



DEC 12 2014

Mr. Greg Goode
President
Salina Area Technical College
2562 Centennial Road
Salina, KS 67401-8195

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Dear Mr. Goode:

This letter is to inform you that the U.S. Department of Education (Department) intends to fine Salina Area Technical College (SATC) a total of \$72,500 based on the violations of statutory and regulatory requirements outlined below. This fine action is taken in accordance with the procedures that the Secretary of Education (Secretary) has established for assessing fines against institutions participating in the programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 *et seq.* (Title IV, HEA programs). As applicable here, under the Department's regulations, the Department may impose a fine of up to \$27,500 for each violation. 34 C.F.R. § 668.84. As detailed below, this fine action is based on SATC's failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) in §485(f) of the HEA, 20 U.S.C. § 1092(f), and the Department's regulations in 34 C.F.R. §§ 668.41 and 668.46.

Under the Clery Act, institutions participating in the Title IV, HEA programs must prepare, publish and distribute an Annual Security Report (ASR) by October 1 of each year. 34 C.F.R. § 668.41(e). The ASR must include a description of the institution's campus security policies in specific areas. 34 C.F.R. § 668.46(b). A complete ASR must include all the policy statements listed in 34 C.F.R. § 668.46(b). In addition, the ASR must report statistics for the three most recent calendar years concerning the occurrence of certain crimes on campus, in or on certain non-campus buildings or property, and on public property. 34 C.F.R. § 668.46(c). An institution must compile and publish crime statistics for each separate campus. 34 C.F.R. § 668.46(d). The crimes that must be reported include: criminal homicide (murder and manslaughter); sex offenses (forcible and non-forcible); robbery; aggravated assault; burglary; motor vehicle theft; arson; and arrests for liquor law violations, drug law violations and illegal weapons possession. The ASR must be distributed to current students and employees and must be made available to applicants for admission and employment to provide them with accurate, complete and timely information about crime and safety on campus. 34 C.F.R. § 668.41(e). Institutions must submit the crime statistics annually to the Department, which makes them publicly available. 34 C.F.R. § 668.41(e)(5).

Federal Student Aid
AN OFFICE of the U.S. DEPARTMENT of EDUCATION

Administrative Actions and Appeals Service Group
830 First St., N.E. Washington, D.C. 20002-8019
StudentAid.gov

The Drug-Free Schools and Communities Act Amendments of 1989 (DFSCA) and the Department's regulations require institutions of higher education to adopt and implement a drug prevention program for its students. 34 C.F.R. § 86.100.

The Department conducted a program review at SATC from August 29, 2011 to September 2, 2011. The review included a general assessment of SATC's compliance with statutes and regulations pertaining to the institution's administration of Title IV programs. The reviewers also examined SATC's compliance with the Clery Act, specifically the accuracy and completeness of campus crime statistics and policy disclosures published in its 2010 ASR.

On November 3, 2011, the Department issued a Program Review Report to SATC. The review found that SATC had not complied with the Clery Act and with the Department's implementing regulations. SATC responded to the report on January 19, 2012. After reviewing SATC's response, the Department issued its Final Program Review Determination (FPRD) letter to SATC on August 5, 2013. The FPRD is incorporated by reference into this fine action. (Enclosure 1).

The Department is taking this fine action based on the findings in the FPRD, which concluded that SATC did not properly distribute its 2010 ASR to students and employees, and failed to properly notify prospective students and employees about the availability of the 2010 ASR. Additionally, the 2010 ASR did not include Eleven (11) required policy statements. The FPRD also concluded that SATC did not obtain crime statistics for Kansas State University – Salina (KSUS), one of its additional locations and that SATC did not comply with the DFSCA and the Department's implementing regulations.¹

SATC DID NOT PROPERLY DISTRIBUTE ITS 2010 ASR TO STUDENTS AND EMPLOYEES

Under the Clery Act and the Department's regulations, an institution participating in the Title IV, HEA programs must distribute its ASR to all enrolled students and current employees through appropriate publications and mailings. The ASR must be distributed by October 1 of each year and may be made by: direct mailing to each individual through the U.S. Postal Service, campus mail, or electronic mail; a publication or publications provided directly to each individual; or posting on an Internet website or an Intranet website. 34 C.F.R. § 668.41(e). If an institution chooses to distribute its ASR to its enrolled students by posting the disclosure on an Internet website or an Intranet website, the institution must, by October 1 of each year, distribute to all enrolled students a notice that includes a statement of the report's availability, the exact electronic address at which the report is posted, a brief description of the report's contents, and a statement that the institution will provide a paper copy of the report upon request. 34 C.F.R. § 668.41(c)(2) and (e)(2).

¹ The FPRD included an additional finding regarding the institution's failure to include in its 2010 ASR all required categories of crime broken down by geographical location. The Department has decided not to impose a fine relating to that Finding.

If an institution chooses to distribute its ASR to current employees by posting the disclosure on an Internet website or an Intranet website, the institution must, by October 1 of each year, distribute to all current employees a notice that includes a statement of the report's availability, the exact electronic address at which the report is posted, a brief description of the report's contents, and a statement that the institution will provide a paper copy of the report upon request. 34 C.F.R. § 668.41(e)(3).

If the institution chooses to provide its ASR to prospective students and prospective employees by posting the disclosure on an Internet website, the notice must include the exact electronic address at which the report is posted, a brief description of the report, and a statement that the institution will provide a paper copy of the report upon request. 34 C.F.R. § 668.41(e)(4).

The Program Review Report found that SATC did not distribute the ASR to all enrolled students and current employees as required by the Clery Act. SATC did not have any mechanism to distribute the ASR or provide individual notice of its availability. In its January 19, 2012 response to the Program Review Report, SATC acknowledged that it did not properly distribute its 2010 ASR to students and employees and did not notify prospective students and employees about the availability of the 2010 ASR. By failing to distribute the ASR, SATC violated the Clery Act and the Department's regulations and deprived SATC's students and employees and prospective students and employees of timely crime statistics and information to help them make informed decisions about their personal safety.

SATC'S 2010 ASR OMITTED REQUIRED POLICY STATEMENTS

The Department's regulations require that participating institutions prepare an ASR that contains, among other things, the following: the institution's statement of current campus policies for making timely warning reports regarding crimes to members of the campus community; the institution's policies for preparing the annual disclosure of crime statistics; the institution's policies encouraging prompt reporting of crimes to the police; a description of the type and frequency of the institution's campus safety programs; a description of the institution's crime prevention programs; a statement explaining the importance of preserving evidence in cases of alleged sex crimes; and a statement that describes the institution's procedures on voluntary, confidential reporting of crimes. 34 C.F.R. § 668.46(b)(2).

SATC's 2010 ASR did not include policies and information required by 34 C.F.R. 668.46(b)(2). SATC's ASR for calendar year 2010 did not include the following required policy statements:

- A statement of policy regarding the annual disclosure of crime statistics.
- A description of the types and frequency of programs designed to inform students and employees about campus security procedures.
- A description of programs to inform students and employees about crime prevention.

- 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, including a statement that the accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and a statement that both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense.
- 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.
- A statement explaining how to access law enforcement information concerning registered sex offenders.
- A statement of policy regarding the monitoring and recording through local police agencies of criminal activity that occurs at off-campus locations that are owned or controlled by recognized student organizations.
- A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of state underage drinking laws.
- A statement of policy regarding the possession, use and sale of illegal drugs and enforcement of Federal and state drug laws.
- A description of drug and/or alcohol abuse education and prevention programs.

SATC concurred with the finding and revised its policy statements. However, these efforts do not excuse SATC's failure to have the required policy statements in its 2010 ASR, as required by the Clery Act and the Department's regulations.

SATC FAILED TO PROPERLY DEFINE THE CAMPUS AND REPORT CRIME STATISTICS FOR KSUS

The Clery Act and the Department's regulations require an institution participating in the Title IV, HEA programs to include in the crime statistics in its ASR, reportable crimes that occur in areas defined as "Campus" and "Non-campus Buildings or Property," 34 C.F.R §§ 668.46(a), 668.46(c)(4) and (c)(8). Specifically, an institution must include in the crime statistics reported crimes in any building or property owned or controlled by the institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls. 34 C.F.R § 668.46(a)(1). An institution must include the crime statistics in its ASR for each separate campus. 34 C.F.R § 668.46(d).

The reviewers found that SATC had not properly defined its campus for the purpose of reporting crime statistics. At the time of the review, SATC had a written agreement with Kansas State University - Salina to provide housing for some SATC students. However, SATC had not requested crime statistics from Kansas State University - Salina or local law enforcement agencies for inclusion in the crime statistics in SATC's 2010 ASR.

SATC concurred with the finding and acknowledged that it had failed to properly define its campus and to collect crime statistics as required by the Clery Act and the Department's regulations.

SATC DID NOT COMPLY WITH THE DRUG AND ALCOHOL ABUSE PREVENTION REQUIREMENTS

The DFSCA and the Department's regulations require each institution of higher education to adopt and implement a drug prevention program for its students and employees that includes the annual distribution in writing to each employee, and to each student who is taking one or more classes for any type of academic credit (except for continuing education units) the following standards of conduct that: prohibit the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities; a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol; a description of the health risks associated with the use of illicit drugs and the abuse of alcohol; a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; a clear statement that the institution will impose disciplinary sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, for violation of the standards of conduct. 34 C.F.R. § 86.100.

SATC did not meet the requirements of DFSCA. Specifically, SATC failed to develop and implement a substantive drug and alcohol abuse prevention program (DAAPP) that contained all of the elements required in the Department's regulations and failed to distribute a DAAPP disclosure to all employees and students enrolled for academic credit on an annual basis. SATC also failed to conduct a biennial review of the DAAPP as required by the DFSCA. SATC concurred with the finding. In violating the DFSCA and the Department's regulations, SATC failed to provide required information about drug and alcohol abuse prevention to its students and employees.

In determining the amount of a fine, the Department considers both the gravity of the offense and the size of the institution. 34 C.F.R. § 668.92. Pursuant to the Secretary's decision In the Matter of Bnai Arugath Habosem, Docket No. 92-131-ST (August 24, 1993), the size of an institution is based on whether it is above or below the median funding levels for the Title IV, HEA programs in which it participates. The latest year for which complete funding data is available for SATC is 2012-2013 award year. According to the Department records, SATC received approximately \$631,084 in Federal Pell Grant (Pell) funds, \$677,333 in Federal Direct Loan funds and \$2,883 in Campus-Based funds. The latest information available to the Department indicates that the median funding level for institutions participating in the Federal Pell Grant program is \$1,583,853, for institutions participating in the Federal Direct Loan programs, the median funding level is \$3,105,978, and for institutions participating in the Campus-Based programs, the median funding level is \$275,987. Accordingly, SATC is a small institution because its funding levels for Federal Pell Grant, Federal Direct Loan or Campus-Based funds are below the median funding levels for those Title IV, HEA programs.

As detailed in this letter, SATC's violations of the Clery Act, the DFSCA, and the Department's regulations are very serious and numerous. These failures endangered SATC's students and employees who must be able to rely on the disclosures of campus crime statistics, policies and statements and the accurate reporting of crimes to take precautions for their safety. Moreover, the Department considers an institution's compliance with the Clery Act requirements to be part of its administrative capability, and SATC's failure to comply with those requirements constitutes an inability to administer properly the Title IV programs.

After considering the gravity of the violations and the small size of the institution, I have assessed a fine of \$15,000 for SATC's failure to properly distribute its 2010 ASR to current students and employees, and its failure to notify prospective students and employees about the availability of the 2010 ASR. This is a serious violation because current students and employees and prospective students and employee were denied important information to make informed safety decisions. Under the law, institutions are required to provide students and employees with the important crime and security information in the ASR to help them make informed safety decisions. SATC's failure to provide the crime statistics deprived students, employees and prospective students and employees of this information.

I have assessed \$27,500 for SATC's failure to include adequate policy statements in 11 areas in its calendar year 2010 ASR. This is a serious violation because by failing to include these required policy statements in its ASR, SATC denied the campus community important information about the institution's security policies and procedures. Students and employees cannot take advantage of information that has not been provided to them. In light of SATC's small size, I am imposing a fine of \$5,000 for each missing policy statement up to a maximum of \$27,500. In this case, SATC failed to include policy statements in 11 required areas, so I have assessed the maximum amount.

I have assessed \$15,000 for SATC's failure to include the area it used at Kansas State University - Salina as part of its campus and to include crimes reported in that area in its crime statistics. This is a serious violation because current and prospective students and employees were denied accurate information about crime on the SATC campus that would help them make informed safety decisions. I am imposing less than the maximum fine because SATC is a small institution.

I have also assessed a fine of \$15,000 for SATC's multiple violations of the DFSCA and 34 C.F.R. Part 86. SATC failed to develop and implement a substantive drug and alcohol abuse prevention program legally required and also failed to distribute a DAAPP disclosure to all employees and students enrolled for academic credit on an annual basis. The DAAPP is intended to ensure that students and employees receive information about how to avoid and address drug and alcohol abuse. SATC's failure to provide this information deprived its students and employees of this vital information. I am imposing less than the maximum fine amount for this violation because of SATC's size.

Mr. Greg Goode
Salina Area Technical College
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The fine of \$72,500 will be imposed on **January 2, 2015**, unless I receive, by that date, a request for a hearing or written material indicating why the fine should not be imposed. SATC may submit both a written request for a hearing and written material indicating why a fine should not be imposed.

If SATC chooses to request a hearing or submit written material, you must write to me at:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Program Compliance
830 First Street, NE – UCP-3, Room 84F2
Washington, DC 20002-8019

Upon receipt of a request for a hearing, the case will be referred to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of SATC's case to a hearing official who will conduct an independent hearing. SATC is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If SATC does not request a hearing but submits written material instead, I will consider that material and notify SATC of the amount of fine, if any, that will be imposed.

ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT SATC SUBMITS MUST BE RECEIVED BY JANUARY 2, 2015; OTHERWISE, THE \$72,500 FINE WILL BE EFFECTIVE ON THAT DATE.

If you have any questions or desire any additional explanation of SATC's rights with respect to this action, please contact Lawrence Mwethuku of my staff at 202/377-3684.

Sincerely,



Mary E. Gust, Director
Administrative Actions and Appeals Service Group
Federal Student Aid/Program Compliance
U.S. Department of Education

Enclosure

cc: Sunil Ahuja, Vice President for Accreditation Relations, Higher Learning
Commission, via sahuja@hlcommission.org
Peggy Hill, Board Secretary, Kansas State Board of Education, via plhill@ksde.org