January 29, 2014

Dr. Marshall White, Jr.
President
Midlands Technical College
1260 Lexington Drive
West Columbia, SC 29170

UPS Tracking #
1ZA879640199666082

RE: Final Program Review Determination
OPE ID: 0000399300
PRCN: 201020427145

Dear President White:

The U.S. Department of Education's (the Department) Clery Act Compliance Team issued a program review report on December 28, 2010, regarding Midlands Technical College's (MTC's) compliance with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*) in *Section 485(f) of the HEA, 20 U.S.C. § 1092(f)*, and the Department's regulations at *34 C.F.R. §§ 668.41, 668.46, and 668.49.* The review also examined the College's compliance with the Drug-Free Schools and Communities Act (DFSCA) in *Section 20 U.S.C. §1011i* and the Department's regulations are at *34 C.F.R. Part 86.* MTC's response was received on January 27, 2011. The original text of the program review report is incorporated into this Final Program Review Determination (FPRD). MTC's response and any supporting documentation submitted with the response are being retained by the Department and are available for inspection by MTC upon request. Please be advised that this FPRD and any supporting documentation may be subject to release under the Freedom of Information Act and may be provided to other oversight entities after this FPRD is issued.

Purpose:

Final determinations have been made concerning all of the findings identified during the program review. The purpose of this letter is to advise MTC of the Department's final determinations and to close the review, subject to the College's satisfactory resolution of the additional requirements set out under Finding # 1. Please note that this FPRD contains one or more findings regarding MTC's failure to comply with the requirements of the *Clery Act*. Because a *Clery Act* finding does not result in a financial liability, such findings may not be appealed.

Due to the serious nature of these findings, this FPRD is being referred to the Administrative Actions and Appeals Service Group (AAASG) for consideration of possible adverse administrative action. Such action may include a fine and/or the limitation, suspension or termination of the eligibility of the institution to participate in the Title IV, HEA programs pursuant to 34 C.F.R. Part 668, Subpart G. If AAASG initiates any such action, additional information about MTC's appeal rights and procedures for filing an appeal will be provided under separate cover.

Record Retention:

Records relating to the period covered by this program review must be retained until the later of resolution of the violations identified during the review or the end of the regular retention period applicable to all Title IV-related records including *Clery Act*-related documents under *34 C.F.R. § 668.24(e)*.

Thank you for the courtesy and cooperation shown to us throughout the program review process. If you have any questions about this FPRD or the program review process, please contact Ms. Jannetta A. Guinhouya at 202-377-3152.

Sincerely,

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

James L. Moore, III
Compliance Manager
Clery Act Compliance Team

cc: Ms. Angela E. Williams, Director of Student Financial Services, Midlands Technical College
Dr. Richard C. Sutton, Executive Director, South Carolina Commission on Higher Education
Mr. Ralph A. Odom, Jr. Chair, South Carolina Board for Technical & Comprehensive Education
Southern Association of Colleges and Schools

Enclosures:
Final Program Review Determination

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Prepared for:

Midlands Technical College

OPE ID: 00399300
PRCN: 201020427145

U.S. Department of Education
Federal Student Aid
Clery Act Compliance Team

Final Program Review Determination
January 29, 2014

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A. Institutional Information

Midlands Technical College
1260 Lexington Drive
West Columbia, SC 29170

Type: Public

Highest Level of Offering: Associates Degree

Accrediting Agency: Southern Association for Colleges and Schools

Current Student Enrollment: 16,490 (2008-2009)

% of Students Receiving Title IV: 62.3% (2008-2009)

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

2008/2009 Award Year

Federal Family Education Loan Program	$ 21,214,012.00
Federal Pell Grant Program	$ 13,965,692.00
Federal Supplemental Education Opportunity Grant Program	$ 348,877.00
Federal Work-Study Program	$ 427,902.00

DL/FFEL Default Rate: 2007 – 7.4 %
2006 – 6.2 %
2005 – 4.3 %

Midlands Technical College (MTC; the College) is a two-year educational institution that enrolls approximately 15,000 students annually. The MTC Police Department (MTCPD) is a fully-deputized law enforcement agency that offers a comprehensive program of law enforcement services. Officers are authorized to carry firearms and to arrest persons involved in illegal acts on-campus and areas adjacent to the campus. The MTCPD works closely with Federal, state, and local law enforcement agencies, and by mutual agreement with certain of these agencies, maintains the LETS access (Law Enforcement Tactical Systems). The MTCPD's jurisdiction extends to any of the College's owned or leased property both on campus and in outlying areas. Through coordination with local law enforcement agencies, any criminal activity engaged in by students at off-campus locations of student organizations, is monitored and recorded.

B. Scope of Review

The U.S. Department of Education (the Department) conducted a focused campus security review at Midlands Technical College from March 9, 2010 to March 11, 2010. The review was conducted by the Clery Act Compliance Team. The focus of the review was to evaluate MTC's compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*). The *Clery Act* is included in *§ 485(f) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1092(f).* The Department's implementing regulations are at *34 C.F.R. §§ 668.41-668.49.* MTC was selected for review from a list of institutions of higher education in South Carolina that have sworn police departments. The review was not the result of any specific complaint or allegation of non-compliance. The review included an examination of MTC's catalog and written agreements, police incident reports, arrest records and disciplinary files, as well as policies, practices, and procedures related to the *Clery Act*. The review also included a comparison of the campus crime statistics submitted by MTC to the Department and the data published in the College's ASRs. The review team also interviewed institutional officials with *Clery Act* responsibilities.

The Department's program review coincided with the Quality Assurance Review (QAR) that the Federal Bureau of Investigation (FBI)'s Criminal Justice Information Service (CJIS) Audit Unit conducted at MTC. The U.S. Department of Education is partnering with the CJIS Audit Unit (CAU) to ensure accurate crime reporting on America's college campuses. The CAU reviews examines the crime reporting practices of law enforcement agencies and audits crime statistics that are reported by the states through their participation in the Uniform Crime Reporting (UCR) program. The results of the QAR are shared with the Department for a comparative analysis of the annual security report data disclosed by Title IV-eligible postsecondary institutions. A copy of the CJIS report was provided as an appendix to the initial program review report issued on December 28, 2010.

Disclaimer:

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

C. Findings and Final Determinations

The program review findings identified in the Department's December 28, 2010 program review report appear in italics below. At the conclusion of each finding is a summary of MTC's response to the finding and the Department's final determination for that finding.

Finding #1: Failure to Develop Campus Crime Policies

Citation Summary: *34 C.F.R. § 668.46(b)(2) - (b)(12).*

Under the Clery Act, any institution participating in the federal student financial aid programs under Title IV of the HEA must include within its annual security report a statement of current campus policies. The policy statements must include, but are not limited to, information about how students and others should report criminal activities or emergencies occurring on campus, security of and access to campus facilities, and campus law enforcement/security.

Noncompliance Summary:

MTC's 2009 annual security report (ASR) lacked the following required information. Only references to the policies were noted in the ASR.

- *A statement of current campus policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus. This statement must include the institution's policies concerning its response to these reports, including:*
    - *policies for making timely warning reports to members of the campus community regarding the occurrence of crimes;*
    - *policies for preparing the annual disclosure of crime statistics;*
    - *A list of the titles of each person or organization to which students and employees should report the criminal offenses described in 34 C.F.R. § 668.46(c) (1) for the purpose of making timely warning reports and the annual statistical disclosure. This statement must also disclose whether the institution has any policies or procedures that allow victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual discloser of crime statistics, and if so, a description of those policies and procedures.*
- *A statement of current policies concerning campus law enforcement that:*
    - *Addresses the enforcement authority of security personnel, including their relationship with State and local police agencies and whether those security personnel have the authority to arrest individuals;*
    - *encourages accurate and prompt reporting of all crimes to the campus police (if any) and the appropriate police agencies;*
    - *describes procedures, if any, that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.*

- *A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.*

- *A description of programs designed to inform students and employees about the prevention of crimes.*

- *A statement of policy concerning the monitoring and recording through local police agencies of criminal activity in which students engaged at off-campus locations of students organizations officially recognized by the institution, including student organizations with off-campus housing facilities.*

- *A statement of policy regarding the institution's campus sexual assault programs to prevent sex offenses, and procedures to follow when a sex offense occurs. The statement must include:*
    - *A description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and non-forcible sex offenses;*

    - *Procedures students should follow if a sex offense occurs, including procedures concerning who should be contacted, the importance of preserving evidence for the proof of a criminal offense, and to whom the alleged offense should be reported;*

    - *Information on a student's option to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that institutional personnel will assist the student in notifying these authorities, if the student requests the assistance of these personnel;*

    - *Notification to students of existing on and off campus counseling, mental health, or other student services for victims of sex offenses;*

    - *Notification to students that the institution will change a victim's academic and living situations after an alleged sex offense and of the options for those changes, if those changes are requested by the victim and are reasonably available;*

    - *Procedures for campus disciplinary action in cases of an alleged sex offense, including a clear statement that:*

        - *The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and,*
        - *Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense; and*

Sanctions the institution may impose following a final determination of an institutional disciplinary proceeding regarding rape, acquaintance rape, or other forcible or non-forcible sex offenses.

Required Action Summary:

MTC must develop campus crime policy statements and include them in its ASR. In response to this finding, MTC must provide a copy of the required policy statements, which should have been included in its ASR published and distributed by October 1, 2010.

Institutional Response:

In its response, MTC concurred with the finding. Specifically, College officials represented that at the time of the review was conducted, MTC did have certain required campus safety policy statements that were identified in the program review report as inadequate or as having been omitted from the 2009 ASR. However, the College conceded that those policies were not published as part of a consolidated ASR. Instead, MTC stated that these policy statements were referenced to in the 2009. ASR. In addition, MTC stated that these references were replaced with specific web-enabled links to college policies, procedures and other college publications in the 2010 ASR. Finally, the College claimed that all required disclosures were included in the 2010 ASR and that the report was distributed by the October 1, 2010 deadline.

Final Determination:

Finding # 1 of the program review report citied MTC for its failure to include all required statements of policy, procedure, and programs in its 2009 ASR. As a result of these violations, the College was required to review and revise existing policies and procedures and to promulgate new content as needed to ensure that the 2010 ASR contained all of the statistical and policy elements enumerated in *34 C.F.R. § 668.46(b)*. In its response, the College concurred with the finding and asserted that it had taken corrective action. The Department has reviewed the College's response and subsequent ASRs very carefully. During the review, Department officials noted some improvements; however, the team also identified several areas that require additional attention. MTC is required to take immediate action to address the remaining deficiencies.

In terms of the remaining problem areas, MTC is reminded that the ASR must be published as a single comprehensive document. The report cannot be published in sections or multiple volumes. The ASR must have a front and back cover with all required content contained therein. If an institution's ASR is to be published electronically and/or distributed by electronic means (for example by posting it to a website or portal), the report must be posted in such a manner that it is clearly-identifiable. The report must then be actively distributed to all enrolled students and current employees in accordance with *34 C.F.R. § 668.41(e)*. In addition, the ASR distribution notice must include a direct link to the ASR. As noted above, the Department takes note of the College's attempts to develop a compliant ASR; however, the ASRs created since the

Department issued its program review report including the 2013 report are not constructed properly and therefore, will require additional action. Specifically, the 2013 ASR contains approximately 20 links to other data sources. As currently constituted, a potential user of the report would have to click on each link and print each separate set of contents and then assemble the report, in violation of the comprehensive document requirement.

As a result, MTC is required to review and revise and otherwise enhance all content in its 2013 ASR, as needed, and to publish it as part of a comprehensive ASR. The College must then actively distribute the modified 2013 ASR in the required manner. A copy of the modified report and proof of distribution must be submitted to the Department's Clery Act Compliance Team at: clery@ed.gov within 30 days of the College's receipt of this FPRD. MTC's submission must reference the Program Review Control Number (PRCN) indicated on the cover letter of this FPRD in the subject line of its e-mail message. Failure to respond to this request for production may result in the imposition of additional adverse administrative actions.

As noted above, the Department has carefully reviewed MTC's response and takes note of the College's efforts to take remedial action. Based on the review team's analysis and MTC's stated intention to comply going forward, the Department considers this finding to be conditionally closed, subject to the submission of a satisfactory response to the request for production outlined above.

Although the finding is now conditionally closed, MTC is reminded that the exceptions identified above constitute very serious violations of the *Clery Act* that by their nature cannot be cured. There is no way to truly "correct" violations of this type once they occur. MTC was required to initiate all necessary remedial measures and has taken partial action in that regard. Upon completion of the additional requirements outlined above, the College should be well-positioned to bring its overall campus security program into compliance with the *Clery Act* as required by its Program Participation Agreement (PPA). Nevertheless, MTC officials must understand that the *Clery Act* is first and foremost a consumer protection law that is based on the premise that "to be forewarned is to be forearmed."

The requirement to develop substantive campus safety policies, procedures, and programs and to include this information in the ASR is fundamental to the consumer protection goals of the *Clery Act*. Access to this information permits campus community members and their families 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. Persistent compliance failures of the type documented above deprive students and employees of important campus security information and effectively negate the intent of the Act. As such, MTC is advised that even good faith attempts to take remedial action 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.

MTC is reminded that in addition to the corrections required above, the College must take any additional corrective actions that may be necessary to procure full compliance and to ensure that the deficiencies identified during the review do not recur. For that reason, the Department

strongly recommends that MTC 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, MTC officials are encouraged to consult 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. The regulations governing the *Clery Act* can be found at *34 C.F.R. §§ 668.14, 668.41, 668.46, and 668.49.*

Finding #2: Failure to Properly Classify Crimes

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

The Department's regulations require that participating institutions properly classify crimes concerning the occurrence on campus of the following offenses: homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. In addition, the institution is required to disclose disciplinary actions related to violations of Federal or State drug, liquor and weapons laws.

Noncompliance Summary:

MTC failed to properly classify the following offense:

- ***Burglary - Case # AP-08-09-069***

On September 2, 2008, an unknown person(s) entered the Subway Restaurant in the Student Center of MTC and apparently took $200 that was in a grey lockbox. The complainant stated that her keys to the restaurant were stolen and someone had entered the facility and taken the money. MTC classified the incident as an Investigation of Funds; however, it should have been classified as Burglary.

Further as noted in the CJIS report, the CAU identified two incidents of inaccurate classifications among the 14 Group A offenses reviewed (Appendix A). One of the inaccurately classified incidents was incident #AP0909062. This incident was classified as Larceny-Theft From Motor Vehicle when it should have been classified as Theft of Motor Vehicle Parts. The other incident, # AP0903019, was classified as Larceny-Theft From a Building when it should have been classified as Burglary.

Required Action Summary:

MTC may provide any additional documentation that would support its claim that the theft from the restaurant was, in fact, properly classified as an Investigation of Funds. Otherwise, MTC must reclassify this incident as a burglary and modify its 2008 Campus Crime Statistics, on the Department's Web site database and on the annual security report provided to students and staff.

With regard to the discrepancies noted by the FBI's CAU in the QAR report, MTC should have taken corrective action prior to reporting crimes statistics for calendar year 2009. Incident #AP0903019 is a reportable crime for Clery purposes. Therefore, MTC must show that this incident was properly classified and included in it Campus Crime Statistics for calendar year 2009.

Institutional Response:

In its response, MTC concurred with the finding and stated that it reclassified incidents #AP-08-09-069 and #AP 09-03-019 as burglaries and modified its 2008 and 2009 campus crime statistics accordingly in the College's 2010 ASR. In addition, MTC officials represented that the 2010 ASR was distributed in the required manner.

Final Determination:

Finding #1 of the program review report cited MTC for failing to classify and disclose two Clery-reportable crimes that were reported to campus police. As a result of these violations, the College was required to document the accuracy of the original classification or revise its campus crime statistics accordingly. In its response the College acknowledged the classification errors and stated that it took corrective action.

The review team's analysis of the College's most recent ASR did not identify any significant omissions or weaknesses in terms of the accuracy of the statistical disclosures, thereby suggesting that the corrective actions were at least minimally adequate.

Based on the review team's analysis of the response and MTC's representations that it has addressed these violations and their underlying causes, the Department considers this finding to be closed.

Although the finding is now closed, MTC 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. The requirement to compile accurate and complete campus crime statistics and to disclose them in the ASR is essential to achieving the campus safety goals of the *Clery Act*. Access to this information permits campus community members and their families 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. MTC was required to initiate all necessary remedial measures and in doing so, has begun to address the conditions that led to these violations. MTC has stated that it has brought its overall campus security program into compliance with the *Clery Act* as required by its PPA. Nevertheless, MTC 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, MTC officials are reminded to review the accuracy and completeness of its Drug and Alcohol Abuse Prevention Program (DAAPP) as required by the Drug-Free Schools and Communities Act (*DFSCA*) and Part 86 of the Department's General Administrative

Regulations. FSA is now responsible for monitoring compliance with the *DFSCA*. Therefore, it is essential that the College makes sure that it has developed and implemented a comprehensive DAAPP, has actively distributed a materially-complete annual DAAPP disclosure, and that it has conducted substantive biennial reviews and has completed its biennial review reports on the proper schedule. For assistance or more information on the *Clery Act* and/or the *DFSCA*, please contact the Atlanta School Participation Division or the Clery Act Compliance Team.