



April 25, 2011

Dr. Daniel Fogel, President
University of Vermont
344-353 Waterman Bldg.
Burlington, VT 05405

Certified Mail
Return Receipt Requested
No: **7006 2760 0002 1734 0090**

RE: **Final Program Review Determination**
OPE ID: **00369600**
PRCN: **200940127029**

Dear Dr. Fogel:

The U.S. Department of Education's (Department's) School Participation Team - Boston issued a program review report on May 10, 2010 covering The University of Vermont's (UVM's) compliance with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act in §485(f) of the Higher Education Act of 1965, as amended, 20 U.S.C. §1092(f) and the Department's implementing regulations for the calendar year 2007. UVM's final response was received on June 25, 2010. A copy of the program review report (and related attachments) and UVM's response are attached. Any supporting documentation submitted with the response is being retained by the Department and is available for inspection by UVM 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 UVM of the Department's determination and to close the program review report. Due to the serious nature of the finding, this FPRD is being referred to the Department's Administrative Actions and Appeals Division (AAAD) for its consideration of possible administrative action pursuant to 34 C.F.R. Part 668, Subpart G. Such action may include a fine, and/or the limitation, suspension or termination of the eligibility of the institution. If AAAD initiates an action, the institution will be notified under separate cover of that action. AAAD's notification will also include information regarding the institution's appeal rights and procedures on how to contest that action.

Federal Student Aid, School Participation Team - Boston
5 Post Office Sq., Suite 900
Boston, MA 02109-3921
www.FederalStudentAid.ed.gov

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Record Retention:

Program records relating to the period covered by the program review must be retained until the later of: resolution of the violations, weaknesses, and other issues identified during the program review as delineated at 34 C.F.R. § 668.24 (e)(3); or the end of the retention period applicable to Title IV-related records under 34 C.F.R. § 668.24 (e)(1) and (e)(2).

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 Ed Buckley at 617-289-0132.

Sincerely,



Ms. Betty Coughlin
Area Case Director
New York/Boston School Participation Team

Enclosures:

Final Program Review Determination
Institution's Response to the Program Review Report
Program Review Report

cc: Ms. Marie D. Johnson, Director of Student Financial Services, UVM
Ms. Lianne Tuomey, Chief of Police, UVM
Ms. Lucy Singer, Senior Associate General Counsel, UVM

Prepared for
University of Vermont



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Prepared by
U.S. Department of Education
Federal Student Aid
New York/Boston School Participation Team

Final Program Review Determination

April 25, 2010

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A. Institutional Information

**University of Vermont
Waterman Bldg.
Burlington, VT 05405**

Type: Public

Highest Level of Offering: Master/ Doctoral Degree

Accrediting Agency: New England Association of Schools and Colleges

Current Student Enrollment: 12,239 (2007-2008)

% of Students Receiving Title IV: 74

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

2007/2008 Award Year

Federal Pell Grant	\$ 4,385,634
Federal Supplemental Educational Opportunity Grant (FSEOG)	\$ 1,810,617
Federal Work Study (FWS)	\$ 2,126,153
Federal Perkins Loan Program (Perkins)	\$ 1,815,460
Federal Family Education Loan Program (FFEL)	\$67,254,771

Default Rate FFEL/DL:	2007	1.9%
	2006	.8%
	2005	.6%

Default Rate Perkins:	2007	2.9%
	2006	2.8%
	2005	3.0%

Located in Burlington, VT the University of Vermont (UVM; the University) comprises seven undergraduate schools, an honors college, a graduate college, and a college of medicine. The UVM Police Services (UVMPS) has 20 sworn police officers who are commissioned law enforcement officers pursuant to 16 VSA 2283. The UVMPS has officers on duty 24-hours a day seven days a week, and their jurisdictional authority is state-wide.

B. Scope of Review

The U.S. Department of Education (the Department; ED) conducted a program review at the University of Vermont from July 7-10, 2009. The review was conducted by Ms. Linda Shewack, Mr. Edward Buckley, and Mr. Mark Malboeuf.

The focus of the review was to evaluate UVM'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. §§668.41-668.46. UVM was selected for review from a sample of institutions of higher education with sworn police departments. The review was not the result of any specific complaint or allegation of non-compliance. The review consisted of an examination of UVM's police incident reports, arrest records, and disciplinary files as well as policies and procedures related to the Clery Act. Staff interviews were also conducted.

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 UVM. 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 law enforcement agencies' reporting practices, 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 received from participating postsecondary institutions. The CAU reviewed a total of 81 Part I Offenses and 28 Part II Offenses that were recorded from January 1, 2008 through December 31, 2008. A copy of the CJIS report is included with the program review report (Appendix D).

The Department reviewed a sample of 105 campus police incident and arrest reports and 34 disciplinary reports for calendar year 2007. The files were selected randomly from a list of all incidents of crime reported to the UVMPS or other campus security authority and from a listing of all arrests and disciplinary referrals for law violations involving alcohol, illegal drugs, illegal usage of controlled substances, and weapons offenses during the same calendar year. Approximately 105 incidents were cross-checked against the daily crime log to ensure that crimes occurring within the patrol jurisdiction were entered properly on the log as required.

Disclaimer:

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

With regard to the discrepancies noted in the QAR, the exit briefing packet provided by the CAU in its exit briefing addressed the finding(s) and UVMPS's compliance with the UCR guidelines. Unless specified in Section C of this report, no further action is required as it relates to the QAR.

C. Findings and Final Determinations

Finding # 1: Inaccurate Reporting of Crime Statistics

Citation Summary:

Institutions participating in the Federal student financial aid programs must compile and publish statistics concerning the occurrence on campus of the following incidents: homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. In addition, an institution is required to disclose arrests and disciplinary actions related to violations of Federal or State drug, liquor and weapons laws. 34 C.F.R. § 668.46(c)(1). An institution is not required to report statistics under paragraphs (c)(1) and (3) of §668.46 when the crime is reported to a professional counselor 34 C.F.R. § 668.46(c)(6).

Noncompliance Summary:

UVM did not include all reported sex offenses in the crime statistics it reported to the Department for the 2007 calendar year. UVM included 20 sex offenses that were supposedly reported anonymously by the victims under the heading "Sexual Assault-anonymous" in its annual security report entitled "Public Safety at the University of Vermont." Specifically, the offenses were reported under the heading Sex Offenses-Nonforcible, Sexual Assaults (anonymous). In addition, two forcible sexual assaults were included under the Sex Offenses –Forcible heading. However, UVM only reported the two forcible sex offenses to the Department. UVM did not include in its report to the Department the 20 additional anonymously reported sex offenses. While the University may include a caveat in its crime report to indicate that sex offenses have been reported anonymously, the 20 anonymously reported sex offenses should have been reported to the Department in addition to the two that UVM did report. Also, UVM should have determined whether these anonymously reported offenses were non-forcible or forcible so that they could be categorized correctly.

All 20 of these reports were made to the Women's Center, which is not staffed by professionally licensed mental health counselors. While the staff at the center provides assistance and support to victims of sexual offenses, they are not licensed counselors providing mental health services within the scope of a license or certification. Thus, reports made to the center would not fall under the exemption for professional counselors.

Students are directed to view the campus security statistics either on the University's web site or on the Department's site. While persons accessing the statistics via UVM's web

site saw that 20 “anonymous” assaults occurred on campus, the manner in which the statistic is reported is not clear regarding whether the assault was forcible or non-forcible. Persons accessing the statistics on the Department’s website would have had no information regarding these assaults at all.

Required Action Summary:

As a result of this finding, UVM must enter crime statistics correctly when reporting to the Department’s OPE crime statistics web site. UVM was required to develop procedures to ensure that correct information is reported to the Department from the data it has compiled. Further, UVM had to determine which campus security authorities meet the exemption for professional counselors under 34 C.F.R. § 668.46(a) so that staff members know who is required to report crimes and who may report them voluntarily. In addition, the Department required UVM to submit a copy of these procedures in its response to this report.

UVM’s Response: UVM indicated that the failure to report the 20 “anonymous” assaults arose from the mistaken belief that such anonymous reports were not required to be included in the statistics provided to the Department. The UVM Police Department and all UVM Campus Security Authorities have been made aware that this is not the case through a series of training sessions. In the future, all assaults, whether reported anonymously or not, reported to the Women’s Center, or through the UVM Police Department’s anonymous crime reporting web link will be included in the University’s statistics. Further, UVM states that the UVM Police Department will attempt to categorize anonymous sexual assault reports as forcible or non-forcible using the best information available to them in the anonymous crime report. UVM will include a disclaimer with the report to explain this practice.

Final Determination:

UVM’s response is sufficient to address this finding. However, the corrective measures taken by UVM do not diminish the seriousness of its failure to accurately report campus crime statistics and distribute its Campus Security Report in accordance with Federal regulations.

Finding #2: Crime Log Deficiencies

Citation Summary:

An institution that maintains a campus police or a campus security department must maintain a written, easily understood daily crime log that records, by the date the crime was reported, any crime that occurred on campus, on a noncampus building or property, on public property, or within the patrol jurisdiction of the campus police or the campus security department and is reported to the campus police or the campus security department. The log must include –

- (i) The nature, date, time, and general location of each crime; and
- (ii) The disposition of the complaint, if known. 34 C.F.R. § 668.46(f)(1).

Noncompliance Summary:

After reviewing the crime log for calendar year 2007 and cross referencing the list of burglaries included in the crime statistics reported to Department, it was determined that one burglary listed on the crime log was not listed on the crime statistics reported to the Department. Also, it appeared that, in some cases, the crime log may not have been updated with current information regarding the disposition of the incident. The crime log lists 18 crimes that remain open incidents listed as larcenies though they were included in the burglaries that UVM reported to the Department. Additionally, 3 incidents that remained coded as closed “suspicious events” in the crime log were also on the school’s list of burglaries reported to the Department. (See Appendix B of the program review report for a listing of the incident report numbers which are provided for informational purposes only).

Required Action Summary:

UVM was required to develop a means of compiling and recording the data so that a proper audit trail is established. Also, UVM must ensure that it updates the crime log with the disposition of crimes, if known, within 2 days. UVM is not required to update the crime log if the change in disposition occurs after 60 days has passed (See the Handbook for Campus Crime Reporting, pg. 70). UVM must develop procedures for compiling its crime statistics and to ensure that updates are made to the crime log if the disposition is known within the 60 day timeframe. Those procedures must be included in UVM’s response to this report.

UVM’s Response: In response to this finding, UVM provided the Department with updated crime log procedures. Going forward, the UVMPD will identify Clery reportable crimes on a monthly basis, and it will update the status of crimes during this procedure. Further, if the police department is aware of a change in the disposition between the monthly reviews, it will update the crime log at that time. This practice will ensure that the crime log will be updated within the 2 business day timeframe.

Final Determination:

The crime log procedures UVM submitted with its responses are sufficient to resolve and close this finding.

Finding #3: Insufficient Information Regarding Timely Warning

Citation Summary:

Federal regulations stipulate that an institution must include in its annual security report, policies for making timely warning reports to members of the campus community

regarding the occurrence of crimes described in paragraph 34 C.F.R. §668.46(c)(1). 668.46(b)(2)(i).

Noncompliance Summary:

UVM's timely warning policy in its 2008-2009 annual security report is insufficient. The report mentioned that timely warnings may be made; however, it does not describe the mode of communication in which those warnings will be made in the case of an imminent threat.

During the review, institutional officials indicated that UVM does have procedures to utilize the email system to issue an email blast in the case of an imminent threat. However, this information is not included in the campus security report.

Required Action Summary:

The University must include information in its annual security report that outlines all modes of communication that will be used to alert the campus community of any imminent threats should a timely warning be necessary. A copy of the updated timely warning information must be included with the institution's response to this report.

UVM's Response: In response to this finding, UVM provided updated language that will be included in future annual security reports regarding the mode of communication for timely warnings. This language provides sufficient information to students and employees so that they can be aware of how a timely warning will be issued. Further, the institution will no longer include this information under the heading "Off Campus Crime." Timely warning information will instead have its own heading in the annual security report so that it will be easier for students and employees to find.

Final Determination:

UVM's response is sufficient to address this finding. Thus, the Department will consider this finding closed.

Finding #4: Sexual Assault Policy Insufficient

Citation Summary:

Institutions participating in Title IV, HEA federal aid programs must publish and distribute an annual security report that discloses campus security policies as well as crime statistics for the last three years. 34 C.F.R. § 668.46. The report must include the following information:

- (1) Procedures for campus disciplinary actions in the case of an alleged sexual assault to include a clear statement that both the accuser and the accused*

*have the opportunity to have others present during a disciplinary proceeding.
34 C.F.R. § 668.46(b)(11)(vi)(A);*

Noncompliance Summary:

UVM's procedures for a disciplinary action involving an alleged sexual offense do not include a statement that the accused, as well as the accuser, has the opportunity to have others present during the disciplinary proceedings. This statement is included in UVM's Student Handbook for Policies and Conduct, but it must also be included in the campus crime report.

Required action Summary:

This statement must be included in UVM's annual campus security report or any information referred to in the security report that informs students of the disciplinary actions in a hearing or disciplinary action involving an alleged sexual offense. UVM must submit a copy of this statement with the institution's response to this report.

UVM's Response: In response to this finding, the institution added the required information to its sexual assault policy included in the annual campus security report. UVM submitted a copy of this statement with its response and stated that it will include this statement in future reports.

Final Determination:

UVM's response is sufficient to address this finding. Thus, the Department will consider this finding closed.

Finding # 5: Failure to Distribute the Campus Security Report (CSR) in Accordance with Federal Regulations

Citation Summary:

*The Department's regulations require institutions to provide the CSR to all current students and employees through appropriate publications and mailing. Acceptable means of delivery include regular U.S. Mail, hand delivery, or campus mail distribution to each individual or posting on the institution's Internet site. 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 its exact electronic address, a description of its contents, as well as a statement that a paper copy will be provided upon request.
34 C.F.R. § 668.41 (e)*

Noncompliance Summary:

UVM failed to distribute its 2008 campus crime report in accordance with the Department's regulations. Although UVM met the requirement that it publish its annual security report by October 1, the email sent on September 29, 2008 to inform the campus community that the report was available did not include the exact URL where the report was located. It specified only the general Police Department web address.

Required Action Summary:

UVM must include the exact URL address for the annual security report in its notification to students and employees.

UVM's Response: In response to this finding, the institution indicated that it will, going forward, include the exact URL to the electronic version of the annual security report.

Final Determination:

The Department has determined that UVM's response is sufficient to address this finding. However, the corrective measures taken by UVM do not diminish the seriousness of its failure to distribute its Campus Security Report in accordance with Federal regulations.