January 30, 2014

Dr. D. Clay Perkins
President
Mid-Atlantic Christian University
715 N Poindexter Street
Elizabeth City, NC 27909-4054

UPS Tracking #
7007 0220 0002 5142 4901

RE: **Final Program Review Determination**
OPE ID: 02280900
PRCN: 201110327501

Dear President Perkins:

The U.S. Department of Education's Clery Act Compliance Team issued a program review report on July 25, 2011 regarding Mid-Atlantic Christian University's (Mid-Atlantic; the University) compliance with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*) in *Section 485(f) of the HEA, 20 U.S.C. § 1092(f)* and the Department's regulations at *34 C.F.R. §§ 668.41, 668.46, and 668.49*. The review also examined the College's compliance with the Drug-Free Schools and Communities Act (*DFSCA*) in *Section 20 U.S.C. §1011i* and the Department's regulations at *34 C.F.R. Part 86*. Mid-Atlantic's response was received on November 4, 2011. The original text of the program review report is incorporated into this Final Program Review Determination (FPRD). Mid-Atlantic's response and any supporting documentation submitted with the response are being retained by the Department and are available for inspection by Mid-Atlantic upon request. Please be advised that this FPRD and any supporting documentation may be subject to release under the Freedom of Information Act and may be provided to other oversight entities after this FPRD is issued.

Purpose:

Final determinations have been made concerning all of the findings identified during the program review. The purpose of this letter is to advise Mid-Atlantic of the Department's final determinations and to close the review. Please note that this FPRD contains several findings regarding Mid-Atlantic's failure to comply with the requirements of the *Clery Act*. Because a *Clery Act* finding does not result in a financial liability, such findings may not be appealed.

Due to the serious nature of these findings, this FPRD is being referred to the Administrative Actions and Appeals Service Group (AAASG) for consideration of a possible adverse administrative action. Such action may include a fine and/or the limitations, suspension or termination of the eligibility of the institution to participate in the Title IV, HEA programs pursuant to *34 C.F.R. § 668, Subpart G*. If AAASG initiates any such action, additional information about Mid-Atlantic's appeal rights and procedures for filing an appeal will be provided under separate cover.

Record Retention:

Records relating to the period covered by this program review must be retained until the later of resolution of the violations identified during the program review or the end of the regular retention period applicable to all Title IV-related records including campus crime and security documents *under 34 C.F.R. § 668.24 (e).*

Thank you for the courtesy and cooperation shown to us throughout the program review process. If you have any questions about this FPRD or the program review process, please contact Ms. Janet Pearlman on 202-377-4845.

Sincerely,

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

James L. Moore, III
Compliance Manager, Clery Act Compliance Division

cc: Dr. Ken Green, V.P. and Director of Student Life, Mid-Atlantic
Ms. Lisa W. Pipkin, FAD, Mid-Atlantic
Thomas W. Ross, J.D., North Carolina Board of Governors
Belle S. Wheelan, Ph.D., SACS - COC

Enclosures:
Final Program Review Determination

Prepared for:

Mid-Atlantic Christian University

OPE ID: 02280900
PRCN: 201110327501

Prepared by:
U.S. Department of Education
Federal Student Aid
Clery Act Compliance Team

Final Program Review Determination
January 30, 2014

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A. Institutional Information

Mid-Atlantic Christian University
715 North Poindexter Street
Elizabeth City, NC 27909

Type: Private Nonprofit

Highest Level of Offering: Bachelor's Degree

Accrediting Agency: Southern Association of Colleges and Schools

Current Student Enrollment: 179 (2010)

% of Students Receiving Title IV: 90% (2010)

Title IV Participation, Per U.S. Department of Education (Postsecondary Education Participants System):

2010-2011Award Year

Federal Pell Grant	$ 452,034.00
Federal Direct Loan Program	$1,323,966.00
Federal Supplemental Education Opportunity Grant Program	$ 13,404.00
Federal Work-Study Program	$ 11,022.00

DL/FFEL Default Rate: **2010 - 7.4%**
2009 – 5.3%

Mid-Atlantic Christian University (Mid-Atlantic; Mid-Atlantic; the University) is a coeducational institution supported by Independent Churches of Christ and Christian Churches. Located in Elizabeth City, NC, the University is situated on 20 acres and includes 10 buildings. Mid-Atlantic has a security officer who does not have arrest authority but does assist local police with on-campus incidents. Mid-Atlantic also has an employee who secures buildings in addition to its 24 hours, 7 days a week security camera surveillance system. This system includes 16 cameras that monitor the exterior premises and entrances to all residence halls.

B. Scope of Review

The U.S. Department of Education (the Department) conducted an off-site program review of Mid-Atlantic from October 28, 2010 through March 5, 2011. The review was conducted by The Clery Act Compliance Team.

The focus of the review was to evaluate Mid-Atlantic's compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*) and the Drug-Free Schools and Communities Act Amendments of 1989 (*DFSCA*). The *Clery Act* is in *Section 485 (f) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1092 (f)* and the Department's implementing regulations are at *34 C.F.R. §§668.41 and 668.49*. The Drug-Free Schools Act is in *20 U.S.C. §1011i* and the Department's regulations are at *34 C.F.R. Part 86*.

The Department initiated the review after a shooting incident on Mid-Atlantic's campus. The initial focus of the review was to evaluate Mid-Atlantic's *Clery Act policies* and procedures, especially the University's adherence to its "Timely Warning" policy in response to the shooting incident.

On October 4, 2010 at approximately 1:00 P.M., local police responded to a shooting on campus in which a male student was shot and killed in his dormitory room. The shooter, also a student at Mid-Atlantic, was apprehended at the scene. At 1:18 P.M. the campus was placed on lockdown and students in the dormitory were moved to the campus library. At 5:38 P.M. emails were sent out to the entire campus community about the incident. Because the perpetrator was apprehended at the scene and because there was no indication that he had accomplices, etc., the Department determined that the University acted in a compliant manner in this instance.

During this review; however, the Department's examination of the University's overall compliance with the *Clery Act* revealed that Mid-Atlantic had failed to comply in several material respects. As such, the Department expanded its review to include an examination of Mid-Atlantic's campus police incident reports, arrest records, disciplinary files, the school's policies and procedures relating to campus safety and security, and drug and alcohol abuse prevention. The review team also interviewed Mid-Atlantic officials with responsibilities in these areas.

Disclaimer:

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning Mid-Atlantic's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, this review doesn't relieve Mid-Atlantic of its obligation to comply with all of the statutory or regulatory provisions governing Title IV, HEA participation including the *Clery Act*.

C. Findings and Final Determinations

The findings identified in the Department's July 25, 2011 program review report appear in italics below. At the conclusion of each finding is a summary of Mid-Atlantic's response and the Department's Final Determination.

Finding 1: ***Failure to Publish and Distribute the Annual Security Report in Accordance with Federal Regulations***

Citation Summary:

The Clery Act and the Department's regulations require Title IV participating institutions to provide an ASR to all current students and employees through appropriate publications and mailings. Acceptable means of delivery include regular U. S. Mail, hand delivery, or campus distribution to each individual or the posting on the institution's Internet or Intranet Web site. If an institution chooses to distribute its report by posting to an Internet or Intranet Web site, the institution must, by October 1 of each year, distribute a notice to all students and employees that includes a statement of the report's availability, its exact electronic address, and a description of its contents, as well as a statement that a paper copy will be provided upon request. 34 C.F.R. § 668.41(e)

Furthermore, an institution is required to report in its ASR crime statistics for the three most recent calendar years concerning the occurrence on campus, in or on noncampus building or property, and public property of the following crimes: criminal homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. An institution also is required to disclose arrests and disciplinary actions related to violations of Federal or State drug, liquor and weapons laws. 34 C.F.R. § 668.46(c)(1) and (7). In addition, an institution must report, by category of prejudice, certain crimes that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability. The Department's regulations require that, for Clery Act reporting purposes, participating institutions must compile crime statistics using the definitions of crimes in Appendix A to Subpart D of Section 668 of the General Provisions Regulations.

Noncompliance Summary:

Mid-Atlantic did not prepare ASRs that were required to be distributed by October 1, 2009 and October 1, 2010. In response to the Department's October 20, 2010 letter requesting ASRs for the two most recent years, the University stated, "Included with this report are copies of the two most recent Campus Security Reports under Tab 15. A summary of these reports is included in the Crime Prevention and Sex Offense handbooks, which are distributed during Registration at the beginning of each semester."

The Department examined the Crime Prevention Handbook for 2010-2011 and determined that it contained some policies and procedures, and some campus crime statistics for 2006-07 through 2009-10. The Sex Offenses Handbook for 2010-2011 also contained some policies and procedures, definitions, and reported sex offenses on Mid-Atlantic Campus for 2004-05 through 2009-10. The Department has concluded that Mid-Atlantic's distribution of summary information in pamphlets and its publication of statistical data in two separate handbooks do not constitute an annual security report for Clery Act purposes. The Clery Act requires that the ASR must be contained in a single document which is then distributed to the entire campus community. Whether an institution produces the ASR as a separate publication or as part of another publication, it must be contained in a single document. An institution cannot publish its ASR in sections or multiple volumes.

In addition, the Department's review of the document Mid-Atlantic submitted as its annual security report revealed that the following required information was lacking:

- *A statement of current policies regarding campus law enforcement that addresses the authority of campus law enforcement, the campus law enforcement's relationship with other State and local law enforcement agencies, and whether campus law enforcement officers have the authority to arrest individuals. 34 C.F.R. § 668.46(b)(4)*

- *A statement that clearly describes all the programs available to inform students and employees about campus security procedures and practices. 34 C.F.R. § 668.46(b)(5)*

- *A statement of policy for making timely warning reports to members of the campus community regarding the occurrence of Clery Act crimes. 34 C.F.R. § 668.46((b)(2)(i)*

- *A statement of policy for preparing the annual disclosure of crime statistics. 34 C.F.R. § 668.46((b)(2)(ii)*

- *A list of titles of each person or organization to which students and employees should report criminal offenses described in the law for the purpose of making timely warning reports and the annual statistical disclosure. 34 C.F.R. § 668.46((b)(2)(iii)*

- *A statement that describes the programs available to inform students and employees about the prevention of crime. 34 C.F.R. § 668.46(b)(6)*

- *A statement of policy regarding the enforcement of underage drinking laws or enforcement of federal or state drug laws. 34 C.F.R. §§ 668.46(b)(8) and 668.46(b)(9)*

- *A full description of the drug and alcohol education programs offered.*

34 C.F.R. § 668.46(b)(10)

- *A statement of policy regarding emergency response and evacuation procedures. 34 C.F.R. § 668.46(13)(g)*

- *A statement of policy regarding procedures to test the emergency response and evacuation procedures on at least an annual basis. 34 C.F.R. § 668.46(13)(g)*

- *A statement of the institution's policies regarding its campus sexual assault programs to prevent sex offenses and to promote the awareness of rape, acquaintance rape, and other forcible and non forcible sex offenses 34 C.F.R. § 668.46(b)(11).*

Failure to prepare and distribute an accurate and complete ASR to current students and employees within the timeframe established by Federal law deprives the campus community of timely access to important campus crime information.

Required Action Summary:

Mid-Atlantic must prepare an ASR for 2010 and submit a copy to the Department with its response. The ASR must contain, at a minimum, the required information stipulated in 34 C.F.R. 668.46(b). The ASR also must include reported crime statistics for calendar years 2007, 2008, and 2009 concerning the occurrence on campus, in or on noncampus building or property, and public property of the following crimes: criminal homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. The University must report, by category of prejudice, any of the above crimes that were hate crimes. In addition, the University is required to disclose arrests and disciplinary actions related to violations of Federal or State drug, liquor and weapons laws. 34 C.F.R. § 668.46(c)(1)and (7).

Mid-Atlantic must ensure that it notifies its students and employees of the ASR's availability by October 1 of each year. To that end, Mid-Atlantic must develop procedures to ensure that the notification and distribution of the ASR takes place before the October 1 deadline. A copy of those procedures must be submitted with the University's response to this finding.

Institutional Response:

In its response, Mid-Atlantic concurred with the finding and stated that it published a 2011 ASR that included all of the required campus safety content. In addition, the University stated that it examined all of its existing policy statements, made revisions as necessary, and added new policy statements in its Safety and Security Manual. Mid-Atlantic also asserted that the 2011 ASR was posted to its official website. Finally, University officials represented that the ASR was distributed via electronic mail to students and employees. A copy of the email message was submitted with Mid-Atlantic's response.

Final Determination:

Finding #1 of the program review report cited Mid-Atlantic for its failure to publish and distribute an ASR in 2010, 2009, and all prior years dating back to the inception of the *Clery Act*. In its response, the University stated its concurrence with the finding and asserted that all necessary corrective action was taken to address the violations identified during the program review. Mid-Atlantic's new procedures for developing and distributing its ASR should be sufficient to address this violation going forward. Mid-Atlantic's response included a copy of its 2011 ASR which included crime statistics for calendar years 2010, 2009, and 2008 and documentation that the University notified its students and employees of the report's availability on September 28, 2011.

Based on the review team's analysis of the response and Mid-Atlantic's representations that it has addressed these violations and their underlying causes, the Department considers this finding to be closed.

Although the finding is now closed, Mid-Atlantic is reminded that the exceptions identified above constitute very 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. Mid-Atlantic was required to initiate all necessary remedial measures and in doing so, has begun to address the conditions that led to these violations. Mid-Atlantic has stated that it has brought its overall campus security program into compliance with the *Clery Act* as required by its Program Participation Agreement (PPA). Nevertheless, Mid-Atlantic officials must understand that the *Clery Act* is first and foremost a consumer protection law that is based on the premise that "to be forewarned is to be forearmed." Persistent compliance failures of the type documented above deprive students and employees of important campus safety information and effectively negate the intent of the Act. As such, Mid-Atlantic is advised that 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.

As noted above, Mid-Atlantic's response was accepted and found to be at least minimally adequate. Nevertheless, the University is reminded that it must initiate any additional corrective actions that are necessary to ensure that the deficiencies identified during the program review do not recur. For that reason, the Department strongly recommends that Mid-Atlantic re-examine its campus security, fire safety, 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, Mid-Atlantic officials are encouraged to consult the Department's "Handbook for Campus Safety and Security Reporting" (2011) as a reference guide for *Clery Act* compliance. The Handbook is available online at: **www2.ed.gov/admins/lead/safety/handbook.pdf**. The regulations governing the *Clery Act* can be found at *34 C.F.R. §§ 668.14, 668.41, 668.46, and 668.49.*

Finding 2: ***Failure to Maintain a Daily Crime Log***

Citation Summary:

The Department's regulations require that a institution that maintains a campus police or a campus security department must maintain a written, easily understood daily crime log that records, by the date the crime was reported, any crime that occurred on campus, on a non campus building or property, on public property, or within the patrol jurisdiction of the campus police or the campus security department and is reported to the campus police or the campus security department. 34 C.F.R. § 668.46(f)

Noncompliance Summary:

Mid-Atlantic did not maintain a daily crime log as required by the Clery Act. In its October 28, 2010 letter to the University, the Department requested a copy of the University's 2009 and 2010 crime logs. Mid-Atlantic did not comply; instead, Mid-Atlantic submitted copies of campus crime incident reports.

Required Action Summary:

Mid-Atlantic must immediately develop a crime log that includes the following information for each reported crime; the nature, date, time and general location of each crime; and the disposition of the complaint, if known. The crime log, if not already created, should begin with any crimes reported as of the date of this letter. A copy of the crime log or at least a model of the crime log must be submitted to the Department with the University's response.

In addition, Mid-Atlantic must develop policies and procedures to ensure that its crime log is updated in an accurate and complete manner and that it is readily available to the campus community and general public for review upon request.

Institutional Response:

In its response, Mid-Atlantic stated that the *Clery Act* requires that institutions with a "campus police or a campus security department must maintain a daily crime log. However, Mid-Atlantic does not have a police or security department. Mid-Atlantic's Student Life Department oversees any crimes that are reported through an incident report. As such, there is no regulatory requirement to maintain a daily crime log. However, the institution has developed a daily crime log which the Student Life Department will use in the future."

Final Determination:

Finding # 2 of the program review report cited Mid-Atlantic for failing to maintain a daily crime log that is freely accessible to the public. As a result of this violation, Mid-Atlantic was required to review and enhance its campus safety policies and procedures

with special attention on the preparation and maintenance of an open and accessible daily crime log or explain why this requirement did not apply to the University. In its response, Mid-Atlantic stated that the University was not required to maintain a daily crime log because it did not have policy or security department. Nevertheless, Mid-Atlantic stated that it would develop such a log and maintain it going forward. However, University officials did indicate that at the time of the review, the University did employ a security officer who is assigned to the Student Affairs Office. Based on information developed during the review, this officer did in fact have specific security-related work functions and assists law enforcement on behalf of the University. As such, the University is put on notice that the *Clery Act* requires any institution will a security presence to maintain a daily crime log regardless of the office to which such personnel are assigned. This requirement also applies to contract security officers, for example. Because the University stated that it has implemented a daily crime log and now understands that the crime log requirement does apply, the Department will accept Mid-Atlantic's response to this finding.

Based on the review team's analysis of the response and Mid-Atlantic's representations that it has addressed these violations and their underlying causes, the Department considers this finding to be closed.

Although the finding is now closed, Mid-Atlantic 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" a violation of this type once it occurs. The requirement to maintain an accurate and complete daily crime log is intended to allow all interested parties to access more up-to-date information about crimes that occur on campus and within an institution's patrol jurisdiction. Access to this information permits campus community members and their families to make well-informed decisions and empowers them to play a more active role in their own safety and security on a day-to-day basis. Mid-Atlantic was required to initiate all necessary remedial measures and in doing so, has begun to address the conditions that led to these violations. Mid-Atlantic has stated that it has brought its overall campus security program into compliance with the *Clery Act* as required by its PPA. Nevertheless, Mid-Atlantic is advised that 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.

Finding 3: ***Failures to Publish and Distribute the Annual Fire Safety Report***

Citation Summary:

Beginning by October 1, 2010, an institution that maintains any on campus student housing facility, must prepare an Annual Fire Safety Report (AFSR) that contains at minimum, the following requirements:

- *The fire statistics for each on campus student housing facility.*

- *A description of the fire safety and sprinkler system, including the type, age, information for each on-campus student housing facility.*
- *The number of fire drills held the previous calendar year.*
- *Policies or rules on portable electrical appliances, smoking and open flames in a student housing facility.*
- *Procedures for student housing evacuation in case of a fire.*
- *Policies for fire safety education and training programs for students, faculty and staff.*
- *A list of the titles of each person or organization to which individuals should report that a fire has occurred.*
- *Plans for future improvements in fire safety, if determined necessary by the institution. 34 C.F.R. §668.49(b)*

Noncompliance Summary:

A review of the documents provided to the Department by Mid-Atlantic revealed that the University did not prepare an AFSR for 2010 that includes the required elements in 34 C.F.R. § 668.49(b). Mid-Atlantic reported fire statistical data to the Department's Website in accordance with 34 C.F.R. § 668.49(c), but it failed to distribute the AFSR to all current students and employees in accordance with 34 C.F.R. § 668.41(e).

Required Action Summary:

Mid-Atlantic must prepare an AFSR for 2010 and provide a copy to the Department for its review. Once the Department reviews the AFSR and determines that all required elements are included in the report, Mid-Atlantic will be required to distribute the AFSR to the campus community. In addition, Mid-Atlantic will be required to submit to the Department proof of distribution of the AFSR to the campus community. In response to this finding and Finding #1, Mid-Atlantic may combine its ASR and AFSR into one document for distribution purposes.

Mid-Atlantic must ensure that it notifies its students and employees of the AFSR's availability by October 1 of each year. To that end, Mid-Atlantic must develop procedures to ensure that notification or distribution of the AFSR takes place before the October 1 deadline and submit a copy of those procedures in its response.

Institutional Response:

In its response, Mid-Atlantic concurred with the finding and stated that it has developed an Annual Fire Safety Report (AFSR) and otherwise developed and implemented a fire safety program that includes the missing elements described in this finding. A copy of the University's first AFSR and related materials was submitted as part of the response.

Final Determination:

Finding # 3 of the program review report cited Mid-Atlantic for multiple violations of the *Clery Act's* fire safety provisions. Specifically, the University failed to publish a 2010 AFSR and to actively distribute such a report to all enrolled students and current employees by the October 1, 2010 deadline. As a result of these violations, Mid-Atlantic was required to develop and implement fire safety policies, procedures, and programs that at a minimum, meet the requirements of *34 C.F.R. § 668.49* including the establishment of an accurate and complete fire log. In its response, Mid-Atlantic stated its concurrence with the finding and submitted its new policies and procedures along with a copy of its 2011 AFSR and new fire safety log; however, the University failed to provide documentation showing that the report was actively distributed, as required. As such, Mid-Atlantic must provide suitable records to the Department at this time. Specifically, Mid-Atlantic must submit evidence of active distribution of its 2013, 2012, and 2011 AFSRs to the Department's Clery Act Compliance Team at: clery@ed.gov within 15 days of the University's receipt of this FPRD. The University's submission must reference the Program Review Control Number (PRCN) indicated on the cover letter of this FPRD in the subject line of its e-mail message. Failure to respond to this request for production may result in the imposition of additional adverse administrative actions.

Other than this additional request for production, the review team's analysis of the response to this finding and the University's representations regarding remedial actions provide reasonable assurances such that the Department now considers this finding to be conditionally closed. Although Mid-Atlantic's response was found to be at least minimally adequate, Mid-Atlantic officials are reminded that they must take additional corrective actions that may be necessary to ensure that the deficiencies identified above regarding its compliance with the *Clery Act's* fire safety provisions do not recur.

Although the finding is now conditionally closed, Mid-Atlantic is reminded that the exceptions identified above constitute very serious violations of the *Clery Act* that by their nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. Such violations deprive students, employees, and parents of important fire safety information to which they are entitled. Access to this information permits campus community members, especially those who live in residence halls, to make well-informed decisions and empowers them to play a more active role in preventing injury and/or loss of life and/or property due to fire-related causes. Mid-Atlantic was required to initiate all necessary remedial measures and in doing so, has begun to address the conditions that led to these violations. Mid-Atlantic has stated that it has brought its overall fire safety program into compliance with the *Clery Act* as required by its PPA. Nevertheless, Mid-Atlantic is advised that 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.

Finding 4: ***Failure to Maintain a Fire Log***

Citation Summary:

An institution that maintains on-campus student housing facilities must maintain a written, easily understood fire log that records, by the date that the fire was reported, any fire that occurred in an on-campus student housing facility.
34 C.F.R. §668.49(d)

Noncompliance Summary:

Mid-Atlantic failed to maintain a fire log in accordance with the Department's regulations. When the Department requested the University's Fire Log, Mid-Atlantic submitted copies of log sheets from the Elizabeth City Fire Department.

Required Action Summary:

Mid-Atlantic must maintain a fire log that records the nature, date, time and general location of each fire that occurs in an on campus student housing facility. Each entry or addition to the fire log must be entered within two business days of the report of information. All other information required by 34 C.F.R. §668.49(d) must be included in the fire log. Mid Atlantic must review and revise its policies and procedures to ensure compliance with this requirement. A copy of the University's Fire Log, if one has already been started or at least a model of the Fire Log and revised policies must be submitted with Mid-Atlantic's response.

Institutional Response:

In its response, Mid-Atlantic stated its concurrence with the finding and asserted that a compliant fire log is now in place. A copy of the new fire log was included with the University's response.

Final Determination:

The Final Determination for this finding in incorporated into the Department's comments under Finding # 3.

Finding 5: ***Failure to Comply with the Drug and Alcohol Abuse Prevention Regulations***

Citation Summary:

The Drug-Free Schools Act and the Department's regulations require institutions of higher education to adopt and implement a drug prevention program for its students and employees that, at a minimum, includes the following:

(a). The annual distribution in writing to each employee, and to each student who is taking one or more classes for any type of academic credit except for continuing education units, regardless of the length of the student's program of study, of -

(1) Standards of conduct that clearly prohibit, at a minimum, 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;
(2) A description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol.
(3) A description of the health risks associated with the use of illicit drugs and the abuse of alcohol.
(4) A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students.
(5) A clear statement that the institution will impose disciplinary sanctions on student and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violation of the standards of conduct. A disciplinary sanction may include the completion of an appropriate rehabilitation program.

(b). A biennial review by the institution 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 mentioned above are consistently enforced. 34 C.F.R. § 86.100

Noncompliance Summary:

Based on its review of the information Mid-Atlantic submitted, the Department has determined that the University is not in compliance with the minimum requirements for a drug prevention program pursuant to 34 C.F.R. Part 86. The University's handbook does include the following Standard of Conduct statement: "Students may not purchase, possess or use tobacco, alcoholic beverages or illegal drugs, nor engage in any form of abuse." However, the University apparently does not have a drug prevention program that meets the following requirements of 34 C.F.R. § 86.100:

(1) A list of applicable legal sanctions under federal, state or local laws for the unlawful possession or distribution of illicit drugs and alcohol.
(2) A description of the health risks associated with the abuse of alcohol or use of illicit drugs.
(3) A list of drug and alcohol programs (counseling, treatment, rehabilitation, and re-entry) that are available to employees or students.
(4) A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students.

Although Mid-Atlantic indicates it reviews its alcohol and drug abuse prevention standards yearly, the review of the program does not meet the following requirements of 34 CFR §86.100:

(1) Determine its effectiveness and implement changes to the program if they are needed; and
(2) Ensure that the disciplinary sanctions mentioned above are consistently enforced.

Required Action Summary:

Mid-Atlantic must develop a drug prevention program to comply with the regulatory requirements. Mid-Atlantic must also develop procedures to ensure the annual distribution of its drug prevention program in writing to each employee, and to each student who is taking one or more classes of any type, except continuing education units. In response to this finding, Mid-Atlantic must include a copy of its drug prevention program for the Department's review.

Once the Department reviews the University's drug prevention program and determines that all required elements are included, Mid-Atlantic will be required to distribute the program to its students and employees.

In addition, Mid-Atlantic must also meet the requirement to conduct a biennial review of its drug prevention program to: (1) determine the program effectiveness, (2) ensure consistency in the enforcement of disciplinary sanctions, and (3) implement changes to the program as necessary.

Institutional Response:

In its response, Mid-Atlantic concurred with most of the finding and stated that it has addressed Drug and Alcohol Abuse Prevention in the Student and Employee Handbooks. Furthermore, the University states that the standard of expectations has been defined specifically in Student Life Policy 11. The University represented that it does conduct biennial reviews on the required schedule.

Final Determination:

Finding # 5 of the program review report cited Mid-Atlantic for multiple violations of the *DFSCA* and Part 86 of the Department's General Administrative Regulations. Specifically, the University failed to develop and implement a substantive drug and alcohol abuse prevention program (DAAPP) that contained all of the required elements and also failed to distribute a DAAPP disclosure to all employees and students enrolled for academic credit on an annual basis. As a result of these violations, the University was unable to conduct biennial reviews to fully evaluate the effectiveness of its Federally-mandated DAAPP.

As a result of these violations, Mid-Atlantic was required to develop and implement a substantive DAAPP and distribute the DAAPP disclosure to students, faculty and staff. The University was also required to submit copies of these documents with the response. Mid-Atlantic was also required to conduct a substantive biennial review, prepare a biennial review report, and develop and implement policies to ensure that these violations do not recur.

In its response, Mid-Atlantic concurred with most components of the finding but stated that a "biennial review [is] conducted in February on every other even year." Within 15 days of the University's receipt of this FPRD, Mid-Atlantic must submit copies of its biennial review report and supporting documentation from the 2012 and 2014 reviews. In addition, please submit a copy of the Student and Employee Handbooks referenced in the University's response in support of the representation that remedial action was initiated. Finally, please provide documentation showing that these disclosures were actively distributed to all employees and students enrolled for academic credit from 2011-present. Please send these materials with the documentation requested in Finding # 3.

Once the requested materials are submitted, this finding will be closed.

Notwithstanding the Department's conditional acceptance of the response, Mid-Atlantic officials are reminded that they must take any additional actions that may be necessary to ensure that the deficiencies identified in this finding and all others identified during the program review do not recur.

Although the finding is now closed, Mid-Atlantic is reminded that these exceptions constitute serious violations of the *DFSCA* that by their nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. Mid-Atlantic officials must understand that compliance with the *DFSCA* is essential to maintaining a safe and healthy learning environment. Data compiled by the Department shows that the use of illicit drugs and alcohol abuse are highly correlated to increased incidents of violent crimes on campus. Moreover, the compliance failures documented during the program review deprived students and employees of important information regarding the educational, financial, health, and legal consequences of alcohol abuse and illicit drug use. 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 University 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.

Because of the serious consequences of *Clery Act* and *DFSCA* compliance failures, the Department strongly recommends that Mid-Atlantic 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 *DFSCA*. Please be advised that the Department may request

information on a periodic basis to test the effectiveness of Mid-Atlantic's new *DFSCA* policies and procedures.