



FEB - 9 2016

Dr. Sharon L. Hirsh
President
Rosemont College of the Holy Child Jesus
1400 Montgomery Avenue
Rosemont, PA 19010

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Dear Dr. Hirsh:

This letter is to inform you that the U.S. Department of Education (Department) intends to fine Rosemont College of the Holy Child Jesus (Rosemont) a total of \$70,000 based on the violations of statutory and regulatory requirements outlined below. This fine action is taken in accordance with the procedures that the Secretary of Education (Secretary) has established for assessing fines against institutions participating in any of the programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 *et seq.* (Title IV, HEA programs). As applicable here, under the Department's regulations, the Department may impose a fine of up to \$35,000 for each violation. 34 C.F.R. § 668.84. As detailed below, this fine action is based on Rosemont's failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) in Section 485(f) of the HEA, 20 U.S.C. § 1092(f), as reflected in 34 C.F.R. §§ 668.41 and 668.46, and the Drug-Free Schools and Communities Act Amendments of 1989 (DFSCA) as reflected in 34 C.F.R. Part 86.

Under the Clery Act, institutions participating in the Title IV, HEA programs must prepare, publish and distribute an Annual Security Report (ASR) by October 1 of each year. 34 C.F.R. § 668.41(e). The ASR must include a description of the institution's campus security policies in specific areas. 34 C.F.R. § 668.46(b). A complete ASR must include all the policy statements listed in 34 C.F.R. § 668.46(b). In addition, the ASR must report statistics for the three most recent calendar years concerning the occurrence of certain crimes on campus, in or on certain non-campus buildings or property, and on public property. 34 C.F.R. § 668.46(c). An institution must compile and publish crime statistics for each separate campus. 34 C.F.R. § 668.46(d). The crimes that must be reported include: criminal homicide (murder and manslaughter); sex offenses (forcible and non-forcible); robbery; aggravated assault; burglary; motor vehicle theft; arson; and arrests for liquor law violations, drug law violations and illegal weapons possession. The ASR must be distributed to current students and employees and must be made available to applicants for admission and employment to provide them with accurate, complete and timely information about crime and safety on campus. 34 C.F.R. § 668.41(e). Institutions must submit the crime statistics annually to the Department, which makes them publicly available. 34 C.F.R. § 668.41(e)(5).

Federal Student Aid
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Administrative Actions and Appeals Service Group
830 First St., N.E. Washington, D.C. 20002-8019
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The DFSCA and the Department's regulations require an institution of higher education to adopt and implement a drug prevention program for its students. 34 C.F.R. § 86.100.

The Department conducted a program review at Rosemont from November 12, 2013 to November 20, 2013. The review included an assessment of Rosemont's compliance with the laws and regulations pertaining to the institution's administration of Title IV programs. The reviewers also examined Rosemont's compliance with the Clery Act, specifically the accuracy and completeness of campus crime statistics and policy disclosures published in its 2012 and 2013 ASRs; and its compliance with the DFSCA and its implementing regulations.

On April 7, 2014, the Department issued a Program Review Report (PRR) to Rosemont. The review found that Rosemont had not complied with the Clery Act, the DFSCA and the Department's implementing regulations. Rosemont responded to the report on June 30, 2014, and October 21, 2014.¹ After reviewing Rosemont's responses, the Department issued its Final Program Review Determination (FPRD) letter to Rosemont on August 26, 2015. The FPRD is incorporated by reference into this fine action. (Enclosure 1)².

The Department is taking this fine action based on the findings in the FPRD relating to Rosemont's compliance with the DFSCA and the Clery Act which concluded that Rosemont failed to comply with the drug and alcohol abuse prevention regulations in 34 C.F.R. Part 86; and failed to prepare, publish and distribute accurate and complete 2012 and 2013 ASRs.

ROSEMONT DID NOT COMPLY WITH THE DRUG AND ALCOHOL ABUSE PREVENTION REQUIREMENTS

The DFSCA 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 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 continuing education units) 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; describe the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol; describe the health risks associated with the use of illicit drugs and the abuse of alcohol; describe any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and include a clear statement that the institution will impose disciplinary sanctions on students and employees (consistent with local, State, and Federal law), and a description of those

¹ The FPRD cover letter incorrectly stated that Rosemont's final response was received on June 30, 2014. The FPRD correctly states that Rosemont's responses were received on June 30, 2014 and October 21, 2014 respectively.

² The PRR and FPRD also included findings relating to Rosemont's violations of the laws and regulations relating to the institution's administration of the Title IV financial aid programs. As discussed in the FPRD, those violations have been addressed separately and will not be discussed further in this letter.

sanctions for violation of the standards of conduct. In addition, an institution must conduct a biennial review of its program to determine its effectiveness and implement changes to the program if they are needed and ensure that the disciplinary sanctions mentioned above are consistently enforced. 34 C.F.R. § 86.100.

The Department found that Rosemont failed to comply with the DFSCA and 34 C.F.R. Part 86. Specifically, Rosemont failed to distribute a complete drug and alcohol abuse prevention program (DAAPP) disclosure to all employees. In addition, Rosemont failed to conduct a biennial review of the DAAPP's effectiveness and produce a report of findings as required by the law and the regulations.

In its responses to the PRR of June 30, 2014 and October 21, 2014, Rosemont did not challenge the findings or present any evidence that it complied with the requirement to distribute a complete DAAPP disclosure to its employees and to conduct the required biennial review of the DAAPP. Rosemont did show that it developed new policies to ensure future compliance with the Department's regulations.

ROSEMONT FAILED TO PROPERLY COMPILE AND DISCLOSE ACCURATE CRIME STATISTICS

Under the Clery Act and the Department's regulations, institutions participating in the Title IV, HEA programs must make available statistical information related to certain reported crimes and arrest/campus disciplinary referrals for alcohol, drug and illegal weapons possession violations. The statistical information must be disclosed by location – on campus (dormitories vs. residential facilities), in or on non-campus buildings or property, and on public property – and must be provided for the three most recent calendar years. 34 C.F.R. §§ 668.46(a), 668.46(c)(1) – (c)(4).

The statistics must be included in the institution's ASR which must be provided to current students and employees and made available to potential students and employees by October 1 of each year. The same statistics must be electronically submitted to the Department for inclusion in the Campus Crime and Security Website. The Department has established timeframes within which institutions must electronically submit information. 34 C.F.R. § 668.41(e)(1)-(e)(5).

Rosemont's crime statistics included in its 2012 and 2013 ASRs did not match the statistical data submitted to the Department's Campus Safety and Security Data Analysis Cutting Tool (CSSDACT).

Specifically, the reviewers found that Rosemont reported inconsistent information in the following situations: for calendar year 2011, Rosemont reported one forcible sex offense in the on-campus student housing facility category to the Department but reported -0- in that category in the statistics in the ASR provided to students and employees; for calendar year 2012, Rosemont reported one forcible sex offense on campus and in the on-campus student housing facility category in the ASR but reported -0- forcible sex offenses on-campus to the Department;

for calendar year 2010, Rosemont reported two arrests for drug abuse violations to the Department but reported -0- in the ASR provided to students and employees; and for calendar year 2012, Rosemont reported one weapons-related offense in an on-campus residential facility in the ASR but reported -0- offenses in this category to the Department. The inconsistent statistics are listed below:

Crime Statistics – On-Campus

Year	Category	Number Reported on ASR	Number Reported to the Department
2011	Forcible Sex Offenses	0	1
2012	Forcible Sex Offenses	1	0

Disciplinary Referrals:

Drug Abuse Violations

Year	Public Property	Number Reported on ASR	Number Reported to the Department
2010	Public Property	0	2

Weapons: Carrying, Possession, Etc.

Year	Category	Number Reported on ASR	Number Reported to the Department
2012	On Campus	1	0
2012	Residential Facilities	1	0

In its response to the PRR dated June 30, 2015, Rosemont stated that it had taken the corrective actions to address these problems as directed in the PRR.³ At no time has Rosemont contested the findings.

³ The FPRD incorrectly states that Rosemont's responses to the PRR of June 30, 2014 and October 21, 2014 concurred with the finding regarding the failure to compile and disclose accurate crime statistics. Reviewers confirmed that Rosemont concurred with this finding only in the June 30, 2015 response; the October 21, 2014 response only addressed the Part 86 finding.

The Clery Act and the Department's regulations require that institutions ensure the accuracy of the data when it is presented to students and employees and potential students and employees who have to be able use the data to make decisions affecting their personal safety. Students and employees must be able to rely on the institution's reported statistics. Rosemont's correction of the crime statistics only after the Department alerted the College of its obligations does not excuse its earlier failure to comply with its legal obligations. The correction of violations does not diminish the seriousness of not properly and correctly reporting crime incidents at the time they occurred.

In determining the amount of a fine, the Department considers both the gravity of the offense and the size of the institution. 34 C.F.R § 668.92. Pursuant to the Secretary's decision In the Matter of Bnai Arugath Habosem, Docket No. 92-131-ST (August 24, 1993), the size of an institution is based on whether it is above or below the median funding levels for the Title IV, HEA programs in which it participates. The latest year for which complete funding data is available for Rosemont is 2013-2014 award year. According to the Department records, Rosemont received approximately \$1,228,034 in Federal Pell Grant (Pell) funds, \$8,269,830 in Federal Direct Loan funds and \$192,667 in Campus-Based funds. The latest information available to the Department indicates that the median funding level for institutions participating in the Federal Pell Grant program is \$1,571,915, for institutions participating in the Federal Direct Loan programs, the median funding level is \$2,408,978, and for institutions participating in the Campus-Based programs, the median funding level is \$266,597. Accordingly, Rosemont is a large institution because its funding level for Federal Direct Loans is above the median funding level for that Title IV, HEA program.

As detailed in this letter, Rosemont's violations of the DFSCA, the Clery Act and the Department's regulations are very serious. Congress enacted the DFSCA to ensure that students and employees had vital information about drug and alcohol prevention program at their institution. Moreover, a DAAPP that has not been tested in a biennial review is unlikely to be reliable and effective. Rosemont's students and employees were not given drug and alcohol program information that would have helped them to understand the standards and code of conduct expected of them with regard to drugs and alcohol use, and sanctions to be imposed if the code of conduct is violated. Moreover, the Department considers an institution's compliance with the Clery Act, and the DFSCA requirements to be part of its administrative capability, and Rosemont's failure to comply with those requirements constitutes an inability to administer properly the Title IV programs.

I have assessed a fine of \$35,000 for Rosemont's failure to distribute its complete DAAPP to its students and employees, and its failure to conduct a biennial review to evaluate the effectiveness of its DAAPP and to assess the consistency of sanctions imposed for violations of its disciplinary standards and codes of conduct related to drugs and alcohol. This is a serious violation because students and employees cannot be expected to make good use of a DAAPP that is not complete and accurate. Moreover, the failure to conduct a biennial review meant that Rosemont's DAAPP

Dr. Sharon L. Hirsh
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may have been outdated and inadequate for its students and employees. A maximum fine is appropriate in this case.

I have assessed \$35,000 for Rosemont's failure to publish and distribute accurate ASRs for calendar years 2012 and 2013. Rosemont published ASRs with data that was inconsistent with the data the institution submitted to the Department and that the Department provided to the public. These are serious violations. The discrepant crime statistics in Rosemont's 2012 and 2013 ASRs, and its statistical data submitted to the Department renders both the ASRs and the statistical data to the Department unreliable, misleading and inaccurate. Current and prospective students and employees must be given information that is complete and accurate to enable them make important safety decisions. A maximum fine is appropriate in this case.

The fines totaling \$70,000 will be imposed on **March 1, 2016**, unless I receive, by that date, a request for a hearing or written material indicating why the fine should not be imposed. Rosemont may submit both a written request for a hearing and written material indicating why a fine should not be imposed. If Rosemont chooses to request a hearing or submit written material, you must write to me at:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Program Compliance
830 First Street, NE – UCP-3, Room 84F2
Washington, DC 20002-8019

If Rosemont requests a hearing, the case will be referred to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of Rosemont's case to a hearing official who will conduct an independent hearing. Rosemont is entitled to be represented by counsel during the proceedings. If Rosemont does not request a hearing but submits written material instead, I will consider that material and notify Rosemont of the amount of fine, if any, that will be imposed.

ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT ROSEMONT SUBMITS MUST BE RECEIVED BY MARCH 1, 2016; OTHERWISE, THE \$70,000 FINE WILL BE EFFECTIVE ON THAT DATE.

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If you have any questions or desire any additional explanation of Rosemont's rights with respect to this action, please contact Lawrence Mwethuku of my staff at 202/377-3684.

Sincerely,



Susan D. Crim, Director
Administrative Actions and Appeals Service Group
Federal Student Aid/Program Compliance
U.S. Department of Education

Enclosure

cc: Dr. Elizabeth H. Sibolski, President, MSCHE, via info@msche.org
Stacey Campbell, Government Relations, PA Department of ED, via
stacampbel@pa.gov