOT is required to take immediate action to fully and finally address these violations. Specifically, IOT must:

- 1) Demonstrate its compliance with all of the ASR requirements for 2013 by submitting a copy of its accurate and complete 2013 ASR along with documentation showing full compliance with the active distribution and notification requirements; OR,
- 2) Review, revise, and enhance its 2013 ASR, as needed to conform to the report and its distribution to the requirements of the Clery Act outlined above. Based on the deficiencies noted in the 2012 ASR, such changes may include reformatting the 2013 report to be a stand alone document or modifying the current title of the Financial Aid Consumer Information document so that it clearly and conspicuously indicates that the 2013 Annual Security Report is contained therein;
- 3) Demonstrate that the 2013 ASR contains accurate and complete campus safety information (policies, procedures, programs, and statistics) that addresses all of the requirements in 34 C.F.R. § 668.46(b);
- 4) Provide documentation that shows full compliance with the ASR active distribution and notification in accordance with 34 C.F.R. § 668.41; and,
- 5) Submit a certification statement attesting to the fact that the report was distributed in accordance with the Clery Act. This certification must also affirm that IOT understands its Clery Act obligations and that it has taken all necessary corrective actions to ensure that these violations do not recur.

IOT must submit all materials specified above to the CACD at: clery@ed.gov within 45 days of the Institute's receipt of this FPRD. IOT's submission must reference the Program Review Control Number (PRCN) noted on the cover letter of this FPRD in the subject line of its e-mail message. IOT is advised that any failure to respond to the CACD's request for production set out above will result in a referral for the imposition of adverse administrative actions in addition to any such referral that may be made to address the original violations identified in Finding #1 of the Program Review Report.

Although this program review finding is now closed, IOT is reminded that the exceptions identified above constitute serious violations of the Clery Act that by their nature cannot be cured. There is no way to truly "correct" violations of this type once they occur. IOT was required to initiate all necessary remedial measures; however, as noted above, the Institute has failed to adequately address the deficiencies or the conditions that led to these violations. As a result, this matter has been referred to the CACD and that office will require additional actions to ensure that IOT brings its overall campus security program into compliance with the Clery Act as required by its Program Participation Agreement (PPA). IOT must comply with the additional requirements set out above. Notwithstanding its remedial efforts taken thus far or those that will be required as part of the CACD referral, IOT is advised such actions cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Finally, the Department strongly recommends that IOT re-examine its campus security, drug and alcohol, and general Title IV policies and procedures on an annual basis to ensure that they continue to reflect current institutional practices and are compliant with federal regulations. As part of these periodic reviews, IOT officials are encouraged to continue to use the Department's

“Handbook for Campus Safety and Security Reporting” (2011) as a reference guide for Clery Act compliance. The Handbook is online at: www2.ed.gov/admins/lead/safety/handbook.pdf. The Department also provides a number of other Clery Act training resources. IOT can access these materials at: www2.ed.gov/admins/lead/safety/campus.html. The regulations governing the Clery Act can be found at 34 C.F.R. §§ 668.14, 668.41, 668.46, and 668.49.

Finding 2. Failure to Comply with Drug and Alcohol Abuse Prevention Program (DAAPP) Requirements

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

On an annual basis, each IHE must provide the following information in writing to all current students (enrolled for any type of academic credit except continuing education units) and all current employees:

A written statement about its standards of conduct that clearly prohibits the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities;

A written description of the applicable legal sanctions under local, state, or federal law for the unlawful possession or distribution of illicit drugs and alcohol;

A description of the health risks associated with the use of illicit drugs and the abuse of alcohol;

A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and,

A clear statement that the IHE will impose disciplinary sanctions on students and employees (consistent with federal, state, and local laws and ordinances) and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct. For the purpose of this section, please note that a disciplinary sanction may include the required completion of an appropriate treatment program.

Moreover, the regulations require each IHE to conduct Biennial Reviews to determine the effectiveness of its DAAPP and to ensure consistent enforcement of applicable drug and alcohol-related statutes, ordinances, and institutional policies against students and employees found to

be in violation. Biennial Review reports and supporting documents must be maintained by the IHE and made available to the Department upon request. 34 C.F.R. §§ 86.3, 86.100 and 86.103.

Noncompliance Summary: *IOT failed to conduct a Biennial Review (BR) and prepare a report of findings as required by the DFSCA. The BR is a required institutional self-study that is intended to: 1) evaluate the effectiveness of an IHE's DAAPP; 2) identify areas requiring improvement or modification; and, 3) assess the consistency of sanctions imposed for violations of an IHE's disciplinary standards and codes of conduct.*

Failure to comply with the DFSCA's requirements deprives students and employees of important information regarding the educational, disciplinary, health, and legal consequences of illegal drug use and alcohol abuse. Failure to comply with the BR requirements also deprives the institution of important information about the effectiveness of its own drug and alcohol programs. Such failures may contribute to increased drug and alcohol abuse on-campus as well as an increase in drug and alcohol-related violent crime.

Required Action Summary: *During the site visit, the review team explained the DFSCA requirements to IOT officials. Based on that guidance, IOT began to develop new policies and procedures for conducting its BR. The institution was required to review its DAAPP and enhance it as necessary to ensure that it includes all of the elements required by the DFSCA and the Department's Part 86 regulations. In addition, IOT was required to ensure that its new policies and procedures will enable it to conduct a substantive BR and that sufficient expertise and resources will be dedicated to the review.*

The BR must evaluate the effectiveness of IOT's drug and alcohol programs for students and employees and assess the consistency of sanctions imposed for violations of its disciplinary standards and codes of conduct. IOT must also use the review process to identify areas for improvement and develop a plan for implementing any recommended improvements. At the conclusion of the review, it was noted that IOT must prepare a detailed report of its findings.

The BR report must describe the research methods and data analysis tools that were used to assess the program's effectiveness and the consistency of its enforcement strategy. In addition, the BR report must identify the responsible official(s) who conducted the BR. Finally, the BR report must be presented to and approved by the institution's chief executive and/or its board. The Biennial Review was required to be completed by May 31, 2013 and IOT's report of findings and supporting documents were required to be submitted to the Department by June 30, 2013.

IOT was required to ensure that all subsequent BRs are conducted in a timely manner and are fully documented.

IOT is reminded that the exceptions identified above constitute serious violations of the DFSCA that, by their nature, cannot be cured. IOT has asserted its intention to comply and was required to take corrective action as described above and, in so doing, will finally begin to bring its drug and alcohol programs into compliance with the DFSCA as required by its Program

Participation Agreement. However, the institution is advised that its remedial measures cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action as authorized by the DFSCA and/or other corrective measures.

IOT Response: IOT stated its concurrence with the finding as it related to the absence of a biennial review. IOT management stated that the Institute already had a DAAPP but conceded that the plan's effectiveness and the consistency of its disciplinary sanctions were never reviewed, as required. In support of its claims regarding partial compliance, the Institute submitted a copy of its DAAPP. The Institute's management represented that the DAAPP information was distributed, as required. IOT stated that it commenced a biennial review as soon as it learned of the requirement to do so and stated that its assertion is supported by observations made by the Department's review team during the site visit. Finally, IOT submitted a copy of its new Biennial Review Report.

Final Determination: This finding cited IOT for its failure to conduct biennial reviews and to produce a report of findings and recommendations, as required. As a result of these violations, IOT was required to immediately conduct a review. In its response, IOT concurred with the finding and submitted a copy of its first Biennial Review Report. IOT stated that it commenced its first biennial review upon being advised of the requirement by the review team. The Department carefully reviewed all information provided in response to this finding. Based on that review, this finding of noncompliance is sustained. The Department also has determined that the Institute has initiated remedial actions that meet minimum requirements. Based on that determination and IOT's representations that it has addressed this persistent violation and the underlying causes, the Department accepts the Institute's response and considers this finding to be closed.

Although the finding is now closed, IOT is reminded that its persistent failure to conduct biennial reviews constitutes a serious violation of the Drug-Free Schools and Communities Act (DFSCA) that by its nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. IOT officials must understand that compliance with the DFSCA is essential to maintaining a safe and healthy learning environment. IOT's failure to conduct comprehensive biennial reviews deprived the Institute of important information about the effectiveness of any drug and alcohol programs that were in place. Such failures may contribute to increased drug and alcohol abuse on-campus as well as an increase in drug and alcohol-related violent crime. For these reasons, the Institute is reminded that corrective measures cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action as authorized by the DFSCA and the Department's regulations and/or require additional corrective measures as a result.

Finally, the Department strongly recommends that IOT re-examine its campus security, drug and alcohol abuse prevention policies and procedures on an annual basis to ensure that they are effective, continue to reflect current institutional practices and are in full compliance with the

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DFSCA. Please be advised that the Department may request information on a periodic basis to test the effectiveness of IOT's new DFSCA policies and procedures.