



Moore

November 3, 2008

John T. Casteen, III, Ph.D.
President
University of Virginia
1847 University Avenue
Charlottesville, VA 22904-4224

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Dear Dr. Casteen:

As you know, Security on Campus, Inc, a non-profit campus safety advocate, filed a complaint against the University of Virginia (the University; UVA) alleging violations of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The complaint was filed on behalf of [REDACTED], a former UVA student and was subsequently joined by [REDACTED] on behalf of her daughter, [REDACTED] and as the founder of UVU Victims of Rape. Specifically, the complaint accused UVA of violating 34 C.F.R. § 668.46 (b)(11)(vi), a set of Clery Act provisions often referred to as the Campus Sexual Assault Victim's Bill of Rights (CSAVBR).

The CSAVBR provisions require schools to develop and implement policies and programs intended to prevent or reduce sexual assaults and to provide appropriate assistance and services to survivors. The provision at issue in this case requires institutions to advise students of procedures to be following in campus disciplinary proceedings. Federal regulations further require that both the accuser and the accused be informed of determinations regarding culpability and any sanctions imposed as a result of a judicial proceeding.

The complainants alleged that the University placed impermissible conditions on their ability and that of other survivors of sexual assault to access information to which they are entitled under the Clery Act. At UVA, these records were generated and maintained by the Office of the Vice President for Student Affairs and Chief Student Affairs Officer. [REDACTED] was seeking information about UVA's adjudication of her sexual assault that occurred in December 2001. [REDACTED] was seeking similar information about her February 2004 attack.

Both women decided to pursue cases against their alleged assailants through UVA's Sexual Assault Board. [REDACTED] attacker was found in violation but was permitted to continue his enrollment in good standing. The accused in [REDACTED] case was found not responsible. According to the complaint, University officials repeatedly admonished accusers that all aspects of the proceedings were to remain completely confidential. It is

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The Wanamaker Building
100 Penn Square East Suite 511
Philadelphia, PA 19107-3323

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confusion even within the University about what actual policies and practices were in place during the time period under review.

The Department is aware that UVA has undertaken a number of initiatives aimed at improving the Sexual Assault Board process and evaluating the effectiveness of its policies and procedures. It is our understanding that UVA designated groups of officials and students to examine and improve operations in this regard and that ensuring compliance with the Clery Act was a major aim of this exercise. Nevertheless, based on the determinations and guidance above, the University is required to conduct a comprehensive review of its Clery Act policies and procedures to identify and address violations or weaknesses in its Clery Act program. UVA must specifically address how it will ensure the unconditional communication of judicial proceeding outcomes and sanctions to accusers and the accused in cases of alleged sex offenses.

UVA must submit a copy of its policies and procedures governing the conduct of the Sexual Assault Board for our review. The University also must provide a brief narrative summarizing the changes between the current policy (and any modifications made as a result of this Final Determination) and the policy that was in place at the time of the complainant's hearings. Lastly, please provide a copy of your most recent Campus Security Report. The requested items must be submitted to the attention of Mr. James Moore at the following address:

U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 511
Philadelphia, PA 19107

Please provide these materials no later than 30 days following your receipt of this letter.

This determination finds that the University violated the Clery Act. However, as was noted in our July 2004 Final Determination in another case, there was apparent confusion in the higher education community regarding the intersection of the disclosure requirement under the Clery Act and the strictures of FERPA. For this reason, the Department will not impose any fines or other sanctions at this time. However, UVA is advised that any subsequent violations of the Clery Act will result in a referral for the imposition of a civil penalty of up to \$27,500 per infraction.

Dr. John T. Casteen, III
President
University of Virginia
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We thank you for your cooperation and patience throughout our examination of this matter. If you have additional questions, please contact Mr. James Moore on (215) 656-6495.

Sincerely,



Nancy Paula Gifford
Area Case Director

Patricia M. Lampkin, Ed.D., VP of Student Affairs & Chief Student Affairs Officer
Mr. Paul J. Forch, Esq., General Counsel