



APR 20 2016

Dr. Raymond Cummiskey
President
Jefferson College
1000 Viking Drive
Hillsboro, MO 63050-2441

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Dear Dr. Cummiskey:

This letter is to inform you that the U.S. Department of Education (Department) intends to fine Jefferson College (Jefferson) a total of \$32,500 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 \$27,500 for each violation. 34 C.F.R. § 668.84. As detailed below, this fine action is based on Jefferson'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 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).

The DFSCA and the Department's regulations require an institution of higher education to adopt and implement a drug prevention program for its students and employees that meets certain requirements. 34 C.F.R. § 86.100.

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 Department conducted a program review at Jefferson from May 21, 2012 to May 25, 2012. The review included a general assessment of Jefferson's compliance with the statutes and regulations pertaining to the institution's administration of Title IV programs. The reviewers also examined Jefferson's compliance with the Clery Act, specifically the accuracy and completeness of campus crime statistics and policy disclosures published in its 2011 ASR; and its compliance with the DFSCA and its implementing regulations.

On November 27, 2012, the Department issued a Program Review Report (PRR) to Jefferson. The review found that Jefferson had not complied with the Clery Act, the DFSCA and the Department's implementing regulations. Jefferson responded to the report on November 1, 2013. After reviewing Jefferson's responses, the Department issued its Final Program Review Determination (FPRD) letter to Jefferson on September 9, 2015. The FPRD is incorporated by reference into this fine action. (Enclosure 1).

The Department is taking this fine action based on the findings in the FPRD relating to Jefferson's compliance with the DFSCA, and the Clery Act which concluded that Jefferson did not meet the requirements of the DFSCA and the Department's implementing regulations as reflected in 34 C.F.R. Part 86; and failed to include a required policy statement in its 2011 ASR.

JEFFERSON 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 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 Jefferson failed to comply with the DFSCA and 34 C.F.R. Part 86. Specifically, Jefferson failed to distribute its drug and alcohol abuse prevention program (DAAPP) disclosure to all employees and students enrolled for academic credit on an annual

basis. In addition, Jefferson failed to conduct a biennial review of the DAAPP's effectiveness and produce a report of findings.

In its response to the PRR, Jefferson stated that "although the institution provided a multitude of alcohol and drug abuse prevention programs and maintained policies related to these offenses, a formal review process and report was not completed biennially to measure the effectiveness of these efforts." Jefferson did not present any evidence that it properly distributed a designated drug and alcohol abuse prevention program to its students or employees. Jefferson conceded that it did not conduct the required biennial review of the DAAPP.

JEFFERSON'S 2011 ASR OMITTED REQUIRED POLICY STATEMENT

The Clery Act and the Department's regulations require that participating institutions prepare an ASR that contains, among other things, the institution's statement of current campus crime and safety policies. 34 C.F.R. § 668.46(b)(2).

The Department's reviewers determined that the sexual assault-related information that was included in Jefferson's 2011 ASR conflicted with disclosures on the same topics that were included in other College publications. Moreover, it appears that Jefferson's policy on notifying the accuser and the accused of the outcome of an institutional disciplinary action alleging a sex offense is not consistent with the HEA or the Department's regulations.

In its response to the PRR, Jefferson admitted that its 2011 ASR did not comply with the requirements of the Clery Act and the Department's regulations in its published sexual assault policy. Jefferson revised its 2011 ASR to address the documented deficiencies. However, these efforts do not excuse Jefferson's failure to disclose its accurate and complete sexual assault policy to students and employees and prospective students and employees in its 2011 ASR, as required by the Clery Act and the Department's regulations.

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 Jefferson is 2014-2015 award year. According to the Department records, Jefferson received approximately \$8,650,128 in Federal Pell Grant (Pell) funds, \$4,824,001 in Federal Direct Loan funds and \$227,800 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 \$1,540,305, for institutions participating in the Federal Direct Loan programs, the median funding level is \$2,108,926, and for institutions participating in the Campus-Based programs, the median funding level is \$271,961. Accordingly, Jefferson is a large institution because its funding levels for Federal Pell Grants, and Federal Direct Loans exceed the median funding levels for those Title IV, HEA programs.

As detailed in this letter, Jefferson's violations of the DFSCA and the Clery Act and the implementing regulations are very serious. These failures could have endangered Jefferson's students and employees who must be able to rely on the disclosures of campus crime policies and statements. 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. Jefferson'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 Jefferson's failure to comply with those requirements constitutes an inability to properly administer the Title IV programs.

After considering the gravity of the violation and the size of the institution, I have assessed a fine of \$27,500 for Jefferson's failure to distribute its 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 understand a DAAPP that has not been distributed to them. Moreover, the failure to conduct a biennial review meant that Jefferson's DAAPP may have been outdated and inadequate for its students and employees. A maximum fine is appropriate in this case.

I have assessed \$5,000 for Jefferson's failure to include in its 2011 ASR an accurate and complete policy on notifying the accuser and the accused of the outcome of an institutional disciplinary action alleging a sex offense. This is a serious violation. By failing to include this required policy statement in the manner required by the law, Jefferson denied the campus community important information about its campus security policies, rendering the distributed ASR incomplete and unreliable. Students and employees cannot take advantage of information that has not been provided to them.

The fine of \$32,500 will be imposed on **May 12, 2016**, unless I receive, by that date, a request for a hearing or written material indicating why the fine should not be imposed. Jefferson may submit both a written request for a hearing and written material indicating why a fine should not be imposed.

Dr. Raymond Cummiskey
Jefferson College
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If Jefferson 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 Jefferson 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 Jefferson's case to a hearing official who will conduct an independent hearing. Jefferson is entitled to be represented by counsel during the proceedings. If Jefferson does not request a hearing but submits written material instead, I will consider that material and notify Jefferson of the amount of fine, if any, that will be imposed.

ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT JEFFERSON SUBMITS MUST BE RECEIVED BY MAY 12, 2016; OTHERWISE, THE \$32,500 FINE WILL BE EFFECTIVE ON THAT DATE.

If you have any questions or desire any additional explanation of Jefferson's rights with respect to this action, please contact Lawrence Mwehuku 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: Ms. Karen Solomon, Vice President for Accreditation Relations, Higher Learning Commission, via ksolomon@hlcommission.org
Dr. Rusty Monhollon, Assistant Commissioner for Academic Affairs, Missouri Department of Higher Education, via Rusty.Monhollon@dhe.mo.gov