



United States Department of Education

REGION II
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625 Fulton Street, 6th Floor
Brooklyn, New York 11201

STUDENT FINANCIAL ASSISTANCE PROGRAMS

February 1, 2002

Sister Ann Sakac
President
Mount Saint Mary College
330 Powell Avenue
Newburgh, New York 12550

Certified Mail
Return Receipt Requested

PRCN 200140218884

Dear Sister Sakac:

From August 21-24, 2001, Institutional Review Specialists Steve Eisenberg, Emil Milosz, and Shirley Brown conducted a focused program review of Mount Saint Mary College's compliance with the requirements of the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act" and the implementing regulations issued by the U.S. Department of Education. The findings of that review are presented in the enclosed report.

This report contains findings regarding the school's compliance with the law and regulations. Findings of noncompliance are referenced to the applicable statutory or regulatory provision. Please review and respond to the report, indicating the corrective actions taken by the institution. Your response should be sent directly to this office, to the attention of Mr. Eisenberg, within 30 days of your receipt of the report.

I would like to express my appreciation for the courtesy and cooperation extended during the review. If you have any questions concerning this report, please call Mr. Eisenberg at (718) 488-3575.

Sincerely,

Robert J. McKiernan, Area Case Director
Case Management Division-Northeast
New York Team

Cc: Harry Steinway, Dean of Students
Mount Saint Mary College

Enclosure

bcc: Reading file
Correspondence file
Steve Eisenberg
Robert McKiernan

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PROGRAM REVIEW REPORT

INSTITUTION:

Mount Saint Mary College

PRCN: 200140218884
TIN: 141468399

OPEID: 00277800
DUNS: 072721632

DATES OF REVIEW:

August 21 - 24, 2001

FOCUSED REVIEW:

"Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act"

CALENDAR YEARS REVIEWED:

1997, 1998 and 1999

TYPE AND CONTROL:

Private, Nonprofit Institution

ACCREDITATION:

Middle States Association of Colleges and Schools – Higher Education

SFA PROGRAM FUNDING:

Program	FY 99/00
Pell Grant	\$ 859,397
FSEOG	168,250
FWS	100,451
FFEL	6,983,799
Total	\$ 8,111,897

Source: A-133 Audit Report, June 30, 2000

DEFAULT RATES:

1999 - 4.7% 1998 - 4.0% 1997 - 8.6%

Source: PEPS

REVIEWING ED OFFICIALS:

Steve Eisenberg
Emil Milosz
Shirley Brown

INSTITUTIONAL OFFICIALS CONTACTED:

Sister Ann Sakac, President
Harry Steinway, Dean of Students
Robert L. Sena, Director of Security
Mary Beth McGuire, Associate Dean for Counseling
Gary Bice, Director of Residence Life

INTRODUCTION

BACKGROUND:

Mount Saint Mary College (the College) is a private, nonprofit institution of higher education, established in 1960. The college is accredited by the Middle States Association of Colleges and Schools and authorized by the New York State Education Department. The college is located in Newburgh, New York and offers liberal arts, sciences, and professional studies.

The institution participates in the Federal Pell Grant, Federal Supplemental Educational Opportunity Grant, Federal Work Study, Federal Perkins Loan, and Federal Family Education Loan programs authorized by Title IV of the Higher Education Act of 1965, as amended (HEA). During Fall 2000 approximately 2100 students attended Mount Saint Mary College, including almost 1700 undergraduate students.

Mount Saint Mary College was selected for review after the Department of Education (Department) received a complaint regarding the institution's compliance with the requirements of the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act," (Campus Security Act) at §485(f) of the HEA. The complaint alleged that the college did not correctly report all forcible sexual offenses in the annual Campus Security Report, and did not provide timely warning to the campus community after those offenses to help prevent similar crimes.

Prior to our review, the College re-reviewed all of its internal criminal incident reports for 1997, 1998, and 1999, and determined that there were inaccuracies in the statistics it had reported to the Department as required by the Campus Security Act in 1998 and 1999. We considered the re-review as part of our analysis.

SCOPE OF REVIEW:

Members of the New York Case Management Team conducted a program review from August 21-24 on campus. The review examined the College's compliance with the requirements of the Campus Security Act. The review team interviewed College officials and reviewed relevant documents, including the Security Department Policies and Practices and Campus Crime Statistics brochure, the Student Handbook, the Crisis Communication Plan, the daily crime log, the public crime log, incident reports prepared by the Campus Security Department, and the judicial summary log of referrals for alcohol, drugs and other violations. The review also included interviews with officials of the Newburgh, NY Police Department.

During the review, some areas of noncompliance were noted. Findings of noncompliance are referenced to the applicable laws, regulations, and policies, and specify the actions to be taken by Mount Saint Mary College to bring the operation of the institution into compliance with regulations and statutes.

Although the review was thorough, it was focused on the institution's compliance with the requirements of the Campus Security Act and, therefore, was not an all-inclusive review of the institution's administration of the Title IV of the HEA programs. The absence of any statements in the report concerning Mount Saint Mary College'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 Mount Saint Mary College of its obligation to comply with all of the statutes or regulatory provisions governing the Title IV programs.

Mount Saint Mary College's response is due within 30 days of receipt of this report. The findings resulting from this program review could be referred to the Department's Administrative Action and Appeals Division for possible administrative action. Administrative action includes the imposition of fines, or limitation, suspension or termination of the institution's eligibility to participate in the Title IV programs.

FINDINGS

FINDING NO. 1 - Crime Statistics Not Accurately Disclosed in Annual Campus Security Report

The Campus Security Report filed by Mount Saint Mary College with the Department for the year 2000 included inaccurate statistics for 1998 and 1999:

- In 1998, the College incorrectly reported one (1) forcible sex offense as a nonforcible sex offense.
- In 1999, the College also incorrectly reported one (1) forcible sex offense as a nonforcible sex offense. In addition, the College:
 - a) did not report one (1) arrest for a liquor-law violation on public property,
 - b) underreported the number of judicial referrals for liquor-law violations as 41, when the actual total was 117, and
 - c) underreported the number of judicial referrals for drug abuse violations as 4, when the actual total was 18.

Incorrectly Reported Sex Offenses in 1998 and 1999

As alleged in the complaint received by our office, Mount Saint Mary College's 2000 Campus Security Report incorrectly reported one (1) forcible sex offense in 1998 as a nonforcible sex offense (Incident Report # 183), and also one (1) forcible sex offense in 1999 as a nonforcible sex offense (Confidential Sexual Assault Report 11/19/99). Prior to our visit, College officials re-reviewed the reports involved and determined that the incidents should have been classified and reported as forcible sex offenses in the Campus Security Report.

College officials stated that they originally considered the two incidents as consensual sex, based on the College's evaluation of the facts, and therefore reported them as nonforcible sex offenses. However, upon re-review, they determined that because the victims **reported** the incidents as forcible to the College, the incidents should be reported as forcible on the Campus Security Report.

In the College's 2001 Campus Security Report, the sex offenses cited above were re-classified as forcible and properly reported.¹

¹ The original complaint to the Department about the College's crime reporting also referred to forcible sexual offenses reported to the College in 2000 and 2001. These incidents would not be reportable until the 2001 and 2002 Campus Security Reports. We note that the 2001 Campus Security Report, issued after our site visit, included three (3) forcible sexual offenses for calendar year 2000.

The College did not report one (1) arrest on public property in 1999 for a liquor-law violation (Incident Report #152). College officials stated they were not originally aware that the arrest had to be reported. However, during the re-review, this became evident. The 2001 Campus Security Report reflects the corrected data.

Failure to accurately report all of the criminal occurrences required to be included in the Campus Security Report denies students and employees the opportunity to make informed decisions about the relative security of the campus environment and to make personal security decisions.

Section 485(f) of the HEA, as amended
34 CFR §668.14(c)(2) – Program Participation Agreement
34 CFR §668.46 - Institutional Security Policies and Crime
Statistics
34 CFR Part 668, Appendix E - Crime Definitions

REQUIREMENT: The College should review the requirements of 34 CFR §668.46 to ensure the accurate reporting of data in the College's Campus Security Report, and comply with the other requirements of 34 CFR §668.46. The College's reporting system should include the reconciliation of all incidents reported on the daily crime log to incident reports and final reporting on the Campus Security Report. The College should establish written procedures for its campus crime reporting practices, and its practices for gathering the statistics and including them on the report. With its response to this report, the College should include a copy of these procedures, as well as a copy of anything sent to the campus community regarding this issue.

FINDING NO. 2 – Timely Warning Not Provided After Forcible Sexual Offenses Reported to College

As alleged in the complaint received by our office, Mount Saint Mary College did not provide timely warning to the campus community after two (2) separate forcible sexual offenses were reported in November 2000 and February 2001 as required by the HEA and the Department's regulations. The Campus Security Act and the regulations require institutions to provide timely warning if they consider a reported crime to represent a threat to students and employees. In addition, the College's own policy, as stated in its year 2000 Campus Security Report, requires timely warning in such cases.

Timely Warning was not provided after two forcible sexual assaults reported

The original complaint about the College's actions received by the Department alleged that a student was sexually assaulted by 2 other students, in a residence hall, on February 4, 2001. The incident was reported to the College on February 5, 2001 (Incident Report #903). The complaint further alleged that one of the perpetrators had sexually assaulted another student at the College before this incident, and may also have sexually assaulted a third student at the College. The complaint stated that no timely warning was provided following the first and second incident despite the fact that the incidents posed a danger to the campus community.

Our review confirmed that one of the alleged perpetrators in the February 4 sexual assault, was also the alleged perpetrator in a sexual assault of another student, in a residence hall, reported to the College on November 3, 2000 (Incident Report #769). We were unable to determine whether the same individual was accused of sexually assaulting a third student, as alleged in the complaint, from the records available.

Following the report of the November 3, 2000 sexual assault, the College recorded the incident on the public log. College officials investigated the case, and advised the victim of her option to report the incident to the police, and to obtain counseling and other campus services. The incident report states that the victim reported the incident to the police, and obtained an order of protection on November 9, which was provided to the College. The College did not issue any timely warning to the campus community after the November 3 incident, other than posting the incident to the public crime log. The College also did not issue any timely warning after the February 5 report.

College's Emergency Response Plan was not activated

The College's 2000 Campus Security Report states that the College supports the rights of students and staff to be timely informed of incidents which may pose a threat to an individual's well being, and of those measures taken to provide precaution, reduce vulnerability, and promote swift and effective response to such incidents. The Report

further states that the Dean of Students may initiate the College's Emergency Response Plan to inform the campus community in a timely manner of crimes considered to be a threat to students and employees. The Director of Security-Safety may also issue warnings in a manner that will aid in the prevention of similar occurrences. However, the Emergency Response Plan was not activated after the (2) forcible sexual offenses were reported.

The College's procedures for emergency response are set forth in its Crisis Communication Plan. This plan was established to provide specific information about the handling of serious incidents involving students or matters that significantly influence student life. The plan specifically lists **assault** as an example of a serious incident, requiring the initiation of the crisis communication plan. However, the Crisis Communication Plan was not activated after the two (2) forcible sexual offenses were reported.

Under the College's policy, when it has been established that a serious incident has occurred, the Dean of Students is required to initiate the communications relay system. The Dean of Students asks the Director of Residence Life to notify all residents by use of a phone chain. The call would contain basic information. For example: 1) there has been an assault, 2) the student involved has been removed from campus, and 3) there is no present danger. In the above cases, the communications relay system was not used.

Also under the College's policy, a written update to all students would be initiated between 24/48 hours after an incident occurred. Such an update would include only basic information and respect confidentiality. This update would be written by the Dean. The Director of Public Information would be informed in a timely fashion of the written update. The updates were not provided regarding the forcible sexual offenses.

Contrary to the requirements of the Campus Security Act and the College's own policy, no timely warning was issued after the reported forcible sexual offenses. Failure to provide timely warning may have exposed the students and employees to a threat to their safety. College officials stated that they did not issue such a warning immediately after the incidents because they were still investigating the cases, and did not want to violate the rights of the alleged perpetrator. They also stated that since the alleged perpetrator was not indicted, no crime was committed. They acknowledged however, that after the second reported forcible sexual offense, the alleged perpetrator was required to move off campus, although continuing as a student.

REFERENCE:

Section 485(f) of the HEA, as amended
34 CFR §668.14(c)(2) – Program Participation Agreement
34 CFR §668.46(e) - Timely Warning

REQUIREMENT: The College should review the requirements of 34 CFR 668.46 (e), and ensure that in the future, it complies with the requirements for timely warning, where appropriate. The College should strengthen its written procedures for timely warning, and provide a copy of these procedures with its response to this report, as well as a copy of anything sent to the campus community regarding this issue.

FINDING NO. 3 - Public Crime Log Not Maintained Before January 1999, and Log Does Not Include All Required Elements

Mount Saint Mary College maintains a public crime log for the most recent 60-day period. Incidents that are more than 60 days old are transferred to an archive, and maintained for public inspection. Our review found that the log was not maintained for the period from October 1998 to December 1998. College officials stated that the current Director of Security was hired at the beginning of 1999. After he was hired, he reconstructed the missing period on the log, using the relevant incident reports. However, until the reconstruction was completed, in February 1999, the log did not include the period October 1998 to December 1998.

The public log format does not include all required elements. The current log includes the following information:

1. Date of the incident
2. Time
3. Location
4. Nature/Description
5. Report #

However, the log does not include the date the incident was reported to the College, and the disposition of the case as required by 34 C.F.R. §668.46(f)(1). College officials stated they would revise the public log to include all required elements.

REFERENCE:

- Section 485(f) of the HEA, as amended
- 34 CFR §668.14(c)(2) – Program Participation Agreement
- 34 CFR §668.46(f) - Institutional Security Policies and Crime Statistics
- 34 CFR Part 668, Appendix E - Crime Definitions

REQUIREMENT: The College should review the requirements of 34 CFR 668.46(f) to ensure the public crime log is properly maintained, and includes all required elements. The College should include a copy of a revised section of the public log with its response to this report.

REQUIREMENT: The College should continue to ensure that Campus Security Reports are prepared on a calendar year basis.



UNITED STATES DEPARTMENT OF EDUCATION

STUDENT FINANCIAL ASSISTANCE

**REGION II
75 PARK PLACE
NEW YORK, NY 10007**

March 22, 2002

**Sister Ann Sakac
President
Mount Saint Mary College
330 Powell Avenue
Newburgh, New York 12550**

**Certified Mail
Return Receipt Requested**

**Re: Final Program Review Determination
PRCN 200140218884
OPEID 00277800**

Dear Sister Sakac:

Thank you for your institution's response dated March 1, 2002, which our office received on March 4, 2002 in response to the February 1, 2002 Title IV program review report. That report covered Mount Saint Mary College's (the College) reporting under the Campus Security Act of 1990 for the 1997, 1998 and 1999 calendar years.

The New York Case Management Team has made final determinations for all of the findings in the program review report. The purpose of this Final Program Review Determination letter (FPRD) is to address those findings and close the program review.

The College has acknowledged the problem with the incorrectly reported sex offenses in 1998 and 1999, and the other underreported incidents on the Campus Security Reports (CSR), and has included corrected data regarding those incidents on the current CSR. The College has also strengthened its procedures to ensure that all incidents are properly reported.

The College has strengthened its timely warning procedures to ensure that students and employees are promptly informed of crimes, which may indicate a continuing threat. In its response, the College states that it did not conclude that the two (2) forcible sexual assaults reported in November 2000 and February 2001 constituted a threat to the college community. Although the regulations provide discretion to the institution to determine when crimes constitute a threat, we believe that the severity of the reported offenses required that timely warning be given in these cases. In light of the fact that the regulations permit some discretion, and considering the College has strengthened its procedures for timely warning, we consider this issue resolved.

The College also indicated that it has revised its public crime log to include all required elements, and has implemented all of our other recommendations for improving the CSR process.

Although we believe that the College has taken appropriate corrective actions in response to our report, it does not change the fact that the College did not properly report all crime incidents in 1998 and 1999, as well as the issues identified in other findings in the program review report. As a result of those problems, the New York Case Management Team is referring this FPRD to Administrative Actions and Appeals (AAA) for its consideration for a possible fine action pursuant to 34 CFR, Part 668, Subpart G of the Student Financial Assistance General Provisions. If AAA initiates any action, its notification will include information on institutional appeal rights and procedures on how to file an appeal.

The institution should be aware that repeat findings in future program reviews or failure to satisfactorily resolve the findings of this program review may lead to additional administrative proceedings to fine, limit, suspend, or terminate the institution pursuant to Part 668, Subpart G, of the Student Assistance General Provisions regulations.

Furthermore, the College must ensure that your independent auditor confirms the resolutions of the program review findings during the institution's next SPA audit.

Record retention requirements that pertain to program records relating to the period of time covered by this program review appear at 34 CFR 668.24.

Your continued cooperation throughout the program review process is appreciated. If you have any questions concerning this final program review determination, please contact Steve Eisenberg at 718-488-3575.

Sincerely,



Robert J. McKiernan, Area Case Director
Case Management Division - Northeast
New York Team

bcc: Reading file
School file
Correspondence file
Steve Eisenberg
Robert McKiernan