



January 25, 2012

Dr. Harry Lee Williams  
President  
Delaware State University  
1200 North Dupont Highway  
Dover, DE 19901-2277

*Overnight Mail, Tracking #*  
1Z A54 67Y 01 9147 8040

RE: **Final Program Review Determination**  
OPE ID: 00142800  
PRCN: 200840326736

Dear Dr. Williams:

The U.S. Department of Education's (Department's) School Participation Team NE - Philadelphia issued a program review report on November 2, 2010 covering Delaware State University's (DSU's) administration of programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs) for the 2004, 2005, 2006, 2007 and 2008 calendar years. DSU's final response was received on January 31, 2011. A copy of the program review report (and related attachments) and DSU's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by DSU 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 the findings identified during the program review and detailed in the attached FPRD. The purpose of this letter is to notify DSU of the Department's final determination. Due to the serious nature of the findings, this FPRD is being referred to the Department's Administrative Actions and Appeals Service Group (AAASG) for consideration of possible adverse administrative action. Such action may include a fine, or the limitation, suspension or termination of the eligibility of the institution pursuant to 34 C.F.R. Part 668, Subpart G. If AAASG initiates any action, DSU will be notified under separate cover of that action. AAASG's notification will also include information regarding the institution's appeal rights and procedures on how to contest that action.

Federal Student Aid, School Participation Team NE- Philadelphia  
The Wanamaker Building  
100 Penn Square East, Suite 511  
Philadelphia, PA 19107  
[www.FederalStudentAid.ed.gov](http://www.FederalStudentAid.ed.gov)

**Record Retention:**

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

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 Donald Tatum at 215 656-6467.

Sincerely,



Nancy P. Gifford  
Area Case Director

cc: Mr. Harry W. Downes Jr., DSU Police Chief, Director of Public Safety

Enclosures:

Final Program Review Determination  
Program Review Report  
DSU's Response to the Program Review Report



START HERE  
GO FURTHER  
FEDERAL STUDENT AID

Prepared for  
**Delaware State University**

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OPE ID: 00142800  
PRCN: 200840326736

*Prepared by*  
U.S. Department of Education  
Federal Student Aid  
School Participation Team, NE-Philadelphia

**Final Program Review Determination**  
**January 25, 2012**

## Table of Contents

	Page
A. Institutional Information.....	2
B. Scope of Review.....	3
C. Findings.....	3
1. Lack of Administrative Capability.....	4
2. Failure to Report Accurate Crime Statistics and Provide a Clear Audit Trail.....	7

Appendices   A. Program Review Report  
              B. Institution's Response

Attachment A:   DSU Email Document

### A. Institutional Information

Delaware State University  
1200 N. DuPont Highway  
Dover, DE 19901-2277

**Type:** Public Non Profit, HBCU

**Highest Level of Offering:** Master's or Doctor's Degrees

**Accrediting Agency:** Middle States Commission on Higher Education

**Current Student Enrollment:** 4179 (2009-2010)

**% of Students Receiving Title IV:** 96% (2009-2010)

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

##### 2009-2010 Award Year

Federal Family Education Loan Program	\$34,015,760
Federal Pell Grant Program	\$7,234,753
ACG	\$ 134,847
SMART	\$ 46,000
TEACH	\$ 35,000
Federal Perkins Loan Program	\$ 40,695
Federal Work-Study Program	\$ 237,262
Federal Supplemental Education Opportunity Grant Program	\$ 228,878

**Default Rate FFEL:**                    2009 – 8.9%  
    2008 – 9.2%  
    2007 – 10.3%

**Default Rate Perkins:**            As of: 6/30/2010 – 44.4%  
    6/30/2009 – 44.1%  
    6/30/2008 – 48.4%

The Delaware State University (DSU; the University) is one of the designated Historically Black Colleges and Universities (HBCUs). DSU consists of approximately 400 acres of land and numerous modern buildings. The DSU Police Department provides basic police services to the campus community. The DSU Police Department currently employs 30 sworn and non-sworn members. This number includes the Chief of Police, Operational officers, and Administrative staff.

## **B. Scope of Review**

The U.S. Department of Education (the Department) conducted a focused campus security program review at DSU from August 4, 2008 – August 14, 2008 and from December 1, 2008 – December 4, 2008. The review was conducted by Donald Tantum, James Moore, and Kenneth Porter.

The focus of the review was to examine DSU's compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The review consisted of an examination of DSU's police incident reports, arrest records, and disciplinary files, as well as policies and procedures related to the Clery Act. The reviewers also interviewed DSU staff members.

The Department reviewed DSU police incident reports and Judicial Affairs disciplinary records for the 2004, 2005, 2006, 2007 and 2008 calendar years. The files were selected judgmentally from a list of all incidents of crime reported to the DSU Police Department or other campus security authorities and from a listing of all arrests and disciplinary referrals for law violations involving alcohol, illegal drugs, weapons and illegal use of legally controlled substances during the same calendar years. In addition, interviews were conducted with university officials with Clery Act responsibility to assess DSU's information gathering and reporting systems.

A copy of the Department's Program Review Reported issued on November 2, 2010 is included with this FPRD as Appendix A.

### **Disclaimer:**

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning DSU'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 DSU of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

## **C. Findings and Final Determinations**

The program review findings identified in the Department's November 2, 2010 Program Review Report appear in italics below. The FPRD combines the Department's final determination for Findings 2 and 3. At the end of each finding is a summary of DSU's response and the Department's final determination.

***FINDING 1: Lack of Administrative Capability***

***Citation Summary:*** 34 CFR § 668.16(b)(2), 34 CFR § 668.16(c)(1) and 34 CFR § 668.46

*To begin and to continue to participate in any Federal student financial aid program under Title IV of the Higher Education Act of 1965, as amended (HEA), an institution must demonstrate that it is capable of adequately administering the programs under the standards established by the Secretary. The Secretary considers an institution to have administrative capability if it administers the Title IV, HEA programs in accordance with all applicable statutory and regulatory provisions, Title IV of the HEA, and the institution has written procedures for or written information indicating the responsibilities of its various offices. These standards also include a requirement that the institution employ "an adequate number of qualified staff", 34 CFR § 668.16(b)(2), and administers the programs with appropriate "checks and balances" in its system of "internal controls". 34 CFR § 668.16(c)(1). These standards apply to all aspects of the Title IV Program regulations including the Clery Act and the Department's implementing regulations at 34 CFR § 668.46.*

***Noncompliance Summary:***

*The Clery Act and the Department's regulations establish certain standards that all participating institutions must meet to be considered administratively capable of adequately administering the Title IV programs. Several violations of the Clery Act by DSU were identified during the review. The findings demonstrate that at the time of the review, DSU lacked an adequate system of internal controls and the administrative capability to comply with the Clery Act. Specifically, the Department's reviewers determined that DSU did not have an adequate system of internal controls; failed to maintain records; lacked adequate institutional training, coordination, oversight, and supervision in its campus security operations. The following illustrates DSU's lack of administrative capability:*

- 1. DSU failed to gather, compile and report crime incidents occurring in the residence halls to Judicial Affairs, resulting in a lack of documentation to support and provide a clear audit trail of disciplinary referrals for Clery Act reporting purposes;*
- 2. DSU failed to establish a system of policies and procedures that ensured standardization, custody, and control of important records such as incident reports and referrals needed to comply and document compliance with the Clery Act;*
- 3. DSU failed to adequately train authorized campus security officials, Student Affairs and Residential Life staff on proper incident report writing and maintaining proper documentation of incidents and referrals, and*
- 4. DSU's judicial proceedings procedures did not provide for notification to both victim and accuser of the outcome of a judicial proceeding in a sex offense incident that occurred on campus, even if no action was taken. Failure to provide notification of the outcome of a sex offense may create a hostile unsafe environment for the victim in the event that the victim returns to the University.*

***Required Action Summary:***

*The University must maintain records in the Department of Housing and Residence Life, Judicial Affairs and in Student Affairs. DSU must develop and implement a comprehensive system of policies and procedures to ensure that staff members are trained and information is properly documented and retained for ASR reporting.*

*With respect to the sex offense described in #4 above, it should be noted that initially charging both students in an assault situation is not uncommon nor is it uncommon to drop charges when a withdrawal takes place. The University should re-evaluate the situation in the event of a re-admission to ensure that students can learn in a safe environment.*

**DSU's Response:**

DSU disagrees with the findings. DSU states that the Department's allegations of poor or non-existent recordkeeping and poor staff performance are simply not accurate.

DSU believes that this finding is based on the email sent from the University's former Director of Housing and Residential Education, (DHRE) to the Department asserting that all infraction report documents were destroyed. DSU states that it conducted a thorough investigation of the underlying facts for the DHRE's email and "No such shredding of critical documents took place, and most or all of the basic documents through which student incidents, confrontations and criminal activity are reported to have been preserved." DSU indicates it located the log books for several residence halls and states: "These primary documents were not reviewed in connection with the Program Review Report, largely, we believe, because DHRE incorrectly reported them destroyed." DSU claims that all reports were provided to the Program Review Team and all reports were done consistently and in full compliance with the Clery Act.

DSU further states, "In all cases during the review period, the completed Incident/Violation Report was forwarded to Judicial Affairs. To the extent copies of those reports were kept in the residence halls-and that was not required by the process in effect during this time and, therefore, would not have been undertaken in a consistent manner-those copies may or may not still be in existence. In any event, no directive to destroy those reports or any other primary documentation such as the log books was, to the knowledge of the relevant University personnel, ever given, let alone was carried out."

In addition, DSU implemented the Judicial Affairs Management System (JAMS) in August 2008. This system was installed in each residence hall, as well as in the Judicial Affairs office. DSU indicates that the JAMS system represents a significant enhancement to the University's reporting and retention of information capabilities. All Residential Directors and Assistants have been trained on this system.

Furthermore, DSU reports that Mr. Kemal Atkins was hired as the Vice President for Student Affairs in 2010. Mr. Atkins has received Clery Act training and has extensive experience in the area of campus safety.

**Final Determination:**

DSU indicates that 100% of the Incident/Violation Reports that resided in the Judicial Affairs office were copied and provided to the Department, and that no reports during the review period of 2004-2008 were omitted from this production. DSU states in its response that log books for several residence halls have been located and these primary documents were not reviewed in connection with the Program Review Report. DSU did provide the Department with Incident/Violation Reports from the office of Judicial Affairs, but at no time has DSU provided the Department with Incident/Violation Reports or referrals from the Department of Housing and Resident Life and Student Affairs. Therefore, the Department strongly disagrees with DSU's assertion that all reports were provided to the Department.

The Department has made multiple requests to DSU for all documentation related to conduct, incidents, or events which may be reportable under the Clery Act. However, the University has failed to provide Incident/Violation Reports and information for the Department to complete its review. For the last two years the Department has been informed by DSU officials that no additional information was available despite numerous repeated requests for information.

The Department requested information during the course of the review, via interviews and electronic correspondence. Throughout the review period, the Department was repeatedly informed that documents were missing. The following illustrates the multiple attempts by the Department to obtain information:

- During the on-site review from August 4 to 14, 2008 and the return on-site visit for documents from December 1 to 4, 2008.
- December 16, 2008, an email was sent to DSU official, Dr. Paul Bryant advising of information request.
- December 16, 2008, an email was sent to the Director of Housing and Residential Education requesting information.
- December 19, 2008, another email was sent to Director of Housing and Residential Education requesting information.
- October 20, 2009, a conference call was held with DSU officials to discuss the Program Review. At that time, DSU again was informed of the information request.
- November 11, 2009, an email was sent to Chief of Police Overton regarding outstanding information request.
- November 24, 2009, an email was sent to DSU officials, Dr. Smith, Chief Overton, Dr. Paul Bryant, and Ms. Paula Duffy requesting information.
- December 12, 2009, at the request of Chief Overton, the Department met with DSU officials to discuss the information request. Chief Overton indicated that DSU had conducted an investigation into the missing documentation and informed the Department that no additional information was available. DSU was advised that the

Department would move forward with the program review report based on the information presented prior to December 12, 2009.

- Throughout the 2010 calendar year, several conference calls were held with DSU officials to discuss the information requested by FSA for its program review. The last conference call was December 21, 2010. This call served as the Department's final request to DSU for the information necessary to complete the Department's review.

The completed incident/violation reports and referrals from the residence halls which the Department needed to conduct its review were not provided despite DSU's assertions in its January 11, 2011 letter that records are available. The University has been given ample opportunity to respond to the Department's continued requests for information.

DSU was required to develop and implement a comprehensive system of policies and procedures to ensure that staff members are trained, and information was properly documented and retained for ASR reporting. DSU's response did not demonstrate that it had established a system of policies and procedures to ensure that staff members are properly trained and incident reports from Residence Housing and referrals to Judicial Affairs are properly documented and retained for ASR reporting. The University's response only discusses the hiring of a new employee and the implementation of a Judicial Affairs Management System.

While the hiring of a new employee and the implementation of JAMS may help DSU in the future, it does not eliminate the Department's concern that CSAs on campus are not accurately reporting Clery related incidents. The University has not presented the information or records demonstrating that it has taken steps to improve the training and the reporting and record retention process for all CSA officials at DSU.

**FINDING 2: Failure to Report Accurate Crime Statistics and Provide a Clear Audit trail**

***Citation Summary:*** 34 C.F.R. § 668.46(c)(1) and (7).

*The Clery Act and the Department's regulations require that institutions participating in the Title IV, HEA programs compile and publish statistics concerning the occurrence on campus of the following crimes: criminal homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. In addition, the institution 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).*

*Further, 34 C.F.R. § 668.24(e) requires that an institution keep records relating to its administration of Title IV, HEA programs for three years after the end of the award year for which aid was disbursed.*

***Noncompliance:***

*DSU failed to provide the Department with the documents that were needed to complete a review of DSU's compliance with the ASR requirements. The Department requested all documents related to events or relevant incidents which occurred and were included in the crime statistics in the ASRs for calendar years 2004, 2005, 2006 and 2007. DSU provided the Department with records from DSU's Police Department and some Judicial Affairs records were available, but documentation from other campus security administrators was insufficient or non-existent.*

***A. Department of Housing and Residential Life Records Not Provided***

*DSU maintains a Department of Housing and Residential Life staff of approximately 100 staff members with the responsibility to monitor student living areas and to report any purported criminal activity and any infraction of the DSU code of conduct policies. During the Department's interviews, DSU's Director of Resident Education and Student Life stated that "he was advised to get rid of the incident reports; hence no records were available." In a memorandum to the Department he stated:*

*"Please be advised that I am unable to provide information to you for the 2004, 2005, and 2006 calendar years. I did not arrive to Delaware State University until March 16, 2007. However, upon my arrival the Residence Directors for the Department of Housing and Residential Education were told to shred all infraction reports they had because the Office of Judicial Affairs was the designated record keeping office for the University. Therefore there is no information to provide for the items listed below.*

- Incident reports to the campus police or campus security department*
- Incident reports to student housing, i.e. residential life*
- Incident reports to Judicial Affairs*
- Notes/warnings/citations issued by Staff, Professional Staff, Resident Directors, Resident Assistants, etc.*
- Referrals from counseling offices, faculty, other university employees*
- Reports our office has submitted to campus police."*

*DSU failed to maintain residence life incident reports, infraction notifications or student hall monitor activity journals. DSU staff indicated that student residence life staff kept journals documenting activity during their work shift in the residence halls. When the Department requested to review the journals, incident reports or any Clery related document, the DSU administrators could not produce the documents.*

**B. Judicial Affairs Statistics Inaccurate**

*Due to the lack of a clear audit trail from the DSU administrative offices and the reported destruction of records, the campus crime statistics reported by DSU for 2004, 2005, 2006 and 2007 cannot be verified as accurate. The Department was unable to test the DSU administrative reporting process for Clery Act related statistics. The audit trail for Judicial Affairs hearing outcomes starts and ends with the available, documented police records. Reported documentation from the Residence life staff and other campus security officials was not maintained. Since DSU did not maintain an audit trail, the Department cannot determine the accuracy of the data contained in the ASR.*

*For all years under review, DSU failed to maintain the records to support the ASR data as well as crime data provided the Department. The Director of Resident Education and Student Life acknowledged during the program review that the university destroyed documents related to incidents and or infractions occurring in the residential buildings.*

*DSU lacks a sufficient system to adequately compile and maintain records so that they are accessible and useable for ASR and Department reporting purposes. The residence life infraction reports were reported destroyed and cannot be reproduced. Therefore, the audit trail for Judicial Affairs hearing outcomes starts and ends with the available, documented police records. Reported documentation from the Residence life staff and other campus security officials was not maintained. DSU's staff members told the Department that reported crimes are documented, however when asked to reproduce documents reflecting those reports, the school failed to produce the information. The DSU Police Department's reports are the only documented referrals to the Judicial Affairs office for disciplinary matters.*

*A review of the available records for accuracy and completeness was hampered by the lack of available documents, staff turnover and conflicting responses from DSU administrators.*

**Required Action Summary:**

*DSU must take all necessary corrective actions to cure the exceptions identified in this finding. The response must address issues of access to records, custody and retention of records, flow of information, communication processes, and coordination among all DSU officials and external entities such as the Dover Police Department. A copy of all revised policies and procedures must be submitted with DSU's response.*

*In response to this finding, DSU must take steps to identify and correct any errors in its crime statistics going forward. This requirement applies to the lack of an audit trail noted above and any other errors identified by DSU during the preparation of the response to this report. DSU must reclassify the crimes and violations, if necessary and correct any errors in its crime statistics as published in the ASR and as submitted to the online database administered by the Department.*

*Additionally, the University must examine and improve its policies, procedures, internal controls, and training programs to ensure that all incidents of crime reported to the police or to a campus security authority (CSA) are properly classified and included in the College's next ASR that must be distributed no later than October 1, 2011.*

*The University must include what actions it will take to ensure that statistics of all incidents of crime reported to law enforcement or any CSA will be gathered, compiled, reconciled, and disclosed. A copy of all revised policies and procedures must be submitted with DSU's response. DSU must take all necessary corrective actions to cure the exceptions identified in this finding for 2006, 2007 and 2008. The University must develop and implement a comprehensive system of policies and procedures to ensure that the appropriate information is documented and archived properly from all campus security officials. These procedures must be provided with DUS's response.*

**DSU's Response:**

DSU disagrees with the findings. DSU indicates that it has found all necessary information for the review. The University claims to have found some of the RA journals from years past and indicates that the relevant information from the journals was captured in the Clery Report. DSU states that the "audit trail" referenced in the Program Review Report is available should a full recompilation of the ASR be required. DSU states, "The Incident/Violation Reports, which form the underpinning for the statistical reports for the ASR, are all available in the Offices of Judicial Affairs, and have previously been provided to the Department." DSU indicates that the log books maintained in the residence halls as the first record of incidents occurring in the residence halls are largely available.

DSU asserts that the implementation of the JAMS system and the personnel now in charge will be a marked improvement in both the reporting and retention of statistical information required under the Clery Act.

**Final Determination:**

DSU failed to provide documentation to the Department to support its Crime Statistics for calendar years 2004, 2005, 2006 and 2007. In the absence of supporting documentation, the Department cannot confirm the accuracy of the crime statistics DSU reported to its students, employees, and the Department. As part its response, DSU was required to provide documentation that the statistics were correct. DSU did not comply with this requirement.

DSU did provide records from the University Police Department and the Office of Judicial Affairs, but documentation from other CSAs was non-existent. Specifically, documents such as residence hall journals, resident staff incident notes, warnings and citations issued by Campus Security Authorities (Residence Staff, Faculty, Professional Staff, counseling offices, other university employees) have not been provided. DSU states that its audit trail is available for inspection by the Department. The University may have additional information on-site in the form of residence journals; however, that information was never shared with the Department to

complete its analysis and verify the accuracy of DSU's ASR data as well as crime data reported to the Department.

DSU concedes that primary documents were not submitted to the Department in connection with the Program Review Report, and believes that this was caused by the DHRE incorrect reporting that the records were destroyed. However, DSU has not come forth with the documentation it claims it has, and the Department needs, to complete the review.

DSU also failed to develop and implement a comprehensive system of policies and procedures to ensure that the appropriate information is documented and archived properly from ALL campus security officials. The University indicated in its response that it implemented a new JAMS system; however, this system does not appear to encompass all CSAs at DSU. DSU's response is inadequate as it fails to provide details of the institution's policies and procedures for documenting, reporting, and maintaining information.



November 2, 2010

Dr. Harry Williams  
President  
1200 North Dupont Highway  
Dover, DE 19901-2277

Certified Mail  
*Return Receipt Requested*  
70051160000115185632

Re: Program Review Report:

OPE ID: 00142800  
PRCN: 200840326736

Dear Dr. Harry Williams;

From August 4, 2008 – August 14, 2008 and December 1, 2008 – December 4, 2008, Donald Tantum, James Moore and, Kenneth Porter of the U.S. Department of Education, Federal Student Aid office conducted a review of Delaware State University's (DSU's) administration of the programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs). The findings of that review are presented in the enclosed report.

Findings of noncompliance are referenced to the applicable statutes and regulations and specify the action required to comply with the statute and regulations. Please review the report and respond to each finding, indicating the corrective action taken by DSU. The institution's response should be sent directly to Donald Tantum of this office within 90 calendar days of the date of this letter.

Please refer to the above Program Review Control Number (PRCN) in all correspondence relating to this report. If you have any questions concerning this report, please contact Donald Tantum at 215 656-6467 or [Donald.Tantum@ed.gov](mailto:Donald.Tantum@ed.gov).

Sincerely,

Nancy P. Gifford  
Area Case Director  
School Participation Team, NE- Philadelphia

cc: James Overton, Police Chief

Federal Student Aid, School Participation Team, NE-- Philadelphia  
The Wanamaker Building  
100 Penn Square East, Suite 511  
Philadelphia, PA 19107-3323  
[www.FederalStudentAid.ed.gov](http://www.FederalStudentAid.ed.gov)

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Prepared for  
**Delaware State University**

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OPE-ID: 00142800  
PRCN: 200840326736

*Prepared by*  
U.S. Department of Education  
Federal Student Aid  
School Participation Team, NE-Philadelphia

# Program Review Report

November 2, 2010

Table of Contents

	Page
A. Institutional Information.....	2
B. Scope of Review.....	3
C. Findings.....	4
1. Lack of Administrative Capability.....	4
2. Failure to Report Accurate Crime Statistics.....	5
3. Failure to Provide a Clear Audit Trail/Underreporting.....	8

Attachment A.....DSU Email Document



The DSU Police Department currently employs 30 sworn and non-sworn members. This number includes the Chief of Police, Operational officers and Administrative staff.

## **B. Scope of Review**

The U.S. Department of Education (the Department) conducted a focused campus security program review at DSU from August 4, 2008 – August 14, 2008 and from December 1, 2008 – December 4, 2008. The review was conducted by Donald Tatum, James Moore, and Kenneth Porter.

The focus of the review was to examine DSU's compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The review consisted of an examination of DSU's police incident reports, arrest records, and disciplinary files, as well as policies and procedures related to the Clery Act. The reviewers also interviewed DSU staff members.

The Department reviewed DSU police incident reports and Judicial Affairs disciplinary records from the 2004, 2005, 2006, 2007 and 2008 calendar years. The files were selected judgmentally from a list of all incidents of crime reported to the DSU Police Department or other campus security authorities and from a listing of all arrests and disciplinary referrals for law violations involving alcohol, illegal drugs, illegal usage of legal controlled substances and weapons during the same calendar years. In addition interviews were conducted to assess DSU's information gathering and reporting systems.

### **Disclaimer:**

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning DSU'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 DSU of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

While this report reflects initial findings of the Department, they are not final. The Department will issue a Final Program Review Determination Letter after reviewing DSU's response to this report.

## **C. Findings**

During the review, several areas of noncompliance were noted. Findings of noncompliance are referenced to the applicable statutes and regulations and specify the actions to be taken by DSU to bring operations into compliance with the statutes and regulations.

## **Finding #1: LACK OF ADMINISTRATIVE CAPABILITIES**

### **Citation:**

To begin and to continue to participate in any Federal student financial aid program under Title IV of the Higher Education Act of 1965, as amended (HEA), an institution must demonstrate that it is capable of adequately administering the programs under the standards established by the Secretary. The Secretary considers an institution to have administrative capability if it administers the Title IV, HEA programs in accordance with all applicable statutory and regulatory provisions, Title IV of the HEA, and the institution has written procedures for or written information indicating the responsibilities of its various offices. These standards also include a requirement that the institution employ "an adequate number of qualified staff", 34 CFR § 668.16(b)(2), and administers the programs with appropriate "checks and balances" in its system of "internal controls". 34 CFR § 668.16(c)(1). These standards apply to all aspects of the Title IV Program regulations including the Clery Act and the Department's implementing regulations at 34 CFR § 668.46.

### **Noncompliance:**

The Clery Act and the Department's regulations establish certain standards that all participating institutions must meet to be considered administratively capable of adequately administering the Title IV programs. Several violations of the Clery Act were identified during the review. The findings demonstrate that DSU lacked an adequate system of internal controls and the administrative capability to comply with the Clery Act during the review period. DSU failed to report required statistics, by failing to maintain records. These findings also demonstrate a lack of adequate institutional training, coordination, oversight, and supervision in DSU's campus security operations.

Compliance with the Clery Act is specifically included in the terms and conditions for DSU's participation in the Title IV programs under the University's Program Participation Agreement (PPA) as required by §487(a)(12) of the HEA and 34 CFR § 668.14 (c)(2)(i).

In addition to the specific findings of non-compliance, the Department identified weaknesses that contributed to the occurrence of these violations:

1. DSU failed to properly gather and provide information for the review.
2. DSU failed to establish a system that ensured standardization, custody, and control of important records needed to comply and document compliance with the Clery Act.
3. DSU failed to adequately train authorized campus security officials, Student Affairs and Residential Life staff on proper incident report writing.
4. DSU mishandled an assault of a student on campus. The victim was not notified as to what disciplinary action was taken against her alleged assailant nor was a timely warning issued to the campus community. Medical examination reports provided by the victim

indicate that she was “punched in the face” on the right side below her eye resulting in visible injuries including bruising. Because the victim did not return to DSU for a semester due to issues related to the assault, DSU dropped its judicial proceedings against both students. The female student returned the subsequent semester to find her attacker in the same classroom, creating a hostile unsafe environment for the victim.

5. Staff turnover of key administrative positions has continued to exacerbate DSU’s ability to collect data and communicate the required data reporting elements required for Annual Security Report (ASR) reporting.

Impaired administrative capability increases the likelihood that DSU will not comply with the statutes and regulations that govern the Title IV Programs. With regard to the Clery Act, such impairment may result in an institution's failure to provide students and employees with important security information. Impaired administrative capability and weak internal controls are an indication that an institution lacks the ability or willingness to comply with Federal regulations.

#### **Required Action:**

The University must maintain records in the Department of Housing and Residence Life, Judicial Affairs and in Student Affairs. DSU must develop and implement a comprehensive system of policies and procedures to ensure that staff members are trained; information is properly documented and retained for ASR reporting.

With respect to the assault described above it should be noted that initially charging both students in an assault situation is not uncommon nor is it uncommon to drop charges when a withdrawal takes place, the University should re-evaluate the situation in the event of a re-admission to ensure that students can learn in a safe environment.

The Department will evaluate DSU’s response and determine appropriate additional actions and will advise the University in the Final Program Review Determination letter.

#### **FINDING #2: Failure to Report Accurate Crime Statistics**

**Citation:** 34 C.F.R. § 668.46

The Clery Act and the Department’s regulations require that institutions participating in the Title IV, HEA programs compile and publish statistics concerning the occurrence on campus of the following crimes: criminal homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. In addition, the institution 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). 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.

In addition to maintaining the actual annual security reports (ASR), Delaware State University must have accurate documentation to support the statistics for the calendar years covered by the current report as well as the two preceding annual security reports.

**Noncompliance:**

DSU failed to provide the Department with the documents that were needed to complete a review of DSU's compliance with the ASR requirements. The Department requested all documents related to events or relevant incidents which occurred during the review period that were included in the crime statistics in the ASR. DSU provided the Department with records from DSU's Police Department and some Judicial Affairs records were available, but documentation from other campus security administrators were insufficient or non-existent.

**A. Department of Housing and Residential Life Records Not Provided**

DSU maintains a Department of Housing and Residential Life staff of approximately 100 staff members with the responsibility to monitor student living areas and to report any purported criminal activity and any infraction of the DSU code of conduct policies. During our interviews, DSU's Director of Resident Education and Student Life stated that "he was advised to get rid of the incident reports; hence no records were available." In a memorandum to the Department he stated:

*"Please be advised that I am unable to provide information to you for the 2004, 2005, and 2006 calendar years. I did not arrive to Delaware State University until March 16, 2007. However, upon my arrival the Residence Directors for the Department of Housing and Residential Education were told to shred all infraction reports they had because the Office of Judicial Affairs was the designated record keeping office for the University. Therefore there is no information to provide for the items listed below.*

- *Incident reports to the campus police or campus security department*
- *Incident reports to student housing, i.e. residential life*
- *Incident reports to Judicial Affairs*
- *Notes/warnings/citations issued by Staff, Professional Staff, Resident Directors, Resident Assistants, etc.*
- *Referrals from counseling offices, faculty, other university employees*
- *Reports our office has submitted to campus police."*

DSU failed to maintain residence life incident reports, infraction notifications or student hall monitor activity journals. DSU staff indicated that student residence life staff kept journals documenting activity during their work shift in the residence halls. When the Department requested to review the journals, incident reports or any Clery related document the DSU administrators could not produce the documents.

#### B. Judicial Affairs Statistics Inaccurate

Due to the lack of a clear audit trail from the DSU administrative offices and the reported destruction of records, the campus crime statistics reported by DSU for 2004, 2005, 2006 and 2007 cannot be verified as accurate. The Department was unable to test the DSU administrative reporting process for Clery Act related statistics. The audit trail for Judicial Affairs hearing outcomes starts and ends with the available, documented police records. Reported documentation from the Residence life staff and other campus security officials was not maintained. Since DSU did not maintain an audit trail, the Department cannot determine the accuracy of the data contained in the ASR.

A review of the available records for accuracy and completeness was hampered by the lack of available documents, staff turnover and conflicting responses from DSU administrators.

#### **Required Action:**

Delaware State University must take all necessary corrective actions to cure the exceptions identified in this finding. The response must address issues of access to records, custody and retention of records, flow of information, communication processes, and coordination among all DSU officials and external entities such as the Dover Police Department. A copy of all revised policies and procedures must be submitted with DSU's response.

In response to this finding, DSU must take steps to identify and correct any errors in its crime statistics going forward. This requirement applies to the lack of an audit trail noted above and any other errors identified by DSU during the preparation of the response to this report. DSU must reclassify the crimes and violations, if necessary and correct any errors in its crime statistics as published in the ASR and as submitted to the online database administered by the Department. Additionally, the University must examine and improve its policies, procedures, internal controls, and training programs to ensure that all incidents of crime reported to the police or to a campus security authority (CSA) are properly classified and included in the College's next ASR that must be distributed no later than October 1, 2011.

The University must include what actions it will take to ensure that statistics of all incidents of crime reported to law enforcement or any CSA will be gathered, compiled, reconciled, and disclosed. A copy of all revised policies and procedures must be submitted with DSU's response.

Based on an evaluation of all available information including the University response, the Department will determine if appropriate additional actions will be required and will advise DSU accordingly in our Final Program Review Determination letter.

**Finding #3: Failure to provide a clear audit trail/ underreporting**

**Citation:** 34 C.F.R. § 668.46 (c)

The Clery Act and the Department's regulations require that institutions participating in the Title IV, HEA programs compile and publish statistics concerning the occurrence on campus of the following crimes: criminal homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. In addition, the institution 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)*. 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. To comply with these requirements, DSU must develop a system to collect incidents of crime reported to any law enforcement or campus security authority. *34 CFR § 668.46 (c)(2)*.

**Noncompliance:**

For all years under review, DSU failed to maintain the records to support the ASR data. The Director of Resident Education and Student Life acknowledged during the program review that the university destroyed documents related to incidents and or infractions occurring in the residential buildings.

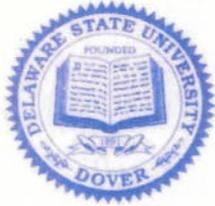
Failure to maintain records to support all required crime statistics from law enforcement and all CSA's and to accurately and completely publish those statistics in the ASR deprives the campus community of important campus safety information.

The Department was unable to verify the accuracy of the data contained in the Annual Security Reports. The lack of a clear audit trail is the basis for the underreporting. The university lacks a sufficient system to adequately compile and maintain records so that they are accessible and useable for ASR reporting purposes. The residence life infraction reports were destroyed and cannot be reproduced. Therefore, the audit trail for Judicial Affairs hearing outcomes starts and ends with the available, documented police records. Reported documentation from the Residence life staff and other campus security officials was not maintained. DSU's staff members told the Department that reported crimes are documented, however when asked to reproduce documents reflecting those reports, the school failed to produce the information. The DSU Police Department's reports are the only documented referrals to the Judicial Affairs office for disciplinary matters.

In addition due to the lack of documentation the institution cannot present a clear picture of what data was counted for the ASR. The lack of a clear audit trail is the basis for DSU's failure to properly disclose crime statistics.

**Required Action:**

DSU must take all necessary corrective actions to cure the exceptions identified in this finding for 2006, 2007 and 2008. The University must develop and implement a comprehensive system of policies and procedures to ensure that the appropriate information is documented and archived properly from all campus security officials. These procedures must be provided in response to the program review report.



## DELAWARE STATE UNIVERSITY

OFFICE OF THE GENERAL COUNSEL

January 31, 2011

### **BY E-MAIL & FEDERAL EXPRESS**

Mr. Donald Tantum  
School Participation Team, NE-Philadelphia  
Federal Student Aid  
The Wanamaker Building  
100 Penn Square East, Suite 511  
Philadelphia, PA 19107-3323

**RE: Program Review Report - OPE ID: 00142800  
PRCN: 200840326736  
Delaware State University**

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Dear Mr. Tantum:

This is a response to Ms. Gifford's letter dated November 2, 2010 which included a Program Review Report dated November 2, 2010, prepared by the U.S. Department of Education (the "Department"), Federal Student Aid, School Participation Team, NE-Philadelphia. We respond to each of the sections and findings set forth in that Program Review Report.

Delaware State University ("DSU") does not take issue with any of the statements in "Section A, Institutional Information," or "Section B, Scope of Review." However, the conclusions drawn in "Section C, Findings" are inaccurate for the reasons set forth below, and we respectfully request correction of such inaccuracies prior to issuance of the Department's Final Program Review Determination Letter.

### **Basis for Errors in the Findings**

The three findings (#1: Lack of Administrative Capabilities; #2: Failure to Report Accurate Crime Statistics; and #3: Failure to provide a clear audit trail/underreporting) all stem from a single, erroneous piece of information which was provided by DSU to the investigators from the Department, Kenneth Porter and you. Mr. Porter and you were informed in an e-mail dated December 15, 2008 from Ron Williams, a former DSU employee who was then Head of the Department of Housing and Residential Education, that certain critical records were

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destroyed following Mr. Williams' assumption of his position. As a result, according to Mr. Williams, he was "unable to provide information (to the Department) for the 2004, 2005 and 2006 calendar years." Mr. Williams went on to list the critical gaps in documentary support which allegedly resulted from what Mr. Williams reported was a "shred[ding] of all infraction reports."

DSU has conducted a thorough investigation of the underlying facts for this e-mail, and has determined that Mr. Williams was flat wrong. No such shredding of critical documents took place, and most or all of the basic documents through which student incidents, confrontations and criminal activity are reported have been preserved.

### DSU Reporting Process

A brief description of the incident reporting process in effect during the years under review (calendar years 2004-2008) follows.

First, Residence Directors in all of the residence halls, as well as their Residential Assistants (student assistants), recorded all events, regardless of their seriousness or significance, in daily log books. Those entries were not intended to be exhaustive or detailed, and did not attempt to identify specific violations of University rules or regulations.

To date, log books for Tubman Hall, Wynders Towers, Laws Hall, Evers Hall (for most of the reviewed period) and Warren-Franklin Hall have all been located. These primary documents were not reviewed in connection with the Program Review Report, largely, we believe, because Mr. Williams incorrectly reported them destroyed.

Second, where conduct was deemed serious enough to warrant further action, an incident or violation report was prepared by either the Residence Director or the Residential Assistant. In all cases during the review period, the completed Incident/Violation Report was forwarded to Judicial Affairs. To the extent copies of those reports were kept in the residence halls—and that was not required by the process in effect during this time and, therefore, would not have been undertaken in a consistent manner—those copies may or may not still be in existence. In any event, no directive to destroy those reports or any other primary documentation such as the log books was, to the knowledge of the relevant University personnel, ever given, let alone was carried out.

Third, once the Incident/Violation Report was received by Judicial Affairs, a formal inquiry process was commenced. Depending on the seriousness of the conduct at issue, a hearing would be convened or, with less serious conduct, a counseling session was scheduled by the Director of Judicial Affairs. More importantly to the Program Review, during the summer of 2008, in response to requests from the team conducting the Program Review, 100% of the Incident/Violation Reports were copied and provided to the Department. The originals of those

reports still reside in the Judicial Affairs offices. No reports during the review period of 2004-2008 were omitted from this production.

### **Preparation of ASR and Process Improvements**

DSU prepared its 2008 Annual Security Report ("ASR") based upon the Incident/Violation Reports identified above, as well as other information available from local police and security forces. The validity of each ASR during the relevant time period may be tracked back to the original Incident/Violation Report or other statistical source if such a review is required.

In August, 2008, DSU acquired the Judicial Affairs Management System ("JAMS") and installed it in each residence hall, as well as in the Judicial Affairs offices. The JAMS system, on which all Residence Directors and Residential Assistants have been trained, provides for the electronic submission of Incident/Violation Reports. The JAMS process also allows for faster and more complete reporting and also permits for the electronic storage of all such reports. This JAMS system represents a significant enhancement to the reporting and information retention ability of the Judicial Affairs process which underlies the reporting required under the Clery Act.

### **Alleged Lack of Administrative Capabilities**

The foregoing factual background demonstrates that the allegations of poor or non-existent recordkeeping and poor staff performance are simply not accurate. The maintenance of logs in the residential halls and the preparation and filing of reports of serious conduct were all done consistently and in such a way as to permit full compliance with the Clery Act. The Reports were all provided to the Program Review Team.

Although the e-mail from Ron Williams, referenced above, appears to indicate a serious lapse in the process, that e-mail has proven to be demonstrably inaccurate. Indeed, the critical Clery Act foundation documents, the Incident/Violation Reports, were and are available to the Department.

The Review criticizes DSU for administrative staff turnover, but does not indicate what positions or which personnel are the target of the criticism. Kemal Atkins was hired as the new Vice President for Student Affairs and took over in January, 2010. Mr. Atkins has extensive experience for this position. He has received Clery Act training, has served on two campus safety task forces in the University of North Carolina system, and on the task force on safety in higher education for the Attorney General of North Carolina. Since assuming his duties, Mr. Atkins has instituted numerous safety reviews with residential housing staff to strengthen further this area of DSU's responsibilities.

**Alleged Failure to Report Accurate Crime Statistics and Failure to Provide a Clear Audit Trail/Unreporting**

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For the reasons stated above, the fundamental grounding for these findings, the Williams e-mail which is quoted at length on page 6 of the Program Review Report, is simply not accurate, although DSU readily admits that the Department's confusion and inaccuracy is primarily due to Mr. Williams' erroneous e-mail.

The Incident/Violation Reports, which form the underpinning for the statistical reports for the ASR, are all available in the Offices of Judicial Affairs, and have previously been provided to the Department. There is no proof that there are gaps in those reports, or that they are otherwise inaccurate, unavailable for review, or in any way misreport the critical statistical information required under the Clery Act.

Further, the log books maintained in the residence halls as the first record of incidents occurring in the residence halls are largely available material. Again, Mr. Williams' suggestion that those documents had been destroyed is not accurate, although it is important to note again that those log books are not devoted exclusively to incidents which must be recorded pursuant to the Clery Act requirements. They are much broader in scope and less detailed than the reports made to Judicial Affairs.

Thus, the "audit trail" referenced in the Program Review Report is available should a full recompilation of an ASR be required.

**Conclusion**

DSU concedes, regretfully, that the e-mail provided by Mr. Williams is largely responsible for the confusion and misinformation which underlies the Program Review Report. However, the record has been set straight by the additional record gathering DSU has conducted subsequently, as well as by the change in personnel referred to above.

Further, the addition of the new JAMS system is a marked improvement in both the reporting and retention of critical statistical information required under the Clery Act. The outstanding personnel now in charge of this important area have the best available tools for completing this key function.

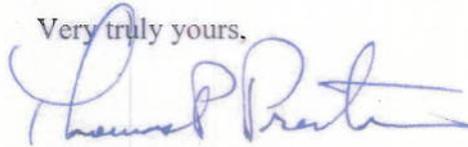
Mr. Donald Tantum

Page 5

January 31, 2011

Under these circumstances, DSU respectfully requests that the Program Review Report be revised to reflect this new information and new conclusions.

Very truly yours,



Thomas P. Preston  
General Counsel

TPP:pfc

cc: Mr. Amir Mohammadi  
Mr. Kemal Atkins  
Chief James Overton

Attachment A

Tantum, Donald

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**From:** Ron E. Williams [ronwilliams@desu.edu]  
**Sent:** Monday, December 15, 2008 9:06 AM  
**To:** Tantum, Donald  
**Subject:** US Dept of Education Memo  
**Attachments:** US Dept of Education Memo.doc

# Memo

**To:** Donald Tantum, Ken Porter  
**From:** Ron Williams  
**CC:** Dr. Paul A. Bryant  
**Re:** Information Request for the Campus Security Review

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Please be advised that I am unable to provide information to you for the 2004, 2005, and 2006 calendar years. I did not arrive to Delaware State University until March 16, 2007. However, upon my arrival the Residence Directors for the Department of Housing and Residential Education were told to shred all infraction reports they had because the Office of Judicial Affairs was the designated record keeping office for the University. Therefore there is no information to provide for the items listed below.

- Incident reports to the campus police or campus security department
- Incident reports to student housing, i.e. residential life
- Incident reports to Judicial Affairs
- Notes/warnings/citations issued by Staff, Professional Staff, Resident Directors, Resident Assistants, etc.
- Referrals from counseling offices, faculty, other university employees
- Reports our office has submitted to campus police.

After the conversation that I had with you last week our department has began to keep files on these types of issues. What we have is information that has occurred since that time. Please let me know if you would like this information?

At this time, I am requesting an extension to provide you with any other information that I can gather.