



September 19, 2006

Brother Michael J. McGinniss, FSC, Ph.D.
President
La Salle University
1900 West Olney Avenue
Philadelphia, PA 19141-1199

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Dear President McGinniss:

This letter provides the U.S. Department of Education's (Department's) Final Program Review Determination (FPRD) regarding La Salle University's (La Salle; the University) compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act; the Act) included in Section 485 of the Higher Education Act of 1965, as amended (HEA).

This FPRD is the result of a program review conducted by the Department's School Participation Team – Philadelphia (SPT). The SPT issued its program review report on January 25, 2006. La Salle submitted its response on April 12, 2006, which included a narrative explaining La Salle's position on the findings and 17 exhibits. The response focused on a number of corrective measures initiated since June 2004. The SPT has made final determinations on the findings in the program review report. These final determinations are based on a thorough analysis of La Salle's campus security policies and procedures; hardcopy incident reports; disciplinary referrals from calendar years 2001, 2002, and 2003; information from the University's internal audit in 2004; the results of interviews with current and former employees and students of La Salle and La Salle's response to the program review report and its exhibits. The original findings of the program review report are reported in depth in the January 25, 2006 program review report. To avoid the need to repeat the factual details included in that report, the program review report is incorporated into this FPRD by reference and is the Attachment to this letter. The issuance of this FPRD closes the Department's Clery Act review of La Salle. The final determinations reflected in this letter have not found that La Salle has any institutional liabilities relating to the misuse of federal funds. Therefore, the University may **not** appeal this Final Program Review Determination letter.

Due to the serious nature of the findings, we have referred this FPRD to the Department's Administrative Actions and Appeals Division (AAAD) for its consideration of possible administrative action against La Salle pursuant to 34 CFR Part 668, Subpart G. Such action may include a fine, or the limitation, suspension or termination of the institution's eligibility. If

School Participation Team NE--Philadelphia
The Wanamaker Building
100 Penn Square East Suite 511
Philadelphia, PA 19107-3323

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AAAD initiates action, the institution will be notified under separate cover of that action. AAAD's notification will also include information regarding the institution's appeal rights and procedures on how to contest that action.

A. FINDINGS AND PROGRAM DETERMINATIONS

The original program review report findings are summarized below and include appropriate references and requirements. The Final Determination for each finding is detailed at the conclusion of the original text. The text of the program review report which is included in this letter is italicized.

FINDING # 1: FAILURE TO REPORT AND MISCODING OF SPECIFIC INCIDENTS

La Salle under-reported and miscoded campus crime statistics in its annual campus security reports (CSR) for 2001 and 2002. Incorrect statistics for calendar year 2001 were published in the University's 2002 and 2003 CSR's. Incorrect statistics for calendar year 2002 were published in the 2003 CSR. La Salle took no action to correct these errors until after June 2004 when it arranged for an internal audit of its campus crime statistics. That audit determined that the University had omitted and/or miscoded a number of incidents (as shown below). Corrected crime data for the 2001 and 2002 calendar years was not disclosed to students and employees until the 2004 CSR was distributed on or about October 1, 2004. La Salle's failure to correctly develop and maintain its crime statistics also resulted in incorrect information being reported to the Department in 2002 and 2003. As a result of these incorrect reports from the school, the Department reported incorrect information regarding crime at La Salle to the public.

Campus Security Report Incident Classification	La Salle University Original Statistics Reported	La Salle University Revised Statistics	% Increase/ (Decrease)
2001 Forcible Sexual Offense	0	2	
2001 Aggravated Assault	3	5	
2001 Burglary	17	37	
2001 Robbery	8	8	
2001 Motor Vehicle Theft	14	12	
2001 Arson	0	0	
2001 Totals	42	64	52.4%
2002 Forcible Sexual Offense	4	3	
2002 Aggravated Assault	1	5	
2002 Burglary	7	12	
2002 Robbery	12	10	
2002 Totals	24	30	25.0%
<i>The 2003 data originally included in the chart in the program review report has been removed in that it is not relevant to this final determination.</i>			

The first column in the chart lists the data originally reported by La Salle on its Campus Security Reports. The second column reflects the revised data calculated by La Salle after an audit conducted under the supervision of La Salle's legal counsel and their consultant. The third column shows the percentage of change on the yearly totals from the original data reported by La Salle to the most recent data calculated.

REFERENCE:

Disclosure of Campus Security Policy and Campus Crime Statistics Act,
20 USC § 1092 (f), as amended, Section 485 (f), Higher Education Act, as amended
34 CFR § 668.46(b)-(c), General Provision Regulations
Appendix E to Part 668 – Crime Definitions in Accordance With the Federal Bureau of
Investigation's Uniform Crime Reporting Program

REQUIREMENT:

*Federal regulations at 34 CFR §668.46 (c)(1) require that participating institutions compile and publish for the three most recent calendar years accurate and complete campus crime statistics to inform current and prospective students and employees of important safety and security information. This Campus Security Report must include incidents of: homicide, sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. This report must also include a statistical disclosure of arrests and disciplinary actions related to violation of Federal or state drug, liquor, and weapons laws. The institution's policies and procedures are required to be published and distributed to all current students and employees and made available to prospective students and employees. To comply with these requirements, all incidents of crime on campus, *included in the categories listed above, that are reported to a campus security authority or law enforcement official must be included in the Campus Security Report and be properly coded according to the Uniform Crime Reporting (UCR) Systems definitions.*

FINAL DETERMINATION – FINDING # 1

The Department has concluded that La Salle originally published and distributed inaccurate crime statistics for calendar years 2001 and 2002. In its response to the program review report, La Salle conceded that its own internal audit confirmed that its original crime statistics that it reported to the Department and to its students and employees for those two years omitted and/or miscoded certain crimes. As a result, those reports were inaccurate. La Salle did not disclose the corrected data to students and employees until the CSR distributed on or about October 1, 2004, one to two years after the original incorrect data was distributed. As noted in the program review report, La Salle's original report miscoded crimes by incorrectly labeling one type of crime as another (such as reporting burglaries as thefts). The program review report also found that La Salle's under-reporting of crimes was mainly attributable to the failure of La Salle's staff to

* Denotes a correction to the original text

ensure that crimes were reported through proper channels so that an incident report is generated. The program review report also identified other administrative problems at La Salle that contributed to the issuance of the incorrect reports.

In its response, La Salle asserts: (1) that it was proactive in correcting the misreporting and should not be subject to sanctions by the Department; and (2) that the policy and procedural weaknesses identified in the program review report as contributing to the incorrect reporting of crime statistics in violation of the Clery Act and the Department's regulations were either not applicable to the violation and/or were not as severe as characterized.

However, La Salle's campus crime reported statistics clearly misrepresented the number of serious crimes on campus during the review period. La Salle's own 2004 internal audit identified a total of 28 additional crimes (including forcible sex offenses and aggravated assaults) that were not previously included in the crime statistics distributed to students, employees and the Department for 2001 and 2002. As noted in the program review report, we have determined that numerous policy, procedural, and operational weaknesses at La Salle contributed to the omissions and classification errors that caused this violation.

The Clery Act is first and foremost a consumer information law and institutions must ensure the accuracy of the data when it is presented to students and employees for their own personal safety. Students and employees must be able to rely on the institution's reported statistics. La Salle's correction of the crime statistics one or two years after the original issuance of the report does not excuse its earlier failure to comply with its legal obligations. The Department is pleased that La Salle has expanded its campus police patrol jurisdiction into the neighborhoods where its students travel and live and that additional foot and bicycle patrols and contract staff were brought on to support the existing security force. These are positive and proactive steps that were taken in response to the threat of crime against students, employees, and University property. However, the correction of violations does not diminish the seriousness of not correctly reporting these incidents at the time they occurred.

FINDING #2: MISREPRESENTATION OF DISCIPLINARY REFERRAL STATISTICS

La Salle failed to properly disclose the number of its liquor and drug law disciplinary referrals, which resulted in additional underreported crime statistics for the years 2001 and 2002 in its annual campus security reports (CSR). The chart below lists: (1) La Salle's originally reported statistics in each category; and (2) its revised statistics (according to the 2004 internal audit). La Salle's corrected crime statistics for the 2001 and 2002 calendar years were not disclosed to students and employees until the 2004 CSR was distributed on or about October 1, 2004. La Salle also failed to correctly report its crime statistics to the Department in 2002 and 2003, which resulted in incorrect information being provided to the public.

	Liquor Law Violations		Drug Law Violations	
	La Salle Originally Reported	La Salle Revised Statistics	La Salle Originally Reported	La Salle Revised Statistics
2001	19	29	9	5
2002	1*	87*	1	2
2003	68*	N/A	3	N/A

The chart illustrates reporting errors identified by comparing La Salle's initial and revised statistics. The Department of Education's determinations based on a review of incident reports and disciplinary files originally included in the chart in the program review report have been removed in that they are not relevant to this final determination.

* Denotes a correction to the original text due to a typographical error as discussed with La Salle representatives.

REFERENCE:

Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 USC § 1092(f), as amended, Section 485 (f), Higher Education Act, as amended, 34 CFR § 668.46(c)(9), General Provision Regulations

REQUIREMENT:

Federal regulations at 34 CFR §668.46 (c)(1) require that participating institutions compile and publish accurate and complete campus crime statistics. To comply with these requirements, it is essential that institutions have established open lines of communication and appropriate mechanisms to coordinate information and statistics from all appropriate internal and external sources.

FINAL DETERMINATION – FINDING # 2

La Salle admits that liquor and drug law violations were omitted from their published crime statistics for years 2001 and 2002 and made certain corrections after the internal audit in 2004. In addition, in its response to the program review report, La Salle acknowledged that there were additional liquor and drug law violation referral cases that should have been included in its “revised” statistics (those distributed after the 2004 internal audit in the October 2004 CSR). See La Salle’s Response, p. 20. The University provided no detail as to how many additional corrections are needed to their revised 2001 and 2002 statistics, or the original 2003 statistics in its 2004 CSR. La Salle argues that the finding is incorrect and reflects the Department’s alleged failure to understand the University’s disciplinary system. La Salle further suggests that the

Department's failure to understand its system led to a "presumption of inclusion" and caused the reviewers to label many infractions of campus conduct rules as violations of law and to include cases where the facts documented in the incident report were ambiguous. La Salle also argues that it was proactive in correcting the misreporting and that sanctions should not be imposed and that the policy and procedure weaknesses identified as contributing to the violation were either not applicable to the violation and/or were not as severe as characterized.

As detailed in the program review report, La Salle originally reported 19 LLVs for 2001 and only one LLV for 2002. After the 2004 revisions, La Salle changed these statistics to 29 and 87 respectively.

Similarly, under the heading "Referrals for Drug Law Violations," on page 22 of its response La Salle "concede[s] that several cases should have been included but were inadvertently omitted" from the 2004 CSR. The program review report documented that La Salle originally reported nine DLV's for 2001 and one DLV for 2002. After the 2004 revisions, La Salle changed these statistics to five and two respectively.

La Salle's admission that additional errors exist in its 2004 revisions to its crime statistics raises questions about the University's coding of campus security violations for Clery Act purposes. It is important that security officers that are trained to identify and interdict crimes that are alcohol and drug related are properly documenting the facts as they relate to violations of state laws. The Department also urges La Salle to separately code each incident for Clery purposes and then in accordance with all other reporting requirements.

The Department is pleased that La Salle has established a more formal protocol for counting disciplinary referrals for liquor law violations. We are available to work with the institution as it continues to develop and implement all necessary corrective actions to address the policy, procedural, and operational factors that contributed to this violation.

FINDING # 3: FAILURE TO PROVIDE TIMELY WARNINGS OR TO MAINTAIN OPEN CRIME LOGS

Finding #3 cited the University for its failure to issue "timely warnings" of threats to the safety and security of the campus community for two sexual assault incidents. The program review also determined that the University does not have an adequate policy on the issuance of such warnings. In addition, the finding cited the University for failure to maintain an accurate and complete crime log as required by federal regulations.

REFERENCE:

Disclosure of Campus Security Policy and Campus Crimes Statistics Act,
20 USC § 1092 (f), as amended,
Section 485 (f), Higher Education Act, as amended
34 CFR § 668.46 (b)(i), (e), and (f), General Provision Regulations

REQUIREMENT:

For crime prevention purposes [34 CFR §668.46(e)], participating institutions must timely report to the campus community warnings on the following crimes:

- *Homicide, Sex offenses, Robbery, Aggravated Assault, Burglary, Motor Vehicle Theft, Arson, Arrests for Liquor and Drug Law Violations, and Arrests for Illegal Weapons Possession;*
- *Reported Hate Crimes;*
- *Other Crimes Reported to Campus Security Authorities Under the Institution's Policy; and*
- *Crimes Considered as a Threat to Students and Employees.*

The Act also requires that the University's policies and procedures be published in the Campus Security Report and include policies for issuing these timely warnings. It is essential that the University provide these timely warnings as frequently and systematically as needed to provide the most accurate and complete consumer information possible in the interest of the safety and well being of the campus community.

Additionally, participating institutions must maintain "a written, easily understood daily crime log" listing all crimes, by the date it was reported, that occurred 1) on campus; 2) on a non-campus building or property; 3) on public property; or 4) within the campus police or security department's patrol area that it becomes aware of or is reported to it [34 CFR § 668.46 (f)]. This reporting requirement applies to all categories of crime not merely those crimes listed in 34 CFR §668.46 (c)(1) and (3). The log must include the nature, date, time, general location, and disposition of each offense.

FINAL DETERMINATION – FINDING #3

La Salle disagrees with this finding. The University contends that the Clery Act does not prescribe how a timely warning should be considered, or who should be involved in making that determination. The University claims that its process is reasonable, has proven to be effective, and is consistent with the Clery Act. With respect to the April 2003 and the June 24, 2004 sexual assault cases in particular the University states that "based on what was known by the head basketball coaches in 2003 and by other University officials in 2004, no timely warning was needed about the alleged April 2003 sexual assault." The University argues that it acted swiftly to eliminate any possible threat to the community by placing both of the accused students on interim suspension and therefore, no warning was needed. The University did inform the campus community about the June 24, 2004 incident on June 28, 2004.

We acknowledge that the Clery Act and the Department's regulations do not provide a specific definition for when a warning is "timely". However, it is clear that the warning should be issued as soon as pertinent information is available to alert the campus community of potential threats and thereby enabling the community to protect themselves and assist in preventing similar

crimes. The Department does not agree that suspending the students achieves this requirement. The potential of a serious threat continued and should have been disseminated to the campus community.

We also note that La Salle concedes that there was never an official consideration of whether to issue a warning in regard to the April 2003 sexual assault because the institution's basketball coaches failed to inform the school officials responsible for such warnings of the assault allegations they received. Thus, the University did not follow its established procedures for considering such warnings in violation of the requirements of the Clery Act.

Finding #3 also cites the University for failing to maintain an accurate and complete crime log as required by the Clery Act. Based on La Salle's response we believe that the University now properly documents the disposition of any reported crimes in its crime log. We are also satisfied that La Salle has amended its archived logs to reflect the revised 2004 statistics.

However, the Department remains concerned that there are still weaknesses in the University's process for communicating and reporting incidents in a timely manner to the officials who have the administrative responsibility for determining whether a timely warning should be issued. We are available to work with the University to assist in developing procedures that can help improve operational factors that contributed to this violation.

FINDING # 4: REQUIRED POLICY STATEMENTS OMITTED OR INCOMPLETE

La Salle was cited for its failure to include certain required policy statements in its Campus Security Reports. The review team noted specific policy deficiencies including the lack of a required notification to students advising them of all of their rights and protections provided under the Clery provisions referred to as the Campus Sexual Assault Victims Bill of Rights (CSAVBR).

REFERENCE:

Disclosure of Campus Security Policy and Campus Crime Statistics Act,
20 USC § 1092(f), as amended,
Section 485 (f), Higher Education Act of 1965, as amended
20 U.S.C. §1011i, Section of 120 of the Higher Education Act, as amended
34 CFR § 668.46 (b)(11) and (b)(4)(iii), General Provision Regulations

REQUIREMENT:

Federal regulations at 34 CFR §668.46 (b) (2) through (11) require that institutions include policy statements in their Campus Security Reports. These disclosures are intended to more fully inform the campus community about the institution's security policies and programs. In general, the institution's policy and procedures must include:

- *The law enforcement authority and practices of the institution's police or security force;*
- *Reporting procedures for students and employees, and policies that governs the preparation of the incident report itself;*
- *Disclosure of alcohol and drug policies and educational programs;*
- *Disclosure of policies pertaining to sexual assault education, prevention and adjudication; and*
- *Notice to students that victims of sexual assault may change their academic or living arrangements.*

FINAL DETERMINATION – FINDING #4

Finding #4 of the program review report cited the University for its failure to include certain required policy statements in its 2002 and 2003 Campus Security Reports. Specifically, the policy statements in those reports did not include: (1) certain required disclosures regarding the procedures for campus disciplinary actions in alleged sexual assaults; and (2) the required notification to students advising them of all the rights and protections under CSAVBR. The Campus Security Report policy statements did not provide a description of how crime statistics were compiled and did not state the University's policy on confidential incident reporting. In addition the policy statements did not describe the alcohol and drug education programs offered by the University.

In its response, the University informed the Department that, after the 2004 internal audit, it revised the following policies:

- Assistance to Victims with Reporting Crimes to the Police
- Policy Statement Regarding Compilation of Crime Statistics
- Statements Regarding Confidential Reporting
- Description of Alcohol and Drug Abuse Programs.

Based on a review of the University's response the Department agrees that the institution's revised policies since 2004 comply with the Department's regulations.

The Department recognizes that La Salle has initiated many corrective actions to improve its compliance with the Clery Act; however, these improvements do not diminish the seriousness of the violations that existed in the prior reporting periods. The Clery Act is intended to ensure that students, their families and institutional employees receive essential information that is accurate, complete, and timely so they can make informed decisions about their safety while on campus.

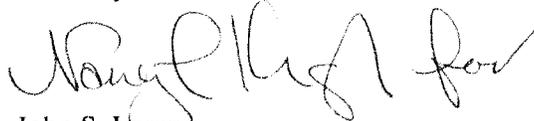
Brother Michael J. McGinniss, FSC, Ph.D.
President
La Salle University
Campus Security FPRD – Page # 10

In conclusion, the University is once again advised to take all necessary actions to ensure these violations do not recur. Furthermore, the University is advised that repeat findings in future program reviews or the failure to satisfactorily resolve the violations of this program review could result in additional adverse administrative action pursuant to 34 CFR Part 668, Subpart G, which may include a fine or the limitation, suspension, or termination of the institution's eligibility.

The University also is reminded that all pertinent program records relating to the period covered by this program review are subject to the normal record retention requirements outlined at 34 CFR § 668.24(e).

The Philadelphia SPT will continue to work with the University to ensure that the serious violations identified throughout the program review process are corrected. If you have any questions, please contact Mr. James L. Moore, III on (215) 656-6495 or Mr. Donald I. Tantum on (215) 656-6467.

Sincerely,



John S. Loreng
Team Leader

Attachment

cc: Scott A. Coffina, Esquire, Counsel to the University
Ms. Jean Avnet Morse, Executive Director, Middle States Association
Ms. Cindy Davis, Manager, Program Review, AES/PHEAA