



August 17, 2015

John J. DeGioia, Ph.D.
President
Georgetown University
207 Healy Hall
37th & O Streets, N.W.
Washington, DC 20057

UPS Tracking #
1Z A87 964 13 9160 8752

RE: Final Program Review Determination
OPE ID: 00144500
PRCN: 201040327292

Dear President DeGioia:

The U.S. Department of Education (the Department) previously issued a program review report regarding Georgetown University's (GU; the University) compliance with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*). The original text of the program review report is incorporated into this Final Program Review Determination (FPRD). The University submitted an acceptable response to the Department's report. GU's response and any supporting documentation submitted with the response are being retained by the Department and are available for inspection by GU 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 it is issued.

Purpose:

Final determinations have been made concerning the findings identified during the program review. The purpose of this letter is to advise GU of the Department's final determinations and to close the review, subject to the University's full and timely production of the documentation identified in Appendix A. Please note that this FPRD contains several findings regarding GU's failure to comply with the *Clery Act*. Because these findings do not result in financial liabilities, they 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 a 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 GU'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 latter of resolution of the violations identified during the review or the end of the regular record retention period applicable to all Title IV records including *Clergy Act*-related documents under 34 C.F.R. §668.24(e).

Thank you for the courtesy, cooperation, and patience shown to us throughout the program review process. If you have any questions about this FPRD or the program review process, please contact Mr. Wendell Brantley on 202-377-3139 or at wendell.brantley@ed.gov.

Sincerely,

A large black rectangular redaction box covering the signature area.

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

cc: Mr. Jay Gruber, Chief of Police, GU
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Enclosure:
Final Program Review Determination

Prepared for:
Georgetown University

OPE ID: 00144500
PRCN: 201040327292

Prepared by:

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

Final Program Review Determination
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The Clery Act and the DFSCA

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*), in §485(f) of the Higher Education Act of 1965, as amended, (HEA), 20 U.S.C. §1092(f), is a Federal consumer protection statute that provides students, parents, employees, prospective students and employees, and the public with important information about public safety issues on America's college campuses. Each domestic institution that participates in the Federal student financial aid programs under Title IV of the HEA must comply with the *Clery Act*. The institution must certify that it will comply with the *Clery Act* as part of its Program Participation Agreement to participate in the Title IV, Federal student financial aid programs.

The *Clery Act* requires institutions to publish and distribute an Annual Security Report (ASR) containing its campus crime statistics. Statistics must be included for the most serious crimes against persons and property that occur in buildings or on grounds that are owned or controlled by the institution or recognized student organizations as well as on adjacent and accessible public property. These crimes are deemed to have been reported anytime such an offense is brought to the attention of an institution's campus police or security department, a local or state law enforcement agency of jurisdiction, or another campus security authority (CSA). A CSA is any institutional official who is 1) designated to receive reports of crime and/or student or employee disciplinary infractions, such as Human Resources and Alternative Dispute Resolution professionals and/or 2) an official that has significant responsibilities for student life or activities such as residential life staff, student advocacy and programming offices as well as athletic department officials and coaches.

The ASR also must include several statements of policy, procedures, and programmatic information regarding issues of student safety and crime prevention. The *Clery Act* also requires institutions to maintain a daily crime log that is available for public inspection and to issue timely warnings and emergency notifications to provide up-to-date information about ongoing threats to the health and safety of the campus community. In addition, the *Clery Act* requires institutions to develop emergency response and evacuation plans. Institutions that maintain student residential facilities must also publish and distribute an Annual Fire Safety Report (AFSR) containing fire statistics and important policy information about safety procedures, fire safety and suppression equipment, and what to do in the case of a fire. Finally, the *Clery Act* amendments that were included in Section 304 of the Violence Against Women Reauthorization Act of 2013 went into effect on July 1, 2015. These provisions are aimed at preventing campus sexual assaults and improving the response to these crimes when they do occur.

The *Clery Act* is based on the premise that students and employees are entitled to accurate and honest information about the realities of crime and other threats to their personal safety and the security of their property. Armed with this knowledge, members of the campus community can make informed decisions about their educational and employment choices and can take an active role in their own personal safety and to secure and protect their personal property. For that reason, the office of Federal Student Aid (FSA) must ensure that the information disclosed in each ASR and AFSR is accurate and complete. FSA uses a multi-faceted approach to ensure that institutions comply with the *Clery Act*, which includes providing technical assistance and

training programs and materials as well as monitoring and enforcement through program reviews.

FSA may initiate a campus crime program review as a result of a complaint or on public reports about crimes and crime reporting and prevention at a particular institution. FSA also conducts Quality Assurance Reviews in cooperation with the FBI's Criminal Justice Information Service (CJIS) Audit Unit. Program reviews entail in-depth analysis of campus police and security records and interviews with institutional officials, crime victims, and witnesses. During a program review, an institution's policies and procedures related to campus security matters are also examined to determine if they are accurate and meet the needs of the campus community.

Because more than 90% of campus crimes are alcohol and drug-related, the Secretary of Education has delegated oversight and enforcement responsibilities for the Drug-Free Schools and Communities Act (*DFSCA*), in §120 of the HEA, 20 U.S.C. §1011(i) to FSA. The *DFSCA* requires all institutions of higher education that receive Federal funding to develop and implement a comprehensive drug and alcohol abuse prevention program (DAAPP) and certify to the Secretary that the program is in place. 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, each institution must provide a DAAPP disclosure to all current students (including all students enrolled for any type of academic credit except for continuing education units) and all current employees that explains the educational, disciplinary, health, and legal consequences of illegal drug use and alcohol abuse as well as information about available counseling, treatment, and rehabilitations programs, including those that may permit former students or employees to return following expulsion or firing. The distribution plan must make provisions for providing the DAAPP disclosure annually to students who enroll after the initial distribution and for employees who are hired at different points throughout the year.

Finally, the *DFSCA* requires institutions to conduct a biennial review to determine the effectiveness of its DAAPP to identify areas requiring improvement or modification and to assess the consistency of enforcement actions imposed on students and employees that are found to be in violation of applicable Federal, state, and local drug and alcohol-related statutes or ordinances and/or institutional polices and codes of conduct.

Proper implementation of the *DFSCA* provides students and employees with vital information about the detrimental consequences of illicit drug use and alcohol abuse. The conduct of a meaningful biennial review provides the institution with quality information about the effectiveness of its drug and alcohol programs. Any failure to implement these requirements may contribute to increased drug and alcohol abuse on-campus as well as an increase in drug and alcohol-related violent crime. The *DFSCA* is monitored and enforced by the Department.

A. Institutional Information

Georgetown University
37th and O Streets, NW
Washington, DC 20057-1245

Type: Private, Non-Profit

Highest Level of Offering: Doctoral Degrees

Accrediting Agency: Middle States Association of Colleges and Schools –
Commission on Higher Education

Current Student Enrollment: 17,849; (Approx. 2014/2015)

% of Students Receiving Title IV: 53% (Approx. 2014/2015)

Title IV Participation (2012-2013 Award Year)

Federal Family Education Loan Program	\$	0
Federal Direct Loan	\$	234,210,304
Federal Pell Grant Program	\$	4,279,619
Federal Perkins Loan Program	\$	8,333,359
Federal Supplemental Education Opportunity Grant Program	\$	1,738,673
Federal Work-Study Program	\$	2,770,555
	Total	\$ 251,332,510

FFEL/DL Default Rate: 2011 – 0.9%
2010 – 1.3%
2009 – 1.3%

Perkins Default Rate: 2011 – 4.59%
2010 – 5.45%
2009 – 2.48%

Georgetown University (GU; the University) is located in the northwest corridor of Washington, DC. The main campus is situated on 104 acres and includes 54 buildings. GU offers undergraduate, graduate and professional programs that focus on the arts and humanities, the sciences, government and international relations, medicine, nursing and health studies, business and economics, and the law. The GU Department of Public Safety is responsible for coordinating health and safety services for the University including police and security services, emergency management, operations continuity, environmental health and safety, and emergency notification systems, among other programs and operations. The GU Police Department

(GUPD) is comprised of sworn law enforcement officers and non-sworn security personnel including a contingent of student officers. At the time of the site visit, the GUPD organizational structure included a Chief/Director of Public Safety and five other command staff members, four investigators, eight sergeants, 39 patrol officers, and nine communication specialists. GUPD police officers are commissioned as Special Police Officers (SPO). SPOs have full arrest powers but are not authorized to carry firearms. The GUPD is charged with providing 24/7/365 protection services to students, employees, visitors, and the general public both on the University's campuses as well as areas that are immediately adjacent to each campus. GUPD officials are fully authorized to enforce the laws of the District of Columbia and assists with the enforcement of the University's rules, regulations, and codes of conduct. GUPD has entered into a limited mutual-aid agreement with the District of Columbia Metropolitan Police Department (MPD) that formalizes the terms of cooperation between the agencies.

B. Scope of Review

The U.S. Department of Education (the Department) conducted a focused campus security review at GU. The review began with a site visit in August/September 2010. The review was started by the Philadelphia School Participation Team and was completed by the Clery Act Compliance Team (CACT).

The objective of the review was to evaluate GU's compliance with the *Clery Act* at §485(f) of the Higher Education Act of 1965 as amended (HEA), 20 U.S.C. §1092(f). The Department's implementing regulations can be found at 34 C.F.R. §§668.41, 668.46, and 668.49. The University was selected for review from a list of institutions of higher education with sworn police departments in the District of Columbia. This review was not the result of any specific complaint or other allegation of noncompliance. The Department's work included an examination of GUPD incident reports, arrest records, the University's disciplinary files, and policies and procedures related to the *Clery Act*. In addition, interviews were conducted with GU officials with campus safety-related responsibilities.

The Department selected several institutions for review as part of a partnership between the Department and the Federal Bureau of Investigation's (FBI) Criminal Justice Information Service (CJIS) Audit Unit. The U.S. Department of Education is partnering with the FBI's CJIS Audit Unit (CAU) to ensure accurate crime reporting on our Nation's campuses. The CAU reviews law enforcement agencies' reporting practices and audits crime statistics that are reported by states and territories through their participation in the Uniform Crime Reporting program. The CAU shares information developed during its reviews with the Department. This information is used for comparative analysis and other purposes.

The Department used random and judgmental sampling techniques to select documents for review. The sample included 121 incident files that were generated by the GUPD and/or other GU campus security authorities. These records included GUPD incident reports and arrest records as well as disciplinary referral documents for certain drug, liquor, and weapons offenses that were generated by GU officials responsible for enforcement of the University's codes of

conduct. Selected records from local law enforcement agencies, specifically MPD, were also examined during the review. Approximately 50 records were cross-checked against the daily crime log to ensure that crimes occurring within the patrol jurisdiction were entered properly.

Disclaimer:

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning GU's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific campus safety and crime prevention policies, procedures, and practices. Furthermore, it does not relieve the University of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs, including the *Clergy Act*. Finally, the Department emphasizes that this FPRD only addresses violations and weaknesses that were identified as a result of program review activities associated with PRCN: 201040327292.

C. Findings and Final Determinations

Several findings of noncompliance were identified during the review. The findings identified in the Department's program review report appear in *italics* below. Please note that certain, non-substantive edits were made to the text of that report. A summary of GU's response and the Department's Final Determination appears at the end of each finding.

Finding #1: Failure to Properly Classify Incidents and Disclose Crime Statistics

Citation:

The Clergy Act and the Department's regulations require institutions participating in the Federal student financial aid programs under Title IV of the HEA to compile and publish statistics concerning the occurrence on campus of the following incidents: criminal homicide, murder and non-negligent manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. In addition, the institution is required to disclose statistics of arrests and disciplinary referrals for violations of certain Federal or State drug, liquor and weapons laws. 34 C.F.R. §668.46(c)(1).

The Department's regulations require that, for Clergy Act reporting purposes, participating institutions must compile crime statistics using the definitions of crimes provided in 34 C.F.R. Part 668, Appendix A to Subpart D and the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Hate Crime Data Collection Guidelines and Training Guide for Hate Crime Data Collection. 34 C.F.R. §668.46(c)(7).

Additionally, institutions must provide a geographic breakdown of the reported crime statistics according to the following categories: (i) on campus; (ii) of the crimes reported on campus, the number of crimes that took place in dormitories or other residential facilities for students on

campus; (iii) in or on a non-campus building or property; (iv) accessible and adjacent public property. 34 C.F.R. §668.46(c)(4).

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

Noncompliance:

GU failed to compile and disclose accurate and complete crime statistics for calendar years 2007 and 2008. Specifically for calendar year 2007, GU improperly classified the following incidents and failed to include these offenses in its campus crime statistics as a result:

1. *Complaint #07-06158: GU classified this incident as "Assault-Weapon." Based on an analysis of the case facts, the review team determined that the operative facts required that this incident should have been classified as a "Robbery-Weapon." In this case, four assailants reportedly followed, assaulted and then forcibly took the victim's personal property. The assailants then fled the scene with the victim's property. The purpose of the assault was to incapacitate the victim by force to facilitate the crime. She was struck about the head with a hard object and sprayed with either mace or pepper spray. Based on these facts, this incident was a robbery with a weapon that was required to be disclosed in the calendar year 2007 crime statistics that were included in GU's 2009 ASR.*
2. *Complaint #07-0057: GU classified this incident as "Assault with Intent to Rob." Based on an analysis of the case facts, the review team determined that the operative facts required that this incident should have been classified as a "Robbery-Attempt." In this case, the assailant reportedly identified, followed, and then assaulted the victim while attempting to steal her purse. Based on these facts, this incident was an attempted robbery that was required to be disclosed in the calendar year 2007 crime statistics that were included in GU's 2009 ASR.*

GU also improperly classified the following incidents that were reported in calendar year 2008 and failed to include these offenses in the campus crime statistics that were included in the 2009 ASR:

1. *Complaint #08-00912: GU classified this incident as "Threats." Based on an analysis of the case facts, the review team determined that the operative facts required that this incident should have been classified as an "Aggravated Assault." In this case, the assailant reportedly pointed a knife at a female victim in a manner that caused the victim to be in apprehension of an impending violent act. The assailant allegedly stated that, "I know how to use it" meaning that he was willing and able to complete the threatened attack. Based on these facts, this incident was an aggravated assault that was required*

to be disclosed in the calendar year 2008 crime statistics that were included in GU's 2009 ASR.

2. *Complaint #08-05321: GU classified this incident as "Theft 1." Based on an analysis of the case facts, the review team determined that the operative facts required that this incident should have been classified as a "Burglary." The victim reported that a laptop computer, valued in excess of \$2000, was stolen from a locked office. Responding officers observed signs of forced entry to the office door. The incident report written by GUPD personnel describes "pry marks." The facts of the case as documented in the incident report strongly indicated that the perpetrator of this offense was a trespasser. A trespass is the essential element of the crime of burglary. Based on these facts, this incident was a burglary that was required to be disclosed in the calendar year 2008 crime statistics that were included in GU's 2009 ASR.*
3. *Complaint #08-06319: GU classified this incident as "Burglary-No Force." Based on an analysis of the case facts, the review team determined that the operative facts required that this incident should have been classified as a "Forcible Fondling." The assailant entered the victim's dorm room and approached the victim while she slept. The assailant proceeded to touch the victim in a sexual manner without her consent. The victim initially thought that her boyfriend may have entered the room and initiated the contact. Once she realized that she did not know the assailant she became upset. At that point, the assailant left the scene. Based on these facts, this incident was a forcible fondling, a type of forcible sex offense that was required to be disclosed in the calendar year 2008 crime statistics that were included in GU's 2009 ASR.*
4. *Complaint #08-04296: This incident was classified correctly but was not disclosed in the 2008 crime statistics that were included in GU's 2009 ASR. This condition is known as a true "under-report."*

The specific violations identified above caused GU to not disclose two robberies in the calendar year 2007 crime statistics that were included in the 2009 ASR. These violations also caused one Aggravated Assault, two Burglaries, and one Forcible Sex Offense that were reported in calendar year 2008 to not be included in the 2009 ASR.

In this same calendar year, GU also failed to report multiple disciplinary referrals in accordance with the Clery Act. Specifically, those incidents are:

1. *Complaint #08-00121: Drug Violation*
 2. *Complaint #08-04507: Drug Violation*
 3. *Complaint #08-04668: Drug Violation*
 4. *Complaint #08-05712: Drug Violation*
 5. *Complaint #08-05937: Drug Violation*
-

Required Actions:

As a result of these violations, GU must submit additional information to support its original classification of the aforementioned offenses. Otherwise, GU must correct the statistical errors identified in its ASR and in the statistics submitted to the Department's online campus crime statistics database for calendar years 2007 and 2008. The University is required to substantiate the accuracy and completeness of its statistics for Aggravated Assault, Forcible Sex Offense, Burglary, and Robbery. This requirement applies to the exceptions noted above and all others identified by GU during the preparation of its response. In addition, GU is required to substantiate the accuracy and completeness of its statistics for disciplinary referrals for calendar year 2008. GU must provide the Department with supporting documentation of any modified statistics.

Institutional Response:

In its official response, GU concurred with the majority of the finding and stated that remedial action was taken as directed in the program review report. In summary, the University's management team made the following admissions and assertions: Certain Part I Offenses were under-reported in calendar years 2007 and 2008. To address these deficiencies, GU reclassified and added each incident to the applicable ASRs. In addition, GU updated statistics reported to the Department's CSSDACT. GU did disagree with the part of the finding that found that the University under-reported its disciplinary referral statistics. Per the response, GU officials conducted an internal review and found that the five drug violations cited by the Department were in fact included in the statistical tally for calendar year 2008 and that accurate statistics were included in the 2009 ASR. University officials also conceded that other reporting errors were identified during the internal review and that remedial action was taken. No information about the extent of these additional exceptions was detailed in the response. In support of its claims, GU submitted documents labeled as Exhibit #6 - "Review of Specific Campus Referral Incidents" that purportedly show that remedial action was taken and that the revised statistics were accurate and complete.

Final Determination:

Finding #1 of the program review report cited GU for its failure to properly classify incidents of crime and the resultant failure to include accurate and complete campus crime statistics in the University's 2009 ASR. Specifically, GU failed to include six Clery-reportable offenses in the 2009 ASR as detailed in the noncompliance section of the initial finding above. The review team also found that the University failed to disclose five disciplinary referrals for drug law violations in the calendar year 2008 crime statistics that were included in the 2009 ASR. During testing, the review team also found that GU was unable to produce incident reports pertaining to eight criminal offenses that were reported as occurring at the Georgetown University Law Center (GULC). The University was not able to explain why these documents were not available for inspection. Per the response, GU officials stated that, "we have been unable to locate written reports for eight of the Clery crimes (all thefts) at GULC that were

reported in the 2008 Crime log. We cannot determine whether written reports were generated for these incidents and are missing or whether reports were never generated.” This condition raised serious concerns about the University’s record retention practices and overall administrative capability.

As a result of these violations, GU was required to identify and correct all errors in its crime statistics and make all necessary adjustments to the audit trails provided to the review team. Secondly, the University was required to review and revise its policies, procedures, internal controls, and training programs to ensure that all incidents of crime reported to the GUPD, non-law enforcement campus security authorities and other local law enforcement agencies are properly classified and included in its 2010 ASR and all subsequent reports. In its response, GU concurred with the majority of the Department’s finding. The University represented that the five disciplinary referrals referenced in the finding were disclosed properly and submitted documents that purported to substantiate its claims. In addition, University officials acknowledged several weaknesses in its operations and described the remedial actions that it asserted are now in place. In support of these claims, GU officials submitted new and revised policies and procedures that management claimed would improve operations and would ensure that these violations would not recur.

The Department carefully examined all available information, including GU’s narrative response and supporting documentation. Based on that review and GU’s admissions, the Department has determined that each of the violations noted in the noncompliance section of the initial finding are sustained with one narrow exception: the Department’s examination of the supplemental responsive documents indicated that the University may have disclosed the five calendar year 2008 disciplinary referrals for drug law violations referenced in the finding. Such disclosure was not apparent based on the documents provided during the site visit. GU claimed and the Department expects that the GUPD has improved its record management process to ensure that valid records are available to substantiate the accuracy and completeness of its campus crime statistics. The review team’s examination also indicated the identified violations were, for the most part, satisfactorily addressed by the University’s subsequent ASRs, new training and systems enhancements, and new and revised policies and procedures. As such, the Department determined that GU’s remedial action plan meets minimum requirements. For these reasons, the Department has accepted GU’s response and considers this finding to be closed for the purposes of this program review. Nevertheless, the officers and directors of GU are put on notice that the University must take all additional actions that may be necessary to address the deficiencies and weaknesses identified by the Department as well as those that were detected during the preparation of the institution’s response and as may otherwise be needed to ensure that these violations do not recur.

Although the finding is now closed for the purposes of this program review¹, GU is reminded that the exceptions identified above constitute serious violations of the *Clergy Act* that by their nature cannot be cured. There is no way to truly “correct” a violation of this type once it occurs.

¹ Subject to GU’s full and timely production of the documentation listed in Appendix A

GU asserted that it has taken adequate remedial actions and that by doing so, that it is now in compliance with the *Clery Act* as required by its Program Participation Agreement (PPA). Nevertheless, University officials must understand that the requirement to compile and disclose accurate and complete campus crime statistics is fundamental to the campus safety and crime prevention goals of the *Clery Act*. For these reasons, the University is advised that its remedial 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.

Finding #2: Statistical Discrepancies between the Annual Security Report and the Department's Online Campus Crime Statistics Database

Citation:

The Clery Act and the Department's regulations require Title IV participating institutions to compile, publish, and distribute statistics concerning certain crimes on campus and to disclose arrests and disciplinary referrals involving violations of Federal or State drug, liquor and weapons laws. 34 C.F.R. §668.46(c)(1) and definitions in Appendix A to Subpart D of Section 668. Each participating institution must also submit its crime statistics to the Department for inclusion in the OPE online campus crime statistics database. 34 C.F.R. §668.41(e)(5). Additionally, the Clery Act requires that all reportable offenses resulting in bodily harm that manifest evidence that a victim was intentionally targeted due in some part to a perpetrator's bias against members in certain suspect classifications must be classified as a hate crime. The six covered categories of bias are race, gender, religion, sexual orientation, ethnicity or national origin, and disability. The victim's membership in the covered category may be actual or perceived as the key in the perpetrator's bias against the identity group. 34 C.F.R. §668.46(c)(3).

Federal regulations also require institutions to compile and publish a geographic breakdown of crime statistics in the following categories:

- 1) *On Campus I: any building or property owned or controlled by the institution within the same reasonably contiguous geographical area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls;*
- 2) *On Campus II: a subset of On Campus I that includes any building or property that is within or reasonably contiguous to the area defined in #1 above that is controlled by another person or entity, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor);*
- 3) *Non-Campus Building or Property: any building or property owned or controlled by a recognized student organization; or any building or property owned and controlled by the*

institution as described in 1) above and is frequently used by students, but is not within the same reasonably contiguous area; and,

- 4) *Public Property: all public property that is within the boundaries of the campus or that is immediately adjacent to or accessible from the campus.*

Noncompliance:

GU reported calendar year 2008 crime statistics in its 2009 ARS that differed from the statistics it submitted to the Department's CSSDACT for the same year. GU reported to the Department that 12 on-campus burglaries occurred during calendar year 2008, but disclosed 16 on-campus burglaries in its ASR.

GU reported calendar year 2007 crime statistics in its 2009 ARS that differed from the statistics it submitted to the Department's CSSDACT for the same year. GU reported to the Department two aggravated assaults meeting the definition of hate crimes that occurred on adjacent and accessible public property during calendar year 2007. These offenses were not included in the aggravated assault category in GU's 2009 ASR, but were inadvertently published as hate crimes with other bodily injuries. Two of these incidents, Compliant Nos. 07-06157 and 07-06158, were also referenced in Finding #1 above.

Errors were also detected in GU's disciplinary referral statistics for liquor and drug law violations in calendar year 2006. The calendar year 2006 disciplinary referral statistics that were included in the 2009 ASR differed from the data that was submitted to the Department's online campus crime statistics database. The following chart illustrates the discrepancies:

<i>Referrals for Drug Law Violations</i>	<i>Non-Campus Properties</i>	<i>Referrals for Liquor Law Violations</i>	<i>On-Campus</i>
<i>GU's 2009 ASR</i>	<i>0</i>	<i>GU's 2009 ASR</i>	<i>903</i>
<i>CSSDACT Data Submission</i>	<i>5</i>	<i>CSSDACT Data Submission</i>	<i>526</i>

Required Action:

As a result of these violations, GU must re-examine and make corrections to its crime statistics as published in its ASR and those submitted to the Department's CSSDACT. This requirement applies to the exceptions noted in the findings and all others identified during the re-examination.

In addition, GU is required to substantiate the accuracy and completeness of its statistics for disciplinary referrals for calendar year 2006. GU must provide the Department with supporting documentation of any modified statistics.

To ensure the accuracy of future ASRs, GU must evaluate and make appropriate revisions to its policies, procedures, internal controls, and/or staff training to ensure that all incidents of crime reported to the police or a campus security authority are classified properly and included in its statistical disclosures. A copy of the corrective action taken for each of these findings must accompany the University's response.

Institutional Response:

In its official response, GU concurred with the finding and stated that remedial action was taken as directed in the program review report. In summary, the University's management team made the following admissions and assertions: GU conceded that the calendar year 2006-2008 campus crime statistics that were included in the 2009 ASR did not match the data that was submitted to the Department's CSSDACT. The University gave the following explanations for each of the noted discrepancies:

- “The discrepancy between the 12 on-campus burglaries reported [to] the Department’s online database and the 16 burglaries reported in the ASR resulted from a simple data entry mistake.”
- “The two aggravated assaults that were listed as hate crimes on public property in the Department’s online database were classified as “Other Bodily Injury (Hate Crimes Only)” on the 2009 ASR...these incidents should have been reflected in the ASR as “Aggravated Assaults” in both the “Hate Crimes and Public columns.”
- Regarding the disclosure of disciplinary referrals for drug law violations, GU stated that, “This is not a situation in which the five drug violations were not reported in the 2009 ASR, rather one in which the reported statistics were entered in the wrong page in the data entry portal of the Departments online data base.” GU continues the explanation with an admission that drug violations reported in the noncampus category of CSSDACT for calendar year 2006 were inconsistent with statistics published in the University’s 2009 ASR.”
- Regarding the disclosure of disciplinary referrals for liquor law violations, GU stated that it disclosed 903 calendar year 2008 referrals in the ASR while only 526 referrals were reported to the CSSDACT. Per the response, the University claimed that the statistic in the ASR was overstated as a result of including policy infractions and not limiting the disclosure to actual law violations. Finally, GU claimed that the data reported to the CSSDACT is accurate.

Final Determination:

Finding #2 of the program review report cited GU for its failure to disclose accurate and complete crime statistics in the 2009 ASR and in its CSSDACT data submissions for the calendar years covered by this report (2006-2008). Specifically, the review team found that the crime statistics GU reported in its 2009 ASR (which included crime statistics for calendar years 2006-2008) were different from the statistical data it submitted to the Department for the same years, as detailed in the noncompliance section above. As a result of this violation, GU was required to review and revise its existing policies and procedures regarding the compilation and disclosure of campus crime statistics and to develop and implement any new policies and procedures as needed to ensure that all campus security operations will be carried out in accordance with the *Clergy Act* going forward. GU was then required to revise and reconcile its crime statistics and to revise the 2011 ASR and its CSSDACT submissions as needed. In its response, the University concurred with the finding, described its remedial actions, and submitted documents in support of its claims.

The Department carefully examined all available information, including GU's narrative response and supporting documentation. Based on that review and the University's admissions, each of the violations noted in the noncompliance section of the initial finding are sustained. Statistical discrepancies of this type cause confusion for students, employees, parents, and other users of the ASR and CSSDACT, including researchers and the media. The review team's examination also showed that the identified violations were, for the most part, satisfactorily addressed by the disclosures in GU's subsequent ASRs and CSSDACT submissions and its revised internal policies and procedures. As such, the review team has determined that GU's remedial action plan meets minimum requirements. For these reasons, the Department has accepted GU's response and considers this finding to be closed for program review purposes. Nevertheless, the officers and directors of GU are put on notice that the University must take all additional actions that may be necessary to address the deficiencies and weaknesses identified by the Department as well as those that were detected during the preparation of the institution's response and as may otherwise be needed to ensure that these violations do not recur.

Although the finding is now closed for the purposes of this review², GU is reminded that the exceptions identified above constitute serious and persistent violations of the *Clergy 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 disclose accurate, complete, and fully reconciled campus crime statistics in the ASR and in its reporting to the CSSDACT are among the most foundational requirements of the *Clergy Act*. Reporting discrepancies of this type create confusion for readers of the report and call the University's ability and willingness to properly administer the Title IV, FSA program into question. GU asserted that it has taken adequate remedial actions and that by doing so, that it has brought its overall campus safety program into compliance with the *Clergy Act* as required by its PPA. Notwithstanding these actions, GU is advised that its remedial actions

² Subject to GU's full and timely production of the documentation listed in Appendix A.

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.

Finding 3: Failure to Request Crime Statistics from MPD for the GULC and other “Clery Geography:” Non-Campus Buildings/Property and Public Property

Citation:

In complying with the statistical reporting requirements, an institution must make a reasonable good faith effort to obtain crime statistics and may rely on the information supplied by the local police department with jurisdiction over any part of the institution's campus or non-campus buildings or property as defined in the Clery Act. An institution should document this request for information and is not responsible if the local police agency fails to supply such statistics. . . 34 C.F.R. §668.46(c)(9).

Noncompliance:

GU failed to request crime statistics from the MPD for the GULC and certain public property that is immediately adjacent to and/or accessible from the GULC. The Department reviewed DPS's information requests to the MPD. GU provided copies of letters dated July 9, 2008 and March 18, 2009 that requested crime statistics from MPD; however, those letters indicate that crime statistics were only requested for two locations: 1318 36th Street and 1410 36th Street, NW. Both locations are part of GU's main campus. GU could not provide any documentation that crime statistics were requested from the MPD for the GULC and the immediately adjacent and accessible public property that surrounds it.

Required Action:

Georgetown must make a reasonable good faith effort to obtain statistics from the MPD for the GULC for calendar years 2007, 2008, and 2009 and modify its ASR and online database submission accordingly. Thereafter, GU must request statistics on at least an annual basis and fully document its efforts to obtain the information. GU's requests for crime statistics must cover all campuses as well as all non-campus buildings and properties for the dates and times that such parcels are used for educational purposes. For example, these data requests must include the Verizon Center and any other arena or venue utilized by GU that meets the criteria of any part the non-campus building or property definition above. If the MPD is unable to provide a breakdown of statistics specific to a particular campus or other geographic area prescribed by the Clery Act, GU may omit the local police statistics but must provide a statement explaining that local police did not provide the requested information in a useable format. Finally, GU must revise its ASR to include MPD data for the GULC or change the text to indicate that information from local law enforcement agencies was not available. This change can be made by accessing the Department's CCDACT and answering the appropriate screening questions.

Institutional Response:

In response, GU substantially concurred with the majority of the finding. The University challenged one aspect of the exception. Specifically, GU management asserted that the Verizon Center did not fall under the definition of a non-campus property for *Clergy Act* purposes.³ GU's narrative and responsive documents primarily focused on GU's remedial action efforts. In support of its claims, University officials submitted documentation intended to show that GU requested crime statistics from MPD for all of its campuses and non-campus buildings and properties for calendar years 2007-2010⁴. Prior to the submission of the response, University officials revised its ASRs to include the following notice, "Information is not available from local authorities." Identical language was also added in the caveat section of the CSSDACT.

Final Determination:

Finding #3 of the program review report cited GU for its failure to make a good-faith effort to obtain crime statistics for all buildings and properties that it owned or controlled and used for educational purposes in calendar years 2007–2009. These real estate holdings and the public grounds around them are now referred to collectively as "Clergy Geography." Document examination and interviews with University officials indicated that during the review period, GU did not request crime statistics for all of its Clergy Geography from MPD, the local law enforcement agency of concurrent jurisdiction. Specifically, documents secured by the review team showed that GU officials only requested crime statistics for its main campus. As such, crime statistics were not requested for all GU buildings and properties and the immediately adjacent and accessible public properties that surround GU real estate with the result that the crime statistics that were included in the 2009 ASR and in several prior reports were severely understated. At a minimum, the University failed to request and disclose crime statistics for: 1) the GULC; 2) the Verizon Center (when in use for GU events); and 3) the immediately adjacent and accessible public property around the GULC. As a result of this failure, GU was required to take all necessary remedial actions to ensure that published crime statistics were accurately assembled to not only inform its campus community of significant events, but to also gain a better understanding of crime conditions and inappropriate uses of alcohol and drugs, occurring upon or in proximity to its properties. In the response, GU concurred with the majority of the Department's finding and described corrective measures taken to address this violation.

The Department carefully examined all available information including GU's narrative response and supporting documentation. Based on that review and the University's admissions, each of the violations noted in the noncompliance section of the initial finding are sustained. At this point, it is not possible to quantify the precise effect of this failure, but it is clear that this persistent violation caused many incidents of crime to not be disclosed in the ASR and the

³ The Department must point out that this venue is part of GU's "Clergy Geography" (non-campus building) during those times when the University controls the facility such as when it holds athletic events and/ or other activities at this location.

⁴ Exhibit 12 of the response included letters from the Director of Public Safety and Emergency Management to MPD requesting calendar year 2009 and 2010 crime statistics. These letters are dated August 10, 2010 and July 30, 2011, respectively. Exhibit 13 included a similar letter requesting calendar year 2007-2009 crime statistics.

CSSDACT. The review team's examination also showed that the identified violations were, for the most part, satisfactorily addressed by GU's new internal policies and procedures for requesting statistical data from MPD. As such, the review team has determined that GU's remedial action plan meets minimum requirements. For these reasons, the Department has accepted GU's response and considers this finding to be closed for program review purposes. Nevertheless, the officers and directors of GU are put on notice that the University must take all additional actions that may be necessary to address the deficiencies and weaknesses identified by the Department as well as those that were detected during the preparation of the institution's response and as may otherwise be needed to ensure that these violations do not recur.

Although the finding is now closed for the purposes of this review⁵, GU is reminded that the exceptions identified above constitute serious and persistent 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 request crime statistics from CSAs and local law enforcement agencies and to then disclose accurate and complete campus crime statistics for each campus in the ASR and in its reporting to the CSSDACT are among the most foundational requirements of the *Clery Act*. GU asserted that it has taken adequate remedial actions and that by doing so, that it has brought its overall campus safety program into compliance with the *Clery Act* as required by its PPA. Notwithstanding these actions, GU is advised that its remedial 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.

Finding 4: Failure to Maintain an Accurate and Complete Daily Crime Log

Citation:

The Clery Act and the Department's regulations require that an institution with a campus police or a campus security department must maintain a written, easily understood daily crime log that records any crime⁶ that occurred, 1) on campus, including residence halls; 2) in a non-campus building or on non-campus property; 3) on public property within the campus or immediately adjacent to and accessible from the campus; or 4) within the patrol jurisdiction of the campus police or security department. Incidents of crime must be recorded by the date the crime was reported and the log must include the nature, date, time, general location of each crime, and disposition, if known. The crime log must be kept up to date and be freely accessible to any requestor. 34 C.F.R. §668.46(f).

⁵ Subject to GU's full and timely production of the documentation listed in Appendix A.

⁶ This reporting requirement applies to all crimes, not just those crimes listed in 34 C.F.R. §668.46 (c). Moreover, the log must include all incidents that were reported as occurring anywhere within the GUPD's patrol zone, not merely the University's "Clery Geography."

Noncompliance:

GU failed to maintain an accurate and complete crime log in accordance with Federal regulations. Firstly, the University failed to update the "disposition" fields of the 2008 crime log to show the current status of incidents that were reported to the GUPD. Secondly, during the site visit, the Department requested a printout from the desk officer at a GUPD substation to test public access to the log. The printout provided did not include all required information fields.

Required Action:

GU must review and revise its policies, procedures, and internal controls to ensure that all incidents of crime reported as occurring on campus, on public property, on noncampus property, and within the institution's patrol jurisdiction be present in the crime log. These revisions must ensure crime log accuracy; that all fields are completed and updated in accordance with federal regulations and made readily available to the campus community and public for review, upon request. A copy of all policy changes must accompany GU's response to the program review report. GU's corrective action plan must ensure that the disposition field of the crime log will be updated within two business days, as new information becomes available for at least the first 60 days that the incident is recorded, unless such disclosure substantially jeopardizes the confidentiality of a victim or an ongoing investigation.

Institutional Response:

In its response, GU concurred with the majority of the Department's finding and asserted that remedial action was taken to address the identified violations. Specifically, University officials described its new and enhanced procedures and protocols regarding the maintenance of the daily crime log. GU management also claimed that the GUPD developed a new *Clery Act* training program and delivered it to all officers and staff to better inform them about all Federal campus safety requirements. Per the response, this training program included content about proper maintenance of the daily crime log. GU also asserted that a senior GUPD officer was assigned to ensure that the log is updated in an accurate and complete manner and that it is readily available for inspection. As noted above, GU disagreed with one element of the finding. GU informed the Department that it could not adequately respond to the review team's finding that a desk officer was unable to provide a printout of certain crime log entries as GUPD officials were unable to confirm the identity of the officer to whom the request was made. The University also stated that the GUPD did not have any substations at that time.

Final Determination:

Finding #4 of the program review report cited GU for its failure to maintain an accurate and complete daily crime log during the review period. The *Clery Act* requires that the log include updated information about the status of incidents reported during the last 60 days. The GUPD's log did not include a field to record the disposition of a reported incident and/or the result of any subsequent investigation for part of the review period. During other parts of the review period,

the log did include a field to record the disposition of a report or investigation but no information was entered or updated, as required. Information about the disposition of incidents and investigations is an essential element of the daily crime log so that students, employees, parents, and other stakeholders can access up-to-date information about public safety matters of concern to the campus and near-campus community. In this way, timely warnings, emergency notifications, and the daily crime log supplement the statistical information about campus crime that is included in the ASR.

The “public access test” referenced in the initial finding occurred while members of the review team were touring the campus with members of the GUPD. During that tour, the review team was advised that the GUPD established a permanent office in the Student Center. The review team referred to this office as a “substation.” The review team was advised that because this office was in a high-traffic area, it increased the public presence of the GUPD. Members of the review team specifically commented that this was a positive development because the GUPD operations center was somewhat remote. Accompanied by GUPD officials, a member of the review team asked one of the officers assigned to the Student Center location for a printout from the crime log. The officer was not able to provide the document.

As a result of these violations, GU was required to review and revise its policies, procedures, and internal controls to ensure adequate construction and maintenance of its daily crime log. In its response, GU concurred with the majority of the finding, asserted that remedial action was taken, and submitted documentation in support of its corrective action claims.

The Department carefully examined all available information, including GU’s narrative response and supporting documentation. Based on that review and the University’s admissions, each of the violations noted in the noncompliance section of the initial finding are sustained with one exception: the element of the finding related to the inability of GUPD personnel to generate a printout of the crime log is dropped. Follow-up research indicated that the inability to generate the requested printout was the result of a systems issue. Although the log was not materially-complete, members of the campus community and the general public were able to access the available crime log at the GUPD main office during the time that the Student Center office was unable to access and print the log. As such, the Department determined that GU did not violate the open access component of the regulation. The review team’s examination also showed that the identified violations were, for the most part, satisfactorily addressed by GU’s new internal policies and procedures regarding maintenance of and access to the daily crime log. As such, the review team has determined that GU’s remedial action plan meets minimum requirements. For these reasons, the Department has accepted GU’s response and considers this finding to be closed for program review purposes. Nevertheless, the officers and directors of GU are put on notice that the University must take all additional actions that may be necessary to address the deficiencies and weaknesses identified by the Department as well as those that were detected during the preparation of the institution’s response and as may otherwise be needed to ensure that these violations do not recur.

Although the finding is now closed for the purposes of this review⁷, GU is reminded that the exceptions identified above constitute serious and persistent violations of the *Clergy Act* that by their nature cannot be cured. There is no way to truly “correct” a violation of this type once it occurs. The maintenance of an accurate, complete, and accessible daily crime log is essential to the public awareness and crime prevention goals and intentions of the *Clergy Act*. GU asserted that it has taken adequate remedial actions and that by doing so, that it has brought its overall campus safety program into compliance with the *Clergy Act* as required by its PPA. Notwithstanding these actions, GU is advised that its remedial 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.

Because of the serious consequences of *Clergy Act* violations, the Department strongly recommends that GU re-examine its campus security 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, GU officials are encouraged to continue to use the Department’s “Handbook for Campus Safety and Security Reporting” (2011) as a reference guide for *Clergy Act* compliance. The Handbook is online at: www2.ed.gov/admins/lead/safety/handbook.pdf. The Department also provides a number of other *Clergy Act* training resources. University officials can access these materials at: www2.ed.gov/admins/lead/safety/campus.html. The regulations governing the *Clergy Act* can be found at 34 C.F.R. §§668.14, 668.41, 668.46, and 668.49.

As noted above, Section 304 of the Violence Against Women Reauthorization Act of 2013 (VAWA) amended the *Clergy Act* to require institutions to compile and disclose statistics for incidents of sexual assault, dating violence, domestic violence, and stalking. VAWA also requires institutions to include new policy, procedural, and programmatic disclosures regarding sexual assault prevention, response, and adjudication in their ASRs. All institutions were already obligated to make a documented good-faith effort to comply with the statutory requirements of VAWA and to include all new required content in the 2014 ASR. Because the Department issued Final Rules on the *Clergy Act* amendments before November 1, 2014, the new regulations went into effect on July 1, 2015, per the Department’s Master Calendar. GU management must take immediate action to develop and implement policies, procedures, and programs that address these requirements, if they have not already done so. University officials may access the text of the Final Rule at: <http://ifap.ed.gov/fregisters/attachments/FR102014FinalRuleViolenceAgainstWomenAct.pdf>.

Finally, GU officials are strongly advised 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. At the time that this program review began, the Department was in the process of transferring DFSCA enforcement jurisdiction to FSA. That process is now complete. Therefore, it is essential that the University continues to develop its DAAPP, actively distributes accurate

⁷ Subject to GU’s full and timely production of the documentation listed in Appendix A.

and complete program materials to members of the campus community on an annual basis; and conducts comprehensive biennial reviews on the required schedule. The University must ensure that its review process is a substantive and probative inquiry into the actual effectiveness of its program and not merely a conclusory ratification of existing policy. GU's biennial review reports must include substantive information about the research methods used and outcomes reached during each review. Care must be taken to ensure that all findings and recommendations are supported by valid evidence. Finally, each report must be approved by the University's President and/or its board. For assistance or more information about the *Clery Act* and/or the *DFSCA*, please contact your program review team or a member of the Philadelphia School Participation Division.

Appendix A

As part of the resolution of this program review, GU must submit the following information to the Department:

- 1) Copies of GU's 2012, 2013, and 2014 Annual Security Reports with credible evidence showing that each of these reports was actively distributed to mandatory recipients. Suitable evidence of distribution may include copies of e-mail messages used to transmit the report or other similar documentation.
- 2) Copies of "audit trails" that substantiate the campus crime statistics that were included in GU's ASRs for 2012, 2013, and 2014. Each audit trail must include a list of all incidents of Clery-reportable criminal offenses, hate crimes, arrests, and/or disciplinary referrals as reported to the GUPD, other CSAs, and/or local law enforcement agencies. Audit trails must be organized by calendar year, offense classification, *Clery Act* geographical category, incident report number, and incident date. Data regarding arrests and disciplinary referrals must include the name of the person cited and the arrest record number or disciplinary referral case number.
- 3) Copies of GU's 2012, 2013, and 2014 Annual Fire Safety Reports with credible evidence showing that each of these reports was actively distributed to mandatory recipients. Suitable evidence of distribution may include copies of e-mail messages used to transmit the report or other similar documentation.
- 4) Copies of all Timely Warnings and Emergency Notifications issued by GU during calendar year 2014 and thus far in 2015.
- 5) A copy of the GUPD's daily crime log for the period January 1, 2015 to August 15, 2015.
- 6) A status report on GU's efforts to implement the requirements of Section 304 of VAWA.
- 7) A copy of GU's current DAAPP program materials, a copy of the current annual disclosure, credible proof that the annual disclosure was actively distributed during calendar years 2013, 2014, and thus far in 2015, and copies of the University's two most-recent biennial review reports.

These materials must be submitted via electronic mail to the CACT at clery@ed.gov within 45 days of its receipt of this FPRD. GU's submission must reference the PRCN noted on the cover letter to this FPRD in the subject line of its e-mail message. If any of the requested records were not produced or do not exist, GU officials must clearly communicate that fact to the Department in writing via electronic mail. In this context, GU officials are advised that no new documents are to be created at this time for the purpose of attempting to demonstrate compliance with any *Clery Act* or *DFSCA* requirement for past periods. The University is also advised that a failure to

respond to this request for document production will result in a referral for the imposition of an adverse administrative action, in addition to any such referrals that may be made as a result of the deficiencies identified in the initial program review report.