



FEB 13 2015

Mr. Hengel M. Richardson
President
Wards Corner Beauty Academy
7525 Tidewater Drive #200
Norfolk, VA 23505-3700

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Dear Mr. Richardson:

This letter is to inform you that the U.S. Department of Education (Department) intends to fine Wards Corner Beauty Academy (WCBA) a total of \$15,000 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 any or all of 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 WCBA'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 Section 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) (2). 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).

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Administrative Actions and Appeals Service Group
830 First St., N.E. Washington, D.C. 20002-8019
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The Department conducted a program review at WCBA from May 16, 2011 to May 19, 2011. The review included a general assessment of WCBA's compliance with the statutes and regulations pertaining to the institution's administration of Title IV programs. The reviewers also examined WCBA'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 1, 2011, the Department issued a Program Review Report (PRR) to WCBA. In addition to other findings, the review found that WCBA had not complied with the Clery Act and with the Department's implementing regulations. WCBA responded to the report on May 9, 2012. After reviewing WCBA's response, the Department issued its Final Program Review Determination (FPRD) letter to WCBA on March 12, 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 WCBA's 2010 ASR omitted three (3) required policy statements.

WCBA'S 2010 ASR DID NOT INCLUDE THREE REQUIRED POLICY STATEMENTS

The Department's regulations require that participating institutions prepare and distribute an ASR that contains, among other things, the institution's statement of current campus policies for making timely warning reports to members of the campus community regarding crimes, such as forcible sex offenses; 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; information regarding where a list of registered sex offenders may be obtained; policies for preparing the annual disclosure of crime statistics; policies encouraging prompt reporting of crimes to the police; statements with a description of type and frequency of campus safety programs; a description of crime prevention programs; a statement explaining the importance of preserving evidence in cases of alleged sex crimes and an explanation of how to preserve the evidence; and a statement that describes procedures on voluntary, confidential reporting of crimes. 34 C.F.R. § 668.46(b)(2).

WCBA's 2010 ASR lacked critical information required by 34 C.F.R 668.46(b)(2). The Department's review team determined that WCBA's ASR for calendar year 2010 did not include the following three required policy statements:

- 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.
- Information regarding where a list of registered sex offenders may be obtained.

In its May 9, 2012 response to the PRR, WCBA did not claim or present any evidence to demonstrate that it had included the three policy statements in its 2010 ASR. WCBA did revise

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its policy statements to meet the statutory and regulatory requirements. However, these efforts do not excuse WCBA's failure to have required policy statements in its 2010 ASR, as required by the Clery Act and the Department's regulations.

WCBA's failure to provide these required policy statements deprived students and employees of important safety information. All of the missing statements would have provided information which could help students and employees prevent or avoid crime.

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 WCBA is 2012-2013 award year. According to the Department records, WCBA received approximately \$778,858 in Federal Pell Grant (Pell) funds, \$1,366,766 in Federal Direct Loan funds and \$12,900 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, WCBA 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, WCBA's violations of the Clery Act and the Department's regulations are very serious and numerous. These failures endangered WCBA's students and employees who must be able to rely on the disclosures of campus crime policies and information 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 WCBA'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 size of the institution, I have assessed \$15,000 for WCBA's failure to include three required policy statements in its calendar year 2010 ASR. This is a serious violation because by failing to include these required policy statements in its ASR, WCBA denied the campus community important information, rendering the ASR incomplete and unreliable. Students and employees cannot take advantage of information that has not been provided to them. I impose a fine of \$5,000 for each missing policy statement up to a maximum of \$27,500. In this case, WCBA failed to include three policy statements, so I have assessed \$15,000.

The fine of \$15,000 will be imposed on **March 9, 2015**, unless I receive, by that date, a request for a hearing or written material indicating why the fine should not be imposed. WCBA may

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submit both a written request for a hearing and written material indicating why a fine should not be imposed.

If WCBA chooses to request a hearing or submit written material, you must write to me **to the attention of Lawrence Mwethuku** 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 such a request, 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 WCBA's case to a hearing official who will conduct an independent hearing. WCBA is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If WCBA does not request a hearing but submits written material instead, I will consider that material and notify WCBA of the amount of fine, if any, that will be imposed.

ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT WCBA SUBMITS MUST BE RECEIVED BY MARCH 9, 2015; OTHERWISE, THE \$15,000 FINE WILL BE EFFECTIVE ON THAT DATE.

If you have any questions or desire any additional explanation of WCBA'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: Tony Mirando, Executive Director, NACCAS, via amirando@naccas.org
Board, VA Department of Professional and Occupational Regulation, via
BarberCosmo@dpor.virginia.gov