



JUN 24 2015

Mr. Jonathan Brand  
President  
Cornell College  
600 First Street South West  
Mount Vernon, IA 52314-1098

Sent: United Parcel Service  
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Dear Mr. Brand:

In a letter dated February 13, 2015, the U.S. Department of Education (Department) notified Cornell College (Cornell) of its intent to fine Cornell \$55,000 for its failure to comply with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) in §485(f) of the Higher Education Act of 1965, as amended (HEA). The proposed fine was based on the findings in a Final Audit Determination (FAD) letter issued on May 14, 2013. The FAD found that Cornell had failed to comply with the Clery Act.

In a letter dated March 7, 2015, Cornell's representative, Ms. Natasha J. Baker submitted a written response to that fine notice on Cornell's behalf and requested that the Department waive or reduce the proposed fine. In that letter, Cornell specifically stated that it was not requesting a hearing on the proposed fine.

The Department has considered the arguments and facts presented in Ms. Baker's letter. This letter provides the Department's final decision on Cornell's request that the proposed fine be waived or reduced.

In the February 13, 2015 fine notice, the Department proposed to fine Cornell a total of \$55,000 based on two findings.

1. The Department proposed to impose a fine of \$27,500 for Cornell's failure to properly distribute its Annual Security Report (ASR) for calendar year 2011 in violation of the Clery Act and 34 C.F.R. §668.41(e) (2011)<sup>1</sup>.
2. The Department proposed to impose \$27,500 for Cornell's failure to properly distribute its 2011 Annual Fire Safety Report (AFSR).

<sup>1</sup> The Department published new regulations for the Clery Act on October 20, 2014. However, the findings on which the proposed fines are based rely on the regulations in place at the time of the violation as reflected in this citation. Unless otherwise noted, all of the regulations cited are dated 2011.

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The Department's letter notifying Cornell of the proposed fine also notified the institution that it could request a hearing or submit written material contesting the proposed fine. Cornell acknowledged that it did not notify its students and employees of the availability of the ASR and AFSR for calendar year 2011 by the deadline of October 1, 2011. However, Cornell raised a number of points and requested that the fine be waived or reduced. We address each of Cornell's points below.

1. Cornell claims that all relevant information for its 2011 ASR and 2011 AFSR was in fact available on its website and that it took immediate and significant steps to correct the distribution deficiency.

Cornell acknowledges that it did not send a notification to its campus community regarding the availability of the 2011 ASR and 2011 AFSR by the deadline of October 1, 2011. However, Cornell claims that all relevant information for its 2011 ASR and 2011 AFSR was available on its website and that it sent a notification to its students and employees 39 days after the deadline. Cornell blames a now-former employee for not sending the notification regarding the availability of the 2011 ASR and 2011 AFSR to enrolled students and current employees until November 9, 2011. Cornell argues that it took immediate and significant steps to ensure future compliance with the law and took action against the employee.

The HEA and the Department's regulations require that by October 1 of each year, institutions distribute to all enrolled students and current employees a complete and comprehensive ASR and AFSR. See §485(f) of the HEA, 34 C.F.R. §§ 668.41 and 668.46. Cornell's failure to properly and timely distribute the 2011 ASR and the 2011 AFSR for more than a month after the deadline deprived its enrolled students and current employees of important safety and security information to make informed personal safety decisions. Cornell as an institution was and is responsible for notifying students and employees of the availability of the ASR and AFSR each year. Cornell concedes that it did not have effective procedures in place to ensure compliance with the legal requirements. Cornell's efforts to improve its procedures after the fact do not excuse its earlier failure to comply with the requirements of the Clery Act and the Department's regulations and provide the required notices to its students and employees.

2. Cornell claims that it is a small school and that a \$55,000 fine is truly punitive.

As discussed in our letter of February 13, 2015, in determining the amount of a fine to be imposed, 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. See In the Matter of Bnai Arugath Habosem, Dkt No. 92-131-ST (August 24, 1993). Cornell is a large institution because the amount of funding it received through the Federal Pell Grant, Federal Direct Loan program, and the Campus-Based programs using the most recent complete year for which data is available

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(2012-2013) are above the median funding levels for those programs. Cornell did not challenge that conclusion or the data on which we relied. Therefore, there is no basis for reducing the fine based on the institution's size.

Cornell argued that the \$55,000 is punitive considering the school's steps to improve its compliance with the Clery Act and "...against the backdrop of the precarious financial state of private liberal arts institutions in Iowa generally." As discussed earlier, the College's steps to improve its compliance with legal requirements does not change the fact that students and employees did not receive legally required information on a timely basis. The Department also notes that while Cornell referred generally to financial problems allegedly facing certain institutions in Iowa, it did not claim that the institution itself is experiencing any financial problems.

#### Final Decision

For the reasons discussed above, the Department affirms the proposed fines identified in our letter of February 13, 2015 which included: \$27,500 for Cornell's failure to properly distribute its ASR for calendar year 2011; and \$27,500 for Cornell's failure to properly distribute its AFSR for calendar year 2011.

Therefore, Cornell must pay a total fine of \$55,000.

**The \$55,000 fine is due to the Department within 30 days of the date of this letter. Payment must be in the form of a certified or cashier's check, and made payable to the U.S. Department of Education.** If payment is not received by the Department within that 30-day time period, interest will accrue in monthly increments until payment is received. Please send your fine payment to me **to the attention of Lawrence Mwethuku** at the following address:

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

**Please identify the payment as Bill No. AAA201503024 to ensure proper crediting of your payment account.**

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If you have any questions about this letter, please contact Lawrence Mwethuku of my staff at 202/377-3684.

Sincerely,

A black rectangular box redacting the signature of Robin S. Minor.

Robin S. Minor, Acting Director  
Administrative Actions and Appeals Service Group  
Federal Student Aid/Program Compliance  
U.S. Department of Education

cc: Ms. Karen Solomon, Vice President for Accreditation Relations, Higher Learning Commission, via [ksolomon@hlcommission.org](mailto:ksolomon@hlcommission.org)  
Dr. Brad Buck, Iowa Department of Education, via [brad.buck@iowa.gov](mailto:brad.buck@iowa.gov)