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facsimile transmittal

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To: James S. Castress, US Dept. of Ed Fax: (415) 437-8206

From: Donna S. Selnick Date: 04/02/01

Re: Response to Clery Act Violations Pages: Eight (8) including cover

CC:

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Notes

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Sacramento



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Sent via U.S. Mail and Facsimile

March 30, 2001

James S. Castress
Area Case Director
San Francisco Case Team
Case Management and Oversight
Schools Channel
Student Financial Assistance
U.S. Department of Education
50 United Nations Plaza, Rm. 266
San Francisco, CA 94102

Dear Mr. Castress:

This is in response to your letter dated February 13, 2001, to the Office of General Counsel of the California State University outlining alleged violations of the Clery Act. You asked that we respond to those allegations by March 30, 2001.

The following are responses to the specific complaints itemized in your letter.

CSU system wide:

Allegation: The "secretive systems" of internal campus judicial systems deprive students and parents of information about misconduct (crimes).

Response:

All California State University campuses are governed by a variety of overlapping federal and state laws regarding the privacy and confidentiality of student records, including student disciplinary records. In particular, the Family Educational Rights and Privacy Act allows disclosure of student disciplinary hearing records only in certain limited circumstances. If a student's wrongful acts are "crimes of violence" or "non-forcible sex offenses," FERPA permits – but does not require – disclosure of the final results of the discipline to the alleged victim. Disclosure is permitted to anyone requesting the information, including the media, where the charges have been sustained. The California Information

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Practices Act prohibits disclosure of personal information, including such information that is found in student disciplinary records. Therefore, it is not always possible for information regarding student misconduct to be made available to the general public.

The Clery Act does not require all misconduct on campus to be reported; rather, only the specific criminal activities enumerated in the act are required to be included in campus statistics.

Under Executive Order 628, the CSU requires the following provisions to be included in all CSU campus disciplinary procedures:

Notification to Victims of Sexual Assault or Physical Abuse. The Coordinator of University Student Discipline shall notify alleged victims of sexual assault or physical abuse of the results of any disciplinary action taken within three (3) working days following that disciplinary action. (Education Code Section 67143)

Notification to Victims of Crime of Violence. The Coordinator of University Student Discipline may notify alleged victims of a crime of violence of the results of any disciplinary action taken. The term "crime of violence" means (a) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or (b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. (Section 1232g (b)(6) of Title 20 of the United States Code)"

Allegation: Sexual assaults are underreported based on the gap between the number of sexual assaults reported to campus women's centers and the number appearing in official university crime statistics.

Response:

This is a difficult charge to address without more specific information. We are not aware of any underreporting of sexual assaults.

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California State University, Fullerton

Allegation: The campus keeps no statistics from disciplinary proceedings.

Response:

CSU Fullerton keeps a file of every disciplinary proceeding. In 2000, the campus reported its 1999 statistics for Disciplinary Actions/Judicial Referrals. This information will be included in all future Cleary Act reports.

California State University, Sacramento

Allegation: The campus Security Report (alternately the Clery Report) did not contain required sexual assault policies (victim's rights provisions).

Response:

CSU Sacramento has several policies and programs which deal with sexual assault and rape prevention; however, until 2000, the campus did not include specific reference to sexual assault policies or the rights of victims in its Clery report. The current report does contain this information and this information will be included in all future Cleary Act reports.

Allegation: The Clery Report did not contain any statement about the monitoring of alcohol violations of student organizations off-campus.

Response:

The Clery Act does not require any statement about monitoring of alcohol violations of student organizations off-campus. Rather, it requires: "A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution...." The CSU Sacramento report contains such a statement.

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Allegation: CSUS failed to comply with requirement to distribute the report to all students.

Response:

The campus uses several methods and documents to notify students of the availability and location of the Clery Act report. The campus believes that the notice in the "Confirmation of Student Schedule" reaches every current student before October 1 of each year. The attached chart identifies other past and present methods used by California State University, Sacramento to notify students of the availability of its report.

Allegation: The only crime statistics included in the Clery report were those that had been reported to campus police and the student affairs department.

Response:

Prior to 2000, the campus did not collect crime statistics from all campus security authorities and local police agencies. The campus did make a good faith effort to collect the statistics from the required sources for the 2000 Clery report and will continue to collect this information for future Clery Act reports.

California State University, Chico

Allegation: A victim of assault was not involved with or informed of the resolution of the disciplinary system.

Response:

The student referred to in newspaper article was informed of the outcome of the disciplinary hearing, including the restrictions on the disciplined student, during a face-to-face meeting with the campus Coordinator for Student Judicial Affairs, Lizanne Leech.

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We hope that this information is helpful to you. The CSU takes its reporting responsibilities under the Clery Act very seriously and has recently undertaken various tracking and training initiatives to ensure that full compliance with the spirit and intent of the law are achieved. We would be happy to share information with you about these efforts if that would be useful.

Please do not hesitate to contact me at my Sacramento office if there are any questions about the responses set forth above.

Sincerely,



DONNA S. SELNICK
University Counsel

Attachment

C: Christine Helwick, General Counsel
California State University

California State University, Sacramento

Distribution of Information under the
Jeanne Clery Disclosure of Campus Security Policy
and Campus Crime Statistics Act

Distribution	Year 2000 Report	Previous Yearly Reports
<ul style="list-style-type: none"> Hard Copies 	Available at <ul style="list-style-type: none"> Public Safety Office Student Affairs Office Library Reserve Book Room 	Available at <ul style="list-style-type: none"> Public Safety (beginning 1992) Library Reserve Book Room (beginning 1996)
<ul style="list-style-type: none"> Electronic Version 	Posted at www.csus.edu/police/SR_TKRPT.html (also can be reached by button on home page under "Safety" and by use of home page search engine)	Posted at www.csus.edu/police/SR_TKRPT.html (beginning Fall 1999)
<ul style="list-style-type: none"> By Public Safety 	Hard copies to be distributed at <ul style="list-style-type: none"> Student Orientation Job Fairs Presentations On/off campus Classrooms Violence in the Workplace Prevention Training Various committee meetings 	Hard copies of information pamphlet distributed (beginning 1998) at: <ul style="list-style-type: none"> Student Orientation Job Fairs Presentations On/off campus Classrooms Violence in the Workplace Prevention Training Various committee meetings
By University: To All Current Employees	Notice of web site and hard copy availability <ul style="list-style-type: none"> Staff Bulletin by intercampus mail once every semester Included in Alcohol and Drug policy notice through campus mail 	Notice of web site and hard copy availability <ul style="list-style-type: none"> Staff Bulletin by intercampus mail to every (beginning with Jan. 31, 2000 issue)

¹ Includes: statistics for Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act; Chancellor's Office Report; and monthly FBI Statistics.

<ul style="list-style-type: none"> • By University: To All Current Students 	<p>Notice of web site and hard copy availability:</p> <ul style="list-style-type: none"> • CSUS Catalog • Invitation to Register • Schedule of Classes • Confirmation of Student Schedule • Hard copy distributed with orientation packets • Included in Alcohol and Drug policy notice by mail to each student 	<p>Notice of web site or hard copy availability:</p> <ul style="list-style-type: none"> • CSUS Catalog (beginning with 1992-1994 Catalog) • Schedule of Classes (beginning Fall 1992 semester) • Invitation to Register (beginning Fall 2000) • Confirmation of Student Schedule (beginning Spring 2000)
<ul style="list-style-type: none"> • By University: Prospective Applicants for Employment 	<p>Notice of web site and hard copy availability:</p> <ul style="list-style-type: none"> • Employment information and application form • Administrative, Faculty, & Staff Employment Opportunities Web sites 	<p>Notice of web site and hard copy availability:</p> <ul style="list-style-type: none"> • Application Information and forms (Beginning Feb. 2000) • Employment Web site (Beginning Feb. 2000)
<ul style="list-style-type: none"> • By University: Prospective Students 	<p>Notice of web site and hard copy availability:</p> <ul style="list-style-type: none"> • Outreach materials • In responses to requests for admission information 	<p>Notice of web site and hard copy availability:</p> <ul style="list-style-type: none"> • See University Distribution: Current Students (above)

D. Selnick
University Counsel
3/28/01