



March 17, 2014

Judy Rogers  
President  
Cottey College  
1000 West Austin  
Nevada, MO 64772-2790

UPS Tracking Number:  
1ZA879640194592527

**RE: Final Program Review Determination**  
OPE ID: 00245800  
PRCN: 201320728184

Dear President Rogers:

The U.S. Department of Education's (Department's) School Participation Division – Kansas City issued a program review report on August 30, 2013 covering Cottey College's (Cottey's) administration of programs authorized by Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et seq. (Title IV, HEA programs), for the 2011-2012 and 2012-2013 academic years. Cottey's final response was received on October 24, 2013. A copy of the program review report (and related attachments) and Cottey's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by Cottey 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 all of the outstanding findings of the program review report. The purpose of this letter is to notify Cottey of a possible adverse action. Due to the serious nature of one or more of the enclosed findings, this FPRD is being referred to the Department's Administrative Actions and Appeals Service Group (AAASG) for its consideration of possible adverse action. Such action may include a fine, or the limitation, suspension or termination of the eligibility of the institution. Such action may also include the revocation of the institution's program participation agreement (if provisional), or, if the institution has an application pending for renewal of its certification, denial of that application. If AAASG initiates any action, a separate notification will be provided which will include information on institutional appeal rights and procedures to file an appeal.

This FPRD contains one or more findings regarding Cottey'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), and the Department's regulations in 34 C.F.R. §§ 668.41 and 668.46 and 668.49. Since a Clery Act

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finding does not result in a financial liability, such a finding may not be appealed. If an adverse administrative action is initiated, additional information about Cottey's appeal rights will be provided under separate cover.

**Protection of Personally Identifiable Information (PII):**

PII is any information about an individual which can be used to distinguish or trace an individual's identity (some examples are name, social security number, date and place of birth). The loss of PII can result in substantial harm, embarrassment, and inconvenience to individuals and may lead to identity theft or other fraudulent use of the information. The findings in the attached report do not contain any student PII. Each of the finding references students only by a student number created by Federal Student Aid. However, the student numbers were assigned in Appendix A, Student Sample of the Program Review Report which does include PII. Please take appropriate measures to protect PII if distributing this report. Please see the enclosure Protection of Personally Identifiable Information for instructions regarding submission to the Department of required data and/or documents containing PII.

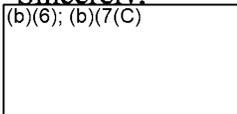
**Record Retention:**

Program records relating to the period covered by the program review must be retained until the later of: resolution of the loans, claims or expenditures questioned in the program review; or the end of the retention period otherwise applicable to the record under 34 C.F.R. §§ 668.24(e)(1), (e)(2), and (e)(3).

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 Jenny Hendrickson at (816) 268-0411.

Sincerely,

(b)(6); (b)(7)(C)



Ralph LoBosco  
Division Director

Enclosure:  
Final Program Review Determination Report

cc: Sherry Pennington, Financial Aid Administrator  
Leroy Wade, Missouri Department of Higher Education  
Karen Solinski, Higher Learning Commission

Prepared for

Cottey College

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**OPE ID** 00245800

**PRCN** 201320728184

## **Prepared by**

U.S. Department of Education  
Federal Student Aid  
School Participation Division – Kansas City

# Final Program Review Determination

## March 17, 2014

1010 Walnut Street, Suite 336, Kansas City, MO 64106

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## **B. Scope of Review**

The U.S. Department of Education (the Department) conducted a program review at Cottey College (Cottey) from January 28, 2013 to February 1, 2013. The review was conducted by Jenny Hendrickson and John Nading.

The focus of the review was to determine Cottey's compliance with the statutes and federal regulations as they pertain to the institution's administration of Title IV, HEA programs. The review consisted of, but was not limited to, an examination of Cottey's policies and procedures regarding institutional and student eligibility, individual student financial aid and academic files, attendance records, student account ledgers, and fiscal records.

A sample of 30 files was identified for review from the 2011-2012 and 2012-2013 (year to date) award years. The files were selected randomly from a statistical sample of the total population receiving Title IV, HEA program funds for each award year. In addition, 4 files were selected based on the student having withdrawn during a term, and 2 were selected based on Cottey officials exercising professional judgment with a Title IV, HEA program funds recipient's application data. Appendix A on the Program Review Report lists the names and partial social security numbers of the students whose files were examined during the program review.

A program review report was issued on August 30, 2013.

### **Disclaimer:**

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

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

### **Resolved Findings**

#### Finding #1

Cottey has taken the corrective actions necessary to resolve Finding #1 of the Program Review Report. Therefore, this finding may be considered closed. Cottey's written response to the Program Review Report is included as Appendix A. Findings requiring further action by Cottey are discussed below.

### **Resolved Findings with Comments**

The following program review findings have been resolved by the institution, and may be considered closed. These findings are included solely for the purpose of discussing resolution of the finding.

#### **Finding 2. Crime Awareness Requirements Not Met – Improper Crime Statistic Disclosures and Required Policy Statements Inadequate/Omitted from Annual Security Report**

##### ***Citation Summary:***

*The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) and the Department's regulations require that all institutions that receive Title IV, HEA program funds must, by October 1 of each year, publish and distribute to its current students and employees through appropriate publications and mailing, a comprehensive Annual Security Report (ASR) that contains, at a minimum, all of the statistical and policy elements enumerated in 34 C.F.R. § 668.46(b).*

*The ASR must be prepared and actively distributed as a single document. Acceptable means of distribution include U.S. Mail, campus mail, hand delivery, or by posting the ASR on the institution's website. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all students and employees that includes a statement of the report's availability and a link to its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. 34 C.F.R. § 668.41(e)(1).*

*These regulations also require institutions to provide a notice containing this information to all prospective students and employees. This notice must also inform interested parties about how to obtain a paper copy of the ASR. 34 C.F.R. § 668.41(e)(4).*

*An institution's ASR must include statistics for incidents of crimes reported during the three most recent calendar years. The covered categories include criminal homicide (murder and non-negligent manslaughter), forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. Statistics for certain hate crimes as well as arrest and disciplinary referral statistics for violations of certain laws pertaining to illegal drugs, illegal usage of controlled substances, liquor, and weapons also must be disclosed in the ASR. These crime statistics must be published for the following geographical categories: 1) on campus; 2) on-campus student residential facilities (as a subset of category # 1); 3) certain non-campus buildings and property; and, 4) certain adjacent and accessible public property. 34 C.F.R. § 668.46(c)(1).*

*In addition, the ASR must include several policy statements. These disclosures are intended to inform the campus community about the institution's security policies, procedures, and the availability of programs and resources as well as channels for victims of crime to seek recourse. In general, these policies include topics such as the law enforcement authority and practices of campus police and security forces, incident reporting procedures for students and employees, and policies that govern the preparation of the report itself. Institutions are also required to disclose alcohol and drug policies and educational programs. Policies pertaining to sexual assault education, prevention, and adjudication must also be disclosed. Institutions also must provide detailed policies of the issuance of timely warnings and emergency notifications as well as its emergency response and evacuation procedures. All required information referenced in 34 C.F.R. § 668.46(b) must be published in the ASR. With the exception of certain drug and alcohol program information, cross referencing to other publications is not sufficient to meet the publication and distribution requirements of the Act. 34 C.F.R. § 668.46(b).*

*Finally, each institution must also submit its crime statistics to the Department for inclusion in the Office of Postsecondary Education's "Campus Safety and Security Data Analysis Cutting Tool." 34 C.F.R. § 668.41(e)(5).*

### ***Noncompliance Summary:***

*Cotley violated multiple provisions of the Clery Act. Cotley failed to publish an accurate and complete 2012 ASR. Specifically, Cotley failed to include all required crime categories/subcategories in its crime statistics disclosure grid. Firstly, the Criminal Homicide disclosure did not incorporate the required subcategories of Murder, Non-negligent Manslaughter, and Negligent Manslaughter. In addition, Cotley improperly combined Forcible and Non-forcible Sex Offenses into a single line item. Moreover, the*

*crime category of Arson was omitted entirely from the statistical grid. In this context, the institution is reminded that all crime statistics categories must be included in the ASR. The institution must report "0" offenses if no incidents in a particular category are reported in any given calendar year.*

*Cotley also failed to include a required policy disclosure regarding the range of sanctions that may be imposed following a final determination of an institutional disciplinary proceeding regarding a charge of rape, acquaintance rape, or other forcible or non-forcible sex offense.*

***Required Action Summary:***

*Cotley was required to develop and implement procedures for preparing, publishing, and distributing an ASR in accordance with federal regulations. The new procedures must articulate how prospective students and employees will be notified of the report's availability. Using its new policy as a guide, Cotley was required to prepare and publish an accurate and complete ASR that includes all of the statistical disclosures and policy, procedure and programmatic information required under 34 C.F.R. § 668.46(b). Cotley was required to provide a copy of its new policies and procedures and its draft ASR to the Department for review for accuracy and completeness. In addition, Cotley was required to provide a copy of its 2012 Annual Security Report, submitted October 1, 2012, as well as copies of the notification materials provided to all current students and current employees.*

*As noted above, the exceptions identified in this finding constitute serious violations of the Clery Act that by their nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. Cotley will be given an opportunity to develop and distribute an ASR, and in so doing, begin to bring its overall campus security program into compliance with the Clery Act as required by its Program Participation Agreement (PPA). However, the institution is advised that these remedial measures cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective measures.*

***Cotley's Response:***

In its official response, Cotley stated its concurrence with the finding. In addition, management stated the following: "The vice president for student life and the director of the physical plant/campus security spent a significant amount of time reviewing The Handbook for Campus Safety and Security Reporting published by the Department of Education. On October 1, 2013, the vice president for student life published a significantly revised Cotley College Annual Safety and Security Report and Annual Fire Safety Report 2013-14. All of the required changes were incorporated into the combined

report as mandated by the Clery Act.” Cotley also stated, “On October 1, 2013, the Annual Safety and Security Report and Annual Fire Safety Report 2013-14 was actively distributed to all students and employees by campus email that included a statement of the report’s availability and a link to its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. The Office of Enrollment Management will send all prospective students a notice about the annual report in the letter that accompanies the Cotley College admission application. Prospective employees will be provided a notice about the availability of the report along with benefits information through the Office of Human Resources.”

**Final Determination:**

Finding #2 of the program review report cited Cotley for its failure to publish and distribute an accurate and complete 2012 ASR. As a result of these violations, Cotley was required to review and revise its internal policies and procedures related to *Clery Act* compliance and develop and implement new policies and procedures to ensure that these violations do not recur. In its response, Cotley stated its concurrence with the finding and asserted that all necessary corrective action was taken to address the violations identified by the review team. Cotley also submitted its revised ASR.

The review team’s analysis of the response materials established that the new ASR content was at least minimally adequate. Cotley has updated the crime statistics disclosure grid as required and added the missing policy disclosure to the ASR as detailed below:

- The required subcategories of Murder, Non-negligent Manslaughter, and Negligent Manslaughter, Forcible Sex Offenses, Non-forcible Sex Offenses, and Arson are now included in the Crime Statistics Report as separate line items. All of the previously mentioned categories reflect zero occurrences in all locations for the 2012, 2011, and 2010 years.
- The policy disclosure regarding the range of sanctions that may be imposed following a final determination of an institutional disciplinary proceeding regarding a charge of rape, acquaintance rape, or other forcible or non-forcible sex offense was included in the new 2013 ASR.

Based on that determination and Cotley’s representations that it has addressed these violations and their underlying causes, the Department accepts Cotley’s response and considers this finding to be closed.

Although the finding is now closed, Cottey is reminded that the exceptions identified above constitute serious violations of the *Clery Act* that by their nature cannot be cured. There is no way to truly “correct” a violation of this type once it occurs. Cottey was required to initiate all necessary remedial measures and in doing so, has begun to remediate the conditions that led to these violations. Cottey has stated that it has brought its overall campus security program into compliance with the *Clery Act* as required by its PPA. Nevertheless, Cottey is advised that such actions cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Finally, the Department strongly recommends that Cottey re-examine its campus security, drug and alcohol, and general Title IV policies and procedures on an annual basis to ensure that they continue to reflect current institutional practices and are compliant with federal regulations. As part of these periodic reviews, Cottey officials are encouraged to continue to use the Department’s “Handbook for Campus Safety and Security Reporting” (2011) as a reference guide for *Clery Act* compliance. The handbook is available online at: [www2.ed.gov/admins/lead/safety/handbook.pdf](http://www2.ed.gov/admins/lead/safety/handbook.pdf). The regulations governing the *Clery Act* can be found at 34 C.F.R. §§ 668.14, 668.41, 668.46, and 668.49.

### **Finding 3. Annual Fire Safety Report Requirements Not Met**

#### ***Citation Summary:***

*As of October 1, 2010, the Clery Act and the Department’s regulations require that all institutions that receive Title IV, HEA funds and maintain an on-campus student housing facility must, by October 1 of each year, prepare, publish and distribute to its current students and employees through appropriate publications and mailings, an Annual Fire Safety Report (AFSR) that contains, at a minimum, all of the statistical and policy elements described in 34 C.F.R. § 668.49(b). These institutions must disclose fire statistics for each on-campus student residential facility for the three most-recent calendar years. An institution’s statistics must accurately and completely identify the number of on-campus fires and the cause of each fire, the number of persons who sustained fire-related injuries that resulted in treatment at a medical facility (including on-campus health centers), the number of fire-related deaths, and the dollar value of property damage caused by such fires. 34 C.F.R. § 668.49(c).*

*In addition, the AFSR must include several fire safety information disclosures covering topics such as the type(s) of fire safety systems that are used in each student housing facility, the number of fire drills that were conducted during the previous calendar year, any institutional policies, procedures, and programs regarding: 1) the use and/or possession of portable electrical appliances; 2) smoking and the use/presence of open*

*flames in student housing facilities; 3) evacuation procedures to be followed in the case of a fire; 4) fire safety education and training programs; 5) the institutional official(s) and departments to whom students and employees should report the occurrence of fires so that those incidents can be included in the institution's annual fire statistics; and, 6) any plans for future improvements to the institution's fire safety program. 34 C.F.R. § 668.49(b).*

*The AFSR must each be published and distributed as a materially-complete, comprehensive publication. If an institution chooses to combine the ASR and AFSR and publish them as a single document, then the title of both reports must conspicuously appear on the cover page. Acceptable means of delivery include regular U.S. Mail, hand delivery, or campus mail distribution to the individual or posting on the institution's website. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all current students and employees that includes a direct link to each report (exact electronic address), a description of its contents, as well as an advisement that a paper copy will be provided upon request. The Department's regulations also require participating institutions to provide a notice to all prospective students and employees that includes a statement about the AFSR's availability, the content of the report, and the exact electronic address of the report, if posted to an internet or intranet site. This notice must also advise interested parties how to obtain a paper copy of the AFSR. Finally, an institution is required to submit its campus crime and fire statistics to the Secretary on an annual basis. 34 C.F.R. § 668.41(e)(1)-(6).*

***Noncompliance Summary:***

*Cottey violated multiple provisions of the Clery Act's fire safety requirements. Specifically, the institution's 2012 AFSR did not include several required fire safety policy and procedural disclosures. The inadequate and omitted disclosures include:*

- A list of the titles of the individual(s) who will confirm there is a significant emergency or dangerous situation, determine the content of the notification, determine when to send the notification, and initiate the notification system;*
- The number of fire drills conducted during the previous calendar year;*
- Plans to conduct a test of the emergency response and evacuation procedures on at least an annual basis;*
- The institution's policies or rules on portable electrical appliances, smoking, and open flames in a student housing facilities;*
- The institution's procedures for student housing evacuation in the case of a fire;*
- A statement that the institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the emergency notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency; and,*

- *A description of the process the institution will use to confirm that there is a significant emergency, determine who to notify, determine the content of the notification, and initiate the notification system.*

*Failure to publish an accurate and complete AFSR and to actively distribute it to students and employees deprives interested persons of important fire safety information to which they are entitled. Access to this information permits campus community members, especially those who live in residence halls, to make well-informed decisions about where to work and study and empowers them to play a more active role in their own safety and security.*

***Required Action Summary:***

*Cottey was required to review and revise its existing internal policies and procedures that govern the preparation, publication, and distribution of the AFSR and develop and implement any new policies and procedures as needed to ensure that all fire safety operations for the institution's student residential facilities will be carried out in accordance with the Clery Act going forward. If Cottey combines the AFSR with the ASR into a single publication then the title of both reports must conspicuously appear on the cover page. Cottey's new policies must address this requirement. The new procedures also must articulate how prospective students and employees will be properly notified of the AFSR's availability.*

*Using its new and revised policies as a guide, Cottey was required to prepare and publish an accurate and complete AFSR that includes all of the statistical disclosures and policy, procedure and programmatic information required by 34 C.F.R. § 668.46(b). Cottey was required to provide a copy of its new policies and procedures and its draft AFSR to the Department for review for accuracy and completeness. In addition, Cottey was required to provide a copy to all current students and employees in accordance with 34 C.F.R. § 668.41(e).*

*As noted above, the exceptions identified in this finding constitute serious violations of the Clery Act that by their nature cannot be cured. Cottey will be given an opportunity to publish and distribute an accurate and complete AFSR and in so doing, begin to bring its overall fire safety program into compliance with the Clery Act as required by its PPA. While enhanced safety is the Department's primary focus, we note that such improvements will likely result in a better risk management environment for the institution as well. Nevertheless, the institution is advised that these remedial measures cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective measures.*

**Cotley's Response:**

In its official response, Cotley stated its concurrence with the finding. In addition, management provided documentation showing that the college revised its written policies and procedures to include all required fire safety policy and procedural disclosures. In addition, Cotley stated the following: "The Annual Fire Safety Report was revised to be in compliance with federal regulations and was combined and is included in the Annual Safety and Security Report and Annual Fire Safety Report 2013-14. On October 1, 2013, the combined report was actively distributed to all students and employees by campus email that included a statement of the reports availability and a link to its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request."

**Final Determination:**

Finding #3 of the program review report cited Cotley for its failure to publish and distribute an accurate and complete 2012 AFSR, due to seven inadequate or missing disclosures. As a result of these violations, Cotley was required to review and revise its written policies and procedures to include all required fire safety policy and procedural disclosures. In its response, Cotley stated its concurrence with the finding and asserted that all necessary corrective action was taken to address the violations identified by the review team. Cotley also submitted its revised AFSR.

The review team's analysis of the response materials indicated that the new AFSR content was at least minimally adequate. Based on that determination and Cotley's representations that it has addressed these violations and their underlying causes, the Department accepts Cotley's response and considers this finding to be closed.

Although the finding is now closed, Cotley is reminded that the exceptions identified above constitute serious violations of the *Clery Act* that by their nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. Cotley was required to initiate all necessary remedial measures and in doing so, has begun to remediate the conditions that led to these violations. Cotley has stated that it has brought its overall fire safety program into compliance with the *Clery Act* as required by its PPA. Nevertheless, Cotley is advised that such actions cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Finally, the Department strongly recommends that Cottey re-examine its campus security, drug and alcohol, and general Title IV policies and procedures on an annual basis to ensure that they continue to reflect current institutional practices and are compliant with federal regulations.

#### **Finding 4. Drug and Alcohol Abuse Prevention Program Requirements Not Met**

##### ***Citation Summary:***

*The Drug-Free Schools and Communities Act (DFSCA), and Part 86 of the Department's General Administrative Regulations requires each participating institutions of higher education (IHE) to certify that it has developed and implemented a drug and alcohol abuse education and prevention program. The program must be designed to prevent the unlawful possession, use, and distribution of drugs and alcohol on campus and at recognized events and activities.*

*On an annual basis, the IHE must distribute written information about its drug and alcohol abuse prevention program (DAAPP) to all students, faculty, and staff. The distribution plan must make provisions for providing the material to students who enroll at a date after the initial distribution, and for employees who are hired at different times throughout the year. The information must include:*

- *A written statement about its standards of conduct that prohibits the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees;*
- *A written description of legal sanctions imposed under federal, state and local laws for unlawful possession or distribution of illicit drugs and alcohol;*
- *A description of the health risks associated with the use of illicit drugs and the abuse of alcohol;*
- *A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to students and employees; and,*
- *A statement that the IHE will impose disciplinary sanctions on students and employees for violations of the institution's codes of conduct and a description of such sanctions.*

*In addition, each IHE must conduct a biennial review in order to measure the effectiveness of its drug prevention program, and to ensure consistent treatment in its enforcement of its disciplinary sanctions. The IHE must prepare a report of findings and maintain its biennial review report and supporting materials and make them available to the Department and interested parties upon request. 34 C.F.R. §§ 86.3 and 86.100.*

***Noncompliance Summary:***

*Cotley violated the DFSCA and the Department's Part 86 regulations. Specifically, the institution failed to distribute its DAAPP disclosure to its students who enrolled, and employees who were hired after the initial distribution. During the site visit, the review team learned that the DAAPP is available on Cotley's website; however, the Department reminds the institution that mere posting of the DAAPP or other required consumer protection and information disclosures is not adequate to meet the active distribution requirement.*

*Failure to comply with the drug and alcohol abuse education and prevention program requirements deprives students and employees of important information regarding the detrimental health risks and legal and disciplinary consequences of illicit drug use and alcohol abuse. Such a failure may contribute to increased drug and alcohol abuse on-campus as well as an increase in drug and alcohol-related violent crime.*

***Required Action Summary:***

*As a result of these violations, Cotley was required to take all necessary corrective actions to address the violation identified above and all others identified during the preparation of the institution's response to this program review report. In addition, Cotley was required to develop procedures for ensuring that the DAAPP disclosure is distributed to every current student who is enrolled for academic credit as well as every employee, to include those students who enroll after their annual distribution date and those new employees hired after their annual distribution date.*

*Cotley was required to provide a draft copy of the new DAAPP disclosure to the Department for evaluation. Once the materials are cleared by the review team, Cotley will be required to distribute them in accordance with the Part 86 regulations and provide documentation evidencing the distribution as well as a certification statement attesting to the fact that the materials were distributed in accordance with the DFSCA.*

*As noted above, the exceptions identified in this finding constitute serious violations of the DFSCA that by their nature cannot be cured. Cotley will be given an opportunity to distribute an accurate and complete DAAPP disclosure and in so doing, bring its drug and alcohol programs into compliance with the DFSCA as required by its PPA. However, Cotley is advised that these remedial measures cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective measures.*

**Cotley's Response:**

In its official response, Cotley stated its concurrence with the finding. In addition, management stated the following: "In September 2013, the coordinator of counseling, who provides oversight of the preparation and distribution of the Cotley College Drug and Alcohol Abuse Prevention Program (DAAPP), participated in a Partners in Prevention seminar dedicated to the preparation and distribution of the DAAPP disclosure. We have taken steps that include the active distribution of the DAAPP disclosures at the beginning of each semester to all currently enrolled students and employees. In addition, the director of human resources will provide each new employee who is hired at different times of the year a printed copy of the DAAPP disclosure. On August 30, 2013, the Cotley College Drug and Alcohol Abuse Program was actively distributed by email in accordance with the Part 86 regulations to all currently enrolled students and employees. Documentation of its distribution and a copy of the DAAPP are included."

**Final Determination:**

Finding #4 of the program review report cited Cotley for its failure to distribute its DAAPP disclosure to its students who enrolled, and employees who were hired after the DAAPP's annual distribution occurred. As a result of these violations, Cotley was required to review and revise its DAAPP and related policies and procedures. Cotley was also required to actively distribute the annual DAAPP disclosure to all students and employees and to document its distribution efforts. In its response, Cotley stated its concurrence with the finding and asserted that all necessary corrective action was taken to address the violations identified by the review team. Cotley also submitted a copy of its DAAPP.

The review team's analysis of the response materials indicated that the preparation and distribution of the DAAPP disclosure was at least minimally adequate. Based on that determination and Cotley's representations that it has addressed these violations and their underlying causes, the Department accepts Cotley's response and considers this finding to be closed.

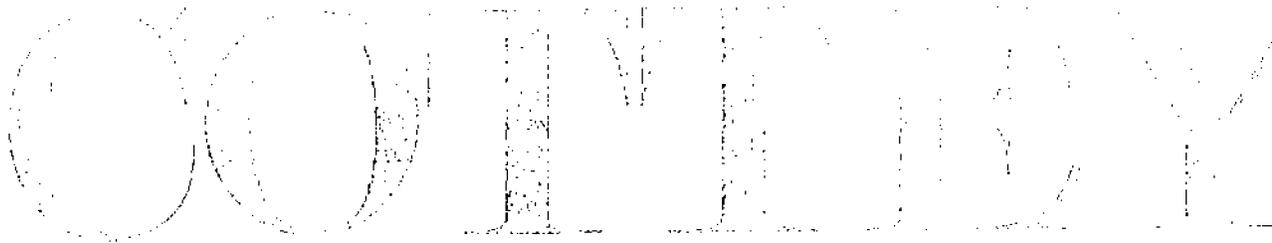
Although the finding is now closed, Cotley is reminded that the exceptions identified above constitute serious violations of the *DFSCA* that by their nature cannot be cured. Cotley was required to initiate corrective actions and has taken steps to address the conditions that led to these violations. While this is an important step, Cotley officials must understand that compliance with the *DFSCA* is essential to maintaining a safe and healthy learning environment.

There is no way to truly “correct” a violation of this type once it occurs. Cotley was required to initiate all necessary remedial measures and in doing so, has begun to remediate the conditions that led to these violations. Cotley is advised that such actions cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Finally, the Department strongly recommends that Cotley re-examine its campus security, drug and alcohol abuse prevention policies and procedures on an annual basis to ensure that they continue to reflect current institutional practices and are in full compliance with the *DFSCA*. Please be advised that the Department may request information on a periodic basis to test the effectiveness of Cotley’s new policies and procedures.

**D. Appendices**

**Appendix A: Institution's Response to Program Review Report**



October 18, 2013

U.S. Department of Education  
Attn: Jenny Hendrickson  
1010 Walnut Street, Suite 336  
Kansas City, MO 64106

**RECEIVED**

OCT 24 2013

**FSA, KANSAS CITY**

RE: Program Review Response  
OPE ID: 00245800  
PRCN: 201320728184

Dear Ms. Hendrickson,

Cottey has received and reviewed the Program Review Report dated August 30, 2013. We have worked diligently and taken action to bring operations into compliance.

The College's response to each finding and the corrective action taken to resolve the finding is listed below.

**Finding 1: Return to Title IV Funds Calculation Performed Incorrectly**

We were calculating the number of days in the payment period based on our understanding of the language defining scheduled break days in the R2T4 help screen. That language is noted in the following paragraph.

“Weekend days count as break days when the Friday before and the Monday after are break days. For example, a break that begins on Thursday and classes resume on the following Tuesday counts as a break of five consecutive days. Also, the dates you enter in these fields count as break days.”

We now understand that the five day Thanksgiving recess should be included as a break and have entered it in the fall 2013 school calendar profile in the Return of Title IV Funds on the web. This will ensure the number of days in the payment and attendance periods are being calculated correctly for the fall semester of 2013-14 academic year and beyond. (See Appendix A)

Fees required for all students within the program and showing on the billing statement will be included in institutional charges. Additional fees for living in Robertson Hall will now be reflected in the room and board field rather than “other charges.” We will ensure the institutional charges used in the R2T4 calculation match the student account

statement, and the assistant to the vice president for administration and finance, who reviews all of the R2T4 calculations, will add this task to her review process.

**Finding 2: Crime Awareness Requirements Not Met – Improper Crime Statistic Disclosures and Required Policy Statements Inadequate/Omitted from Annual Security Report**

The vice president for student life and the director of the physical plant/campus security spent a significant amount of time reviewing The Handbook for Campus Safety and Security Reporting published by the Department of Education. On October 1, 2013, the vice president for student life published a significantly revised Cottey College Annual Safety and Security Report and Annual Fire Safety Report 2013-14. All of the required changes were incorporated into the combined report as mandated by the Clery Act. (See Appendix B) The title of both reports appears on the first page. We have added all of the required crime categories/subcategories in our crime statistics disclosure grid, and we have reported “0” offenses if no incidents were reported in a category (p. 42-43). Crime statistics are now being published by the following geographical categories: 1) on campus; 2) on-campus student housing; 3) non-campus property; and 4) adjacent and accessible public property.

The range of sanctions that may be imposed following a final determination of an institutional disciplinary proceeding regarding a charge of rape, acquaintance rape, or other forcible and non-forcible sex offense is published under the heading of Sexual Assault Information on p. 3. It reads as follows, “All members of the College community must live and work within the guidelines of a comprehensive sexual harassment policy which is found in the Student Handbook and in the Cottey College Manual for Administrative Staff Employees and the Cottey College Manual for Hourly Wage Employees, and is contained herein. Students and employees who violate this policy may be disciplined up to and including dismissal/termination. Any student or employee who believes that she or he may be the victim of sexual harassment may bring the matter to the attention of the vice president for student life (Title IX Coordinator for Students), the vice president for academic affairs, or the director of human resources (Title IX Coordinator for Employees).”

The Professional Conduct and No Harassment Policy (including the Prohibition of harassment based on racial, religious, and national origin, as well as sexual harassment) is contained in the report in its entirety (p.19-24). It is intended that the term sexual harassment includes sexual assault as stated on p. 20, “Prohibited acts of sexual harassment can take a variety of forms, ranging from off-color jokes to subtle pressure for sexual activity to physical assault.” The policy also articulates the disciplinary processes for alleged violations by students and employees. It states that “the hearing

procedures, outcomes, and appeal rights and process are generally those detailed in the Major Grievance Procedure found in the Cottey College Student Handbook” (p. 23). Section 4: Student Responsibilities of the Cottey College Student Handbook is also included in its entirety (p. 25-32) and includes a description of possible sanctions for violations of campus policy, including sexual assault. Possible sanctions include: Disciplinary Dismissal, Disciplinary Probation, Reprimand, Financial Penalties, Loss of Privilege, Loss of Confidentiality in Disciplinary Sanctions, Creative Sanctions, and Additional Sanctions for Contempt of the Board (p. 32).

The formation of an ad hoc campus safety and security task force was proposed in April 2013 and established in October 2013. The members of this task force include: the vice president for student life, interim vice president for administration and finance, a faculty member, director of physical plant/campus security, director of human resources, director of housing, director of administrative computing services, the Nevada police chief, and the Nevada fire chief. The charge to the task force is to ensure that the College’s policies and procedures are in place to protect and promote the health and safety of all members of the campus community, and to ensure compliance with all regulatory bodies.

On October 1, 2013, the Annual Safety and Security Report and Annual Fire Safety Report 2013-14 was actively distributed to all students and employees by campus email that included a statement of the report’s availability and a link to its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request.

The Office of Enrollment Management will send all prospective students a notice about the annual report in the letter that accompanies the Cottey College admission application. The notice will include a statement of the report’s availability and a link to its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. Prospective employees will be provided a notice about the availability of the report along with benefits information through the Office of Human Resources. The notice will include a statement of the report’s availability and a link to its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. The report is available online at <http://www.cottey.edu/media/70322/safetyandsecurityreport.pdf>. A link to the annual report has also been posted on the Cottey College website at [www.cottey.edu](http://www.cottey.edu), under the tabs of Consumer Information, Employment, and Emergency.

### **Finding 3: Annual Fire Safety Report Requirements Not Met**

The areas of noncompliance will be addressed by number as stated in the Program Review Report.

- 1) The confirmation that there is a significant emergency is based on reliable information, as determined by the director of the physical plant/campus security, the College president or any member of the President's Council, or designated personnel. The above named authorities will determine the most effective method(s) to use to communicate the emergency and the content of the message to be sent. The director of administrative computing services, members of the President's Council, and designated staff are provided training in, and access to, the system to broadcast messages. All of this information is stated on page 11 of the combined Annual Safety and Security Report and Annual Fire Safety report.
- 2) The number of fire drills conducted during the previous calendar year is included on page 48.
- 3) Fire safety drills in campus housing facilities will be increased to one near the beginning of each semester as stated on page 49.
- 4) Our policies regarding open flames, smoking, and portable electronic devices are included on pages 46 and 47.
- 5) The campus housing evacuation procedures are included at the top of page 46.
- 6) A statement that the institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the emergency notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency is included on page 11.
- 7) Because Cottey is such a small campus, in most instances, emergency notifications will be sent campus-wide. If it is determined that only a segment of the campus community will be notified, the responsible campus authority officials will continue to assess the situation and notify additional segments of the campus community, if a situation warrants such actions. The Cottey Emergency Notification System has some prescribed messages that can be used, with the ability to modify or compose messages to fit ongoing circumstances. All of this information is stated on page 11.

The Annual Fire Safety Report was revised to be in compliance with federal regulations and was combined and is included in the Annual Safety and Security Report and Annual Fire Safety Report 2013-14. On October 1, 2013, the combined report was actively distributed to all students and employees by campus email that included a statement of the reports availability and a link to its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request.

**Finding 4: Drug and Alcohol Abuse Prevention Program Requirements Not Met**

In September 2013, the coordinator of counseling, who provides oversight of the preparation and distribution of the Cottey College Drug and Alcohol Abuse Prevention Program (DAAPP), participated in a Partners in Prevention seminar dedicated to the preparation and distribution of the DAAPP disclosure. We have taken steps that include the active distribution of the DAAPP disclosure at the beginning of each semester to all currently enrolled students and employees. In addition, the director of human resources will provide each new employee who is hired at different times of the year a printed copy of the DAAPP disclosure.

On August 30, 2013, the Cottey College Drug and Alcohol Abuse Program was actively distributed by email in accordance with the Part 86 regulations to all currently enrolled students and employees. Documentation of its distribution and a copy of the DAAPP are included. (See Appendix C)

**Closing Summary:**

Cottey understands all of its Clery Act obligations and the Drug-Free Schools and Communities Act obligations.

We have taken all necessary corrective actions to ensure that these violations do not recur. We look forward to your feedback and recommendations.

Sincerely,

(b)(6); (b)(7)(C)

Judy Rogers, Ph.D.  
President

Copies to: Mari Anne Phillips, Vice President for Student Life  
Amy Ruetten, Interim Vice President for Administration and Finance  
Sherry Pennington, Director of Financial Aid

## **Appendix B: Program Review Report**

Prepared for  
Cottey College

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**OPE ID 00245800**

**PRCN 201320728184**

Prepared by

U.S. Department of Education  
Federal Student Aid  
School Participation Division-Kansas City

## Program Review Report

August 30, 2013

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## **B. Scope of Review**

The U.S. Department of Education (the Department) conducted a program review at Cottey College (Cottey) from January 28, 2013 to February 1, 2013. The review was conducted by Jenny Hendrickson and John Nading.

The focus of the review was to determine Cottey's compliance with the statutes and federal regulations as they pertain to the institution's administration of Title IV, HEA programs. The review consisted of, but was not limited to, an examination of Cottey's policies and procedures regarding institutional and student eligibility, individual student financial aid and academic files, attendance records, student account ledgers, and fiscal records.

A sample of 30 files was identified for review from the 2011-2012 and 2012-2013 (year to date) award years. The files were selected randomly from a statistical sample of the total population receiving Title IV, HEA program funds for each award year. In addition, 4 files were selected based on the student having withdrawn during a term, and 2 were selected based on Cottey officials exercising professional judgment with a Title IV, HEA program funds recipient's application data. Appendix A lists the names and partial social security numbers of the students whose files were examined during the program review.

### **Disclaimer:**

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

This report reflects initial findings. These findings are not final. The Department will issue its final findings in a subsequent Final Program Review Determination letter.

## 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 Cottey to bring operations of the financial aid programs into compliance with the statutes and regulations.

### **Finding 1. Return to Title IV Funds Calculation Performed Incorrectly**

**Citation:** When a recipient of Title IV, HEA grant or loan assistance withdraws from an institution during a payment period in which the recipient began attendance, the institution must determine the amount of Title IV, HEA funds that the student earned as of the date of the student's withdrawal. *34 C.F.R. § 668.22(a)(1)*

If the total amount of Title IV, HEA funds that the student earned is less than the amount of Title IV, HEA funds disbursed to the student as of the date that the student withdrew, the difference between these amounts must be returned to the Title IV, HEA programs and no additional disbursements may be made to the student for the payment period. *34 C.F.R. § 668.22(a)(4)*

The percentage of the payment period completed is determined at an institution such as Cottey, where programs are measured in credit hours, by dividing the total number of calendar days in the payment period into the number of calendar days completed in that period as of the student's withdrawal date. The total number of calendar days in a payment period includes all days within the period, except that scheduled breaks of at least five consecutive days are excluded from the total number of calendar days in a payment period and the number of days completed in that period. *34 C.F.R. § 668.22(f)*

Institutionally scheduled breaks of five or more consecutive days are excluded from the Return calculation as periods of nonattendance and, therefore, do not affect the calculation of the amount of Title IV, HEA program funds earned. If a scheduled break occurs prior to a student's withdrawal, all days between the last scheduled day of classes before a scheduled break and the first day classes resume are excluded from both the numerator and denominator in calculating the percentage of the term completed. *2011-2012 Federal Student Aid Handbook, Volume 5 Chapter 2*

Institutional charges generally are defined as the charges for tuition and fees, room and board and other educational expenses that are paid to the school directly. If a fee (like a registration or technology fee) is required for all students in a program, then the fee should be considered an institutional charge. *2011-2012 Federal Student Aid Handbook, Volume 5 Chapter 2*

**Noncompliance:** In all cases, Cottey incorrectly calculated the number of total days in the payment period. Cottey entered 114 days in the Return to Title IV (Return) calculations for the Fall 2011 and Fall 2012 terms, failing to exclude the weekend after the scheduled Thanksgiving recess. The Fall 2011 and Fall 2012 terms are both 109 days when the entire break is excluded. No students in the sample withdrew from the Spring 2012 or 2013 terms, therefore testing was not conducted on those terms.

Student 16 The student completed 69.7% of the payment period (76 completed days divided by 109 total days in the payment period), not 66.7% (76 completed days divided by 114 total days in the payment period) as Cottey calculated, due to the aforementioned failure to exclude the correct number of scheduled break days from the calculation of the percentage of aid earned.

The Return calculation takes tuition, room, board and certain other institutional charges into consideration. This student's tuition charge used for the calculation was \$7,600 for the payment period, substantiated by the student's account statement. Cottey included \$3,000 for room charges; however the student's account statement reflects \$3,300 for room and board. Cottey included \$650 as "other charges" on the Return calculation; however, the student's account statement reflects a \$400 single room fee, a \$100 health service fee, a \$150 activity fee, and a \$100 technology fee, totaling \$750 that should have been included as "other charges".

These errors did not change the amount due to the Department, as the student completed at least 60% of the payment period, earning 100% of the Title IV, HEA program funds that were disbursed to her.

Student 17 The student completed 25.7% of the payment period (28 completed days divided by 109 total days in the payment period), not 24.6% (28 completed days divided by 114 total days in the payment period) as Cottey calculated, due to the aforementioned failure to exclude the correct number of scheduled break days from the calculation of the percentage of aid earned.

This error resulted in Cottey disbursing less Subsidized Direct Loan funds to the student in a post-withdrawal disbursement than she was eligible for.

Student 34 The student completed 66.1% of the payment period (72 completed days divided by 109 total days in the payment period), not 63.2% (72 completed days divided by 114 total days in the payment period) as Cottey calculated, due to the aforementioned failure to exclude the correct number of scheduled break days from the calculation of the percentage of aid earned.

This student's tuition charge used for the calculation was \$8,300 for the payment period, substantiated by the student's account statement. Cottey included \$3,200 for room charges; however, the student's account statement reflects \$3,525 for room and board. Cottey included

\$410 as “other charges” on the Return calculation; however, the student’s account statement reflects a \$150 activity fee, a \$125 health service fee, and a \$125 technology fee, totaling \$400 that should have been included as “other charges”.

These errors did not change the amount due to the Department, as the student completed at least 60% of the payment period, earning 100% of the Title IV, HEA program funds that were disbursed to her.

Student 35 The student completed 47.7% of the payment period (52 completed days divided by 109 total days in the payment period), not 45.6% (52 completed days divided by 114 total days in the payment period) as Cotley calculated, due to the aforementioned failure to exclude the scheduled break days from the calculation of the percentage of earned aid.

This student’s tuition charge used for the calculation was \$8,300 for the payment period, substantiated by the student’s account statement. Cotley included \$3,200 for room charges, which is also substantiated by the student’s account statement. Cotley included \$410 as “other charges” on the Return calculation; however, the student’s account statement reflects a \$150 activity fee, a \$125 health service fee, and a \$125 technology fee, totaling \$400 that should have been included as “other charges”.

These errors resulted in Cotley returning more Subsidized Direct Loan funds to the Department than was due.

**Required Action:** Cotley is required to examine and revise existing Return procedures to ensure the days in each payment period are being calculated correctly for the current award year and to ensure the institutional charges used in the calculation are correct.

A copy of the revised procedures must accompany Cotley’s response to this report.

## **Finding 2. Crime Awareness Requirements Not Met – Improper Crime Statistic Disclosures and Required Policy Statements Inadequate/Omitted from Annual Security Report**

**Citation:** The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) and the Department’s regulations require that all institutions that receive Title IV, HEA program funds must, by October 1 of each year, publish and distribute to its current students and employees through appropriate publications and mailing, a comprehensive Annual Security Report (ASR) that contains, at a minimum, all of the statistical and policy elements enumerated in 34 C.F.R. § 668.46(b).

The ASR must be prepared and actively distributed as a single document. Acceptable means of distribution include U.S. Mail, campus mail, hand delivery, or by posting the ASR on the institution's website. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all students and employees that includes a statement of the report's availability and a link to its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. *34 C.F.R. § 668.41(e)(1)*

These regulations also require institutions to provide a notice containing this information to all prospective students and employees. This notice must also inform interested parties about how to obtain a paper copy of the ASR. *34 C.F.R. § 668.41(e)(4)*

An institution's ASR must include statistics for incidents of crimes reported during the three most recent calendar years. The covered categories include criminal homicide (murder and non-negligent manslaughter), forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. Statistics for certain hate crimes as well as arrest and disciplinary referral statistics for violations of certain laws pertaining to illegal drugs, illegal usage of controlled substances, liquor, and weapons also must be disclosed in the ASR. These crime statistics must be published for the following geographical categories: 1) on campus; 2) on-campus student residential facilities (as a subset of category # 1); 3) certain non-campus buildings and property; and, 4) certain adjacent and accessible public property. *34 C.F.R. § 668.46(c)(1)*

In addition, the ASR must include several policy statements. These disclosures are intended to inform the campus community about the institution's security policies, procedures, and the availability of programs and resources as well as channels for victims of crime to seek recourse. In general, these policies include topics such as the law enforcement authority and practices of campus police and security forces, incident reporting procedures for students and employees, and policies that govern the preparation of the report itself. Institutions are also required to disclose alcohol and drug policies and educational programs. Policies pertaining to sexual assault education, prevention, and adjudication must also be disclosed. Institutions also must provide detailed policies of the issuance of timely warnings and emergency notifications as well as its emergency response and evacuation procedures. All required information referenced in *34 C.F.R. § 668.46(b)* must be published in the ASR. With the exception of certain drug and alcohol program information, cross referencing to other publications is not sufficient to meet the publication and distribution requirements of the Act. *34 C.F.R. § 668.46(b)*

Finally, each institution must also submit its crime statistics to the Department for inclusion in the Office of Postsecondary Education's "Campus Safety and Security Data Analysis Cutting Tool." *34 C.F.R. § 668.41(e)(5)*

**Noncompliance:** Cottey violated multiple provisions of the Clery Act. Cottey failed to publish an accurate and complete 2012 ASR. Specifically, Cottey failed to include all required crime categories/subcategories in its crime statistics disclosure grid. Firstly, the Criminal Homicide disclosure did not incorporate the required subcategories of Murder, Non-negligent Manslaughter, and Negligent Manslaughter. In addition, Cottey improperly combined Forcible and Non-forcible Sex Offenses into a single line item. Moreover, the crime category of Arson was omitted entirely from the statistical grid. In this context, the institution is reminded that all crime statistics categories must be included in the ASR. The institution must report “0” offenses if no incidents in a particular category are reported in any given calendar year.

Cottey also failed to include a required policy disclosure regarding the range of sanctions that may be imposed following a final determination of an institutional disciplinary proceeding regarding a charge of rape, acquaintance rape, or other forcible or non-forcible sex offense.

Failure to publish an accurate and complete ASR and to actively distribute it in accordance with federal regulations deprives the campus community of important security information.

**Required Action:** As a result of this violation, Cottey must develop and implement procedures for preparing, publishing, and distributing an ASR in accordance with federal regulations. The new procedures also must articulate how prospective students and employees will be notified of the report’s availability. Using its new policy as a guide, Cottey must prepare and publish an accurate and complete ASR that includes all of the statistical disclosures and policy, procedure and programmatic information required under 34 C.F.R. § 668.46(b). A copy of Cottey’s new policies and procedures and its draft ASR must accompany its response to this program review report. Once the new ASR is evaluated by the review team for accuracy and completeness, Cottey will be required to actively distribute it to all current students and employees in accordance with 34 C.F.R. § 668.41(e). In this case, the institution will be permitted to incorporate the required changes into its next regularly-scheduled ASR, which must be actively distributed no later than October 1, 2013.

Finally, Cottey will be required to provide documentation to the Department evidencing the ASR distribution as well as a certification statement attesting to the fact that the materials were distributed in accordance with the Clery Act. This certification must also affirm that the institution understands all of its Clery Act obligations and that it has taken all necessary corrective actions to ensure that these violations do not recur.

As noted above, the exceptions identified in this finding constitute serious violations of the Clery Act that by their nature cannot be cured. There is no way to truly “correct” a violation of this type once it occurs. Cottey will be given an opportunity to develop and distribute an ASR, and

in so doing, begin to bring its overall campus security program into compliance with the Clery Act as required by its Program Participation Agreement (PPA). However, the institution is advised that these remedial measures cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective measures.

Cottey officials may wish to review the Department's "Handbook for Campus Safety and Security Reporting" (2011) during the preparation of its response. The handbook is available online at: <http://www2.ed.gov/admins/lead/safety/handbook.pdf>. The regulations governing the Clery Act can be found at 34 C.F.R. §§ 668.14, 668.41, 668.46, and 668.49.

Based on an evaluation of all available information including Cottey's response, the Department will determine if additional actions will be required and will advise the institution accordingly in its Final Program Review Determination.

### **Finding 3. Annual Fire Safety Report Requirements Not Met**

**Citation:** As of October 1, 2010, the Clery Act and the Department's regulations require that all institutions that receive Title IV, HEA funds and maintain an on-campus student housing facility must, by October 1 of each year, prepare, publish and distribute to its current students and employees through appropriate publications and mailings, an Annual Fire Safety Report (AFSR) that contains, at a minimum, all of the statistical and policy elements described in 34 C.F.R. § 668.49(b). These institutions must disclose fire statistics for each on-campus student residential facility for the three most-recent calendar years. An institution's statistics must accurately and completely identify the number of on-campus fires and the cause of each fire, the number of persons who sustained fire-related injuries that resulted in treatment at a medical facility (including on-campus health centers), the number of fire-related deaths, and the dollar value of property damage caused by such fires. *34 C.F.R. § 668.49(c)*

In addition, the AFSR must include several fire safety information disclosures covering topics such as the type(s) of fire safety systems that are used in each student housing facility, the number of fire drills that were conducted during the previous calendar year, any institutional policies, procedures, and programs regarding: 1) the use and/or possession of portable electrical appliances; 2) smoking and the use/presence of open flames in student housing facilities; 3) evacuation procedures to be followed in the case of a fire; 4) fire safety education and training programs; 5) the institutional official(s) and departments to whom students and employees should report the occurrence of fires so that those incidents can be included in the institution's annual fire statistics; and, 6) any plans for future improvements to the institution's fire safety program. *34 C.F.R. § 668.49(b)*

The AFSR must each be published and distributed as a materially-complete, comprehensive publication. If an institution chooses to combine the ASR and AFSR and publish them as a single document, then the title of both reports must conspicuously appear on the cover page. Acceptable means of delivery include regular U.S. Mail, hand delivery, or campus mail distribution to the individual or posting on the institution's website. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all current students and employees that includes a direct link to each report (exact electronic address), a description of its contents, as well as an advisement that a paper copy will be provided upon request. The Department's regulations also require participating institutions to provide a notice to all prospective students and employees that includes a statement about the AFSR's availability, the content of the report, and the exact electronic address of the report, if posted to an internet or intranet site. This notice must also advise interested parties how to obtain a paper copy of the AFSR.

Finally, an institution is required to submit its campus crime and fire statistics to the Secretary on an annual basis. *34 C.F.R. § 668.41(e)(1)-(6)*

**Noncompliance:** Cottey violated multiple provisions of the Clery Act's fire safety requirements. Specifically, the institution's 2012 AFSR did not include several required fire safety policy and procedural disclosures. The inadequate and omitted disclosures include:

1. A list of the titles of the individual(s) who will confirm there is a significant emergency or dangerous situation, determine the content of the notification, determine when to send the notification, and initiate the notification system;
2. The number of fire drills conducted during the previous calendar year;
3. Plans to conduct a test of the emergency response and evacuation procedures on at least an annual basis;
4. The institution's policies or rules on portable electrical appliances, smoking, and open flames in a student housing facilities;
5. The institution's procedures for student housing evacuation in the case of a fire;
6. A statement that the institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the emergency notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency; and,
7. A description of the process the institution will use to confirm that there is a significant emergency, determine who to notify, determine the content of the notification, and initiate the notification system.

Failure to publish an accurate and complete AFSR and to actively distribute it to students and employees deprives interested persons of important fire safety information to which they are entitled. Access to this information permits campus community members, especially those who live in residence halls, to make well-informed decisions about where to work and study and empowers them to play a more active role in their own safety and security.

**Required Action:** As a result of this violation, Cotley must review and revise its existing internal policies and procedures that govern the preparation, publication, and distribution of the AFSR and develop and implement any new policies and procedures as needed to ensure that all fire safety operations for the institution's student residential facilities will be carried out in accordance with the Clery Act going forward. The institution is reminded that participating institutions are required to actively distribute the ASR and AFSR. If both reports are combined into a single publication then the title of both reports must conspicuously appear on the cover page. Cotley's new policies must address this requirement. The new procedures also must articulate how prospective students and employees will be properly notified of the AFSR's availability.

Using its new and revised policies as a guide, Cotley must prepare and publish an accurate and complete AFSR that includes all of the statistical disclosures and policy, procedure and programmatic information required by 34 C.F.R. § 668.46(b). A copy of the institution's new and revised policies and procedures and its draft AFSR must accompany Cotley's response to this program review report. Once the new AFSR is evaluated by the review team for accuracy and completeness, Cotley will be required to actively distribute it to all current students and employees in accordance with 34 C.F.R. § 668.41(e). Once again, as noted in the "Required Action" section of Finding 2, the institution will be permitted to incorporate the required changes into its next regularly-scheduled ASR, which must be actively distributed no later than October 1, 2013.

Finally, Cotley will be required to provide documentation to the Department evidencing the distribution as well as a certification statement attesting to the fact that the materials were distributed in accordance with the Clery Act. This certification must also affirm that the institution understands all of its Clery Act obligations and that it has taken all necessary corrective actions to ensure that these violations do not recur.

As noted above, the exceptions identified in this finding constitute serious violations of the Clery Act that by their nature cannot be cured. Cotley will be given an opportunity to publish and distribute an accurate and complete AFSR and in so doing, begin to bring its overall fire safety program into compliance with the Clery Act as required by its PPA. While enhanced safety is the Department's primary focus, we note that such improvements will likely result in a better risk management environment for the institution as well. Nevertheless, the institution is advised that

these remedial measures cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective measures.

Based on an evaluation of all available information including Cottey's response, the Department will determine if additional actions will be required and will advise the institution accordingly in its FPRD.

#### **Finding 4. Drug and Alcohol Abuse Prevention Program Requirements Not Met**

**Citation:** The Drug-Free Schools and Communities Act (DFSCA) and Part 86 of the Department's General Administrative Regulations requires each participating institutions of higher education (IHE) to certify that it has developed and implemented a drug and alcohol abuse education and prevention program. The program must be designed to prevent the unlawful possession, use, and distribution of drugs and alcohol on campus and at recognized events and activities.

On an annual basis, the IHE must distribute written information about its drug and alcohol abuse prevention program (DAAPP) to all students, faculty, and staff. The distribution plan must make provisions for providing the material to students who enroll at a date after the initial distribution, and for employees who are hired at different times throughout the year. The information must include:

- A written statement about its standards of conduct that prohibits the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees;
- A written description of legal sanctions imposed under federal, state and local laws for unlawful possession or distribution of illicit drugs and alcohol;
- A description of the health risks associated with the use of illicit drugs and the abuse of alcohol;
- A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to students and employees; and,
- A statement that the IHE will impose disciplinary sanctions on students and employees for violations of the institution's codes of conduct and a description of such sanctions.

In addition, each IHE must conduct a biennial review in order to measure the effectiveness of its drug prevention program, and to ensure consistent treatment in its enforcement of its disciplinary sanctions. The IHE must prepare a report of findings and maintain its biennial review report and

supporting materials and make them available to the Department and interested parties upon request. *34 C.F.R. §§ 86.3 and 86.100*

**Noncompliance:** Cottey violated the DFSCA and the Department's Part 86 regulations. Specifically, the institution failed to distribute its DAAPP disclosure to its students who enrolled, and employees who were hired after the initial distribution. During the site visit, the review team learned that the DAAPP is available on Cottey's website; however, the Department reminds the institution that mere posting of the DAAPP or other required consumer protection and information disclosures is not adequate to meet the active distribution requirement.

Failure to comply with the drug and alcohol abuse education and prevention program requirements deprives students and employees of important information regarding the detrimental health risks and legal and disciplinary consequences of illicit drug use and alcohol abuse. Such a failure may contribute to increased drug and alcohol abuse on-campus as well as an increase in drug and alcohol-related violent crime.

**Required Action:** As a result of these violations, Cottey is required to take all necessary corrective actions to address the violation identified above and all others identified during the preparation of the institution's response to this program review report. In addition, Cottey must develop procedures for ensuring that the DAAPP disclosure is distributed to every current student who is enrolled for academic credit as well as every employee, to include those students who enroll after their annual distribution date and those new employees hired after their annual distribution date.

Once the new DAAPP disclosure is complete, Cottey must provide a draft copy to the Department for evaluation. Once the materials are cleared by the review team, Cottey will be required to distribute them in accordance with the Part 86 regulations and provide documentation evidencing the distribution as well as a certification statement attesting to the fact that the materials were distributed in accordance with the DFSCA. This certification statement must also affirm that the institution understands its DFSCA obligations and that it has taken all necessary corrective actions to ensure that these violations do not recur.

As noted above, the exceptions identified in this finding constitute serious violations of the DFSCA that by their nature cannot be cured. Cottey will be given an opportunity to distribute an accurate and complete DAAPP disclosure and in so doing, bring its drug and alcohol programs into compliance with the DFSCA as required by its PPA. However, Cottey is advised that these remedial measures cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective measures.

Based on an evaluation of all available information including Cotley's response, the Department will determine if additional actions will be required and will advise the institution accordingly in its Final Program Review Determination.