



July 10, 2015

W. Taylor Reveley, III, J.D.  
President  
The College of William & Mary  
200 Richmond Road  
Williamsburg, VA 23187

**UPS Tracking #**  
**1Z A87 964 02 9032 5660**

**RE: Final Program Review Determination**  
**OPE ID: 00370500**  
**PRCN: 201010327158**

Dear President Reveley:

The U.S. Department of Education's (the Department) Clery Act Compliance Team previously issued a program review report regarding the College of William & Mary's (CWM; the College) compliance with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*). The College submitted an acceptable response to the Department's report. The original text of the program review report is incorporated into this Final Program Review Determination (FPRD). CWM's response and any supporting documentation submitted with the response are being retained by the Department and are available for inspection by the College upon request. Please be advised that this FPRD and any supporting documentation may be subject to release under the Freedom of Information Act and may be provided to other oversight entities after this FPRD is issued.

**Purpose:**

Final determinations have been made concerning the findings identified during the program review. The purpose of this letter is to advise CWM of the Department's final determinations and to close the review, subject to the College's full and timely production of the documentation listed in Appendix A. Please note that this FPRD contains findings regarding CWM's failure to comply with the requirements of the *Clery Act*. Because a *Clery Act* finding does not result in a financial liability, such findings may not be appealed.

Due to the serious nature of these findings, this FPRD is being referred to the Administrative Actions and Appeals Service Group (AAASG) for consideration of possible adverse administrative action. Such action may include a fine and/or the limitation, suspension or termination of the eligibility of the College to participate in the Title IV, HEA programs pursuant to 34 C.F.R. Part 668, Subpart G. Please note that *Clery Act* violations are normally addressed

by the imposition of a fine. If AAASG initiates an action, additional information about CWM's appeal rights and procedures for filing an appeal will be provided under separate cover.

**Record Retention:**

Records relating to the period covered by this program review must be retained until the latter of resolution of the violations identified during the review or the end of the regular retention period applicable to all Title IV records including *Clery Act*-related documents under 34 C.F.R. §668.24(e).

Thank you for the courtesy, cooperation, and patience shown to us throughout the program review process. If you have any questions about this FPRD or the program review process, please contact Mr. Steven Marcucio on (215) 656-5554 or at [steven.marcucio@ed.gov](mailto:steven.marcucio@ed.gov).

Sincerely,



James L. Moore, III  
Compliance Manager  
Clery Act Compliance Team

cc: Dr. Deborah Cheesebro, Chief of Police, CWM [dcheesebro@wm.edu](mailto:dcheesebro@wm.edu)  
Mr. Edward P. Irish, Director of Financial Aid, CWM [epiris@wm.edu](mailto:epiris@wm.edu)

Enclosures:

Final Program Review Determination

Prepared for:  
**The College of William & Mary**

---

**OPE ID: 00370500**  
**PRCN: 201010327158**

Prepared by:  
**U.S. Department of Education**  
**Federal Student Aid**  
**Clery Act Compliance Team**

## **Final Program Review Determination**

### **July 10, 2015**

## **Table of Contents**

	<b>Page</b>
<b>A. Institutional Information</b>	<b>2</b>
<b>B. Scope of Review</b>	<b>3</b>
<b>C. Findings and Final Determinations</b>	<b>4</b>
<b>Finding #1: Failure to Properly Classify and Disclose Crime Statistics</b>	<b>4</b>
<b>Finding #2: Failure to Distribute ASR in Accordance w/ Federal Regulations</b>	<b>9</b>
<b>Finding #3: Omitted or Inadequate Statements of Policy and Procedures</b>	<b>12</b>
<b>Appendix A: Supplemental Document Production Instructions</b>	<b>16</b>

## **A. Institutional Information**

**College of William and Mary**  
**P.O. Box 8795**  
**Williamsburg, VA 23187-8795**

**Type:** Public

**Highest Level of Offering:** Master's/Doctor's Degree

**Accrediting Agency:** Southern Association of Colleges and Schools

**Current Student Enrollment:** 7892 (2008-9)

**% of Students Receiving Title IV:** 59% (2008-9)

**Title IV Participation:**

Federal Family Education Loan Program	\$ 40,702,238
Federal Pell Grant Program	\$ 1,949,136
Federal Supplemental Opportunity Grant Program	\$ 306,375
Federal Work Study Program	\$ 397,290
Federal Perkins Loan Program	\$ 461,669
<b>Total:</b>	<b>\$43,858,708</b>

**FFEL/DL Default Rate:** 2007 - 1.0 %  
2006 - 0.7 %  
2005 - 0.2 %

**Perkins Default Rate:** 6/30/09 – 2.3%  
6/30/08 – 3.6%  
6/30/07 – 3.4%

The College of William and Mary (CWM, the College) offers 36 Undergraduate degree programs, 12 Graduate degree programs, and Professional degrees in Business, Education, Law and Marine Science. At the time of the site visit, the CWM Police Department (CWMPD) had 22 sworn police officers. CWMPD officers are fully-certified law enforcement officials that are authorized to carry firearms and make arrests for violations of law. The CWMPD is a full service law enforcement agency that provides protection services to the campus community on a 24/7/365 basis. The agency has jurisdiction on all College property as well as on adjacent streets. The CWMPD also has a mutual aid agreement with the City of Williamsburg that allows the CWMPD and Williamsburg Police Department to assist each other in the conduct of law enforcement activities on an as-needed basis.



## **B. Scope of Review**

The Department's Clery Act Compliance Team (CACT) conducted a campus crime Quality Assurance program review at CWM from December 8-10, 2009.

The focus of the review was to evaluate CWM's compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*) in §485(f) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. §1092(f) and the Department's regulations at 34 C.F.R. §§668.41 and 668.46. CWM was selected from a list of institutions of higher education in the Commonwealth of Virginia with sworn police departments. The review was not the result of any specific complaint or allegation of non-compliance. The review consisted of an examination of CWM's catalog and written agreements, police incident reports, arrest records, and student conduct files, as well as policies, practices and procedures required by the *Clery Act*. The review also included a comparison of the campus crime statistics submitted by CWM to the Department and those distributed to students and employees. The reviewers also interviewed College officials with campus safety-related responsibilities.

The Department's program review coincided with the Quality Assurance Review (QAR) that the Federal Bureau of Investigation (FBI)'s Criminal Justice Information Service (CJIS) Audit Unit conducted at CWM. The Department is partnering with the CJIS Audit Unit (CAU) to ensure accurate crime reporting on America's college campuses. The CAU reviews law enforcement agencies' reporting practices and audits crime statistics that are reported by the states through their participation in the Uniform Crime Reporting (UCR) program. The results of the QAR are shared with the Department for a comparative analysis of the annual security report data received from participating postsecondary institutions. The CAU reviewed a total of 26 Group A Offenses and 19 Group B Offenses reported between January and June 2009.

The Department reviewed a sample of 100 CWMPD incident and arrest reports generated in the course of policing operations during calendar year 2008. These reports documented incidents of Part I and Part II offenses reported to the CWMPD, including a sample of Part II arrests for violations of certain drug, liquor, and weapons laws. Both random and judgmental sampling techniques were used to select reports for this review. Approximately 50 incident reports from the initial sample also were cross-checked against the daily crime log to ensure that crimes occurring within the patrol jurisdiction were entered properly on the log.

### **Disclaimer:**

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in this Final Program Review Determination (FPRD) concerning CWM'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 CWM of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs including the *Clery Act*. Finally, the Department emphasizes

that this FPRD only addresses violations and weaknesses that were identified as a result of program review activities associated with PRCN: 201010327158.

### **C. Findings and Final Determinations**

During the review, several areas of noncompliance were noted. The findings identified in the Department's program review report appear in italics below. At the conclusion of each finding is a summary of CWM's response and the Department's Final Determination.

#### **Finding #1: Failure to Properly Classify and Disclose Crime Statistics**

##### ***Citation:***

*The Clery Act and the Department's regulations require that institutions participating in the Title IV, HEA programs compile and publish statistics concerning the occurrence on campus of the following crimes: criminal homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. In addition, the institution is required to disclose arrests and disciplinary actions related to violations of Federal or State drug, liquor and weapons laws. 34 C.F.R. §668.46(c)(1) and (7). The Department's regulations require that, for Clery Act reporting purposes, participating institutions must compile crime statistics using the definitions of crimes in Appendix A to Subpart D of Section 668 of the General Provisions Regulations.*

##### ***Noncompliance:***

*CWM failed to compile and publish accurate and complete crime statistics for calendar year 2008. There are three components to this violation.*

##### ***1) Incorrect classifications***

##### ***a. Forcible Burglary***

*CWM failed to accurately classify reported crime statistics in accordance with the Clery Act's crime classifications. Case 2008-016925 was incorrectly classified as "Destruction/Vandalism of Property." In this incident, the complainant reported "a break-in" at a storage area located at Zable Stadium. The responding officer noted that person(s) unknown likely used a prying tool to separate the door from the hasp and lock assembly. This storage area is used to store equipment during football games. A contractor had access to the space. At the time of the incident, the College was involved in a lawsuit with the contractor. Both the contractor and the CWM athletic department believed that property belonging to them was missing. However, at the time the report was taken, the CWMPD could not ascertain precisely what property was missing, and there was no supplemental report documenting the missing property. Based on the facts, this incident should have been included in the Clery Act statistics as a "Forcible Burglary."*

*b. Motor Vehicle Theft*

*Two incidents, 2008-017062 (CWMPD Code: Vandalism of Property) and 2008-017502 (CWMPD Code: All Other Larceny), should have been classified as Motor Vehicle Thefts for Clery Act purposes. In Case 2008-017062, two juveniles used a field lining tool to trigger the ignition of a John Deere "Gator" vehicle. The juveniles proceeded to drive the vehicle around various fields in the athletic complex until the vehicle malfunctioned. There are two important considerations that apply to this re-classification. The "Gator" line of vehicles is marketed for all-terrain use. These vehicles are primarily used as a means of conveyance for people and materials. This makes them different from standard construction or farm equipment, the unlawful taking of which are not classified as motor vehicle thefts. Secondly, "joyriding" is included in the definition of motor vehicle theft. There is no requirement that the perpetrator intended to permanently deprive the rightful owner of his property as is the case with most larceny crimes.*

*Case 2008-017502 involved the theft of a motorized scooter from behind Brown Hall. As noted above, the unauthorized or unlawful taking of any motorized conveyance must be classified as motor vehicle theft.*

*Because vandalism and larceny crimes are not counted for Clery Act purposes, the three improperly-classified crimes noted above resulted in three instances of under-reporting.*

*c. Under-reporting of Forcible Rape*

*Case 2008-011203 was properly coded as a "Forcible Rape;" however, records relating to this case were not included on the initial audit trail provided to the review team. Moreover, the Annual Security Report (ASR) indicated that only one Forcible Sex Offense (Case 2008-020058) was reported as occurring in a residence hall during 2008. Case 2008-011203 also occurred in a residence hall. Therefore, the correct number of forcible sex offenses was two, resulting in an under-report of one such offense. This type of violation is called an "under-report" because the incident was classified correctly but was not included in the statistics reported to the Department or distributed to students and employees. CWMPD officials stated that the database inadvertently omitted the incident from the reports used to generate crime statistics with the result that this crime was not included in CWM's crime statistics. Please note that this incident does appear on a revised version of the audit trail provided to the review team and therefore should be included in the 2008 statistics as published in future versions of the ASR.*

*d. Hate Crime*

*Case 2008-020205 was properly classified in the Clery Act statistics as a "Simple Assault;" however, the facts indicate that one of the victims was targeted at least in part on the basis of his race. The victim reported that at least two persons "jumped" him and struck him in the face resulting in "a large bruise on his right upper cheek bone area." The victim also reported that in the moments before the assault, the attackers taunted him*



*with “racial slurs” including “why don’t you go back to Nigeria!” Based on these facts, this incident should have been reported as a hate crime.*

*The Clery Act requires that all Part I offenses and all other offenses resulting in bodily harm that manifest evidence that a victim was intentionally selected due in some part to the perpetrator’s bias must be classified as a hate crime. The six covered categories of bias are: race, gender, religion, sexual orientation, ethnicity or National origin, and disability. The victim’s membership in the covered category may be actual or perceived as the key is the perpetrator’s bias against the identity group.*

## ***2) Drug and Liquor Law Arrests Omitted from Crime Statistics***

*Arrests for drug and liquor law offenses were improperly omitted from the College’s crime statistics. Case 2008-017471 resulted in an arrest for possession of marijuana. This incident is not on the audit trail records that support the arrest statistics published in the 2009 ASR. The audit trail and the 2009 ASR indicate eight arrests for drug violations. Therefore, the correct number of drug law arrests was nine, resulting in an under-report of one such arrest. Similarly, five liquor law arrests were improperly omitted from the College’s crime statistics. Cases 2008-003398, 2008-004559, 2008-007448, 2008-010080, and 2008-024530 resulted in arrests for Clery Act reportable liquor law offenses, “Underage Possession of Alcohol.” These incidents are not on the audit trail records that support the arrest statistics published in the 2009 ASR. The audit trail and the 2009 ASR indicate 17 on-campus arrests for liquor law violations. Therefore, the correct number of liquor law arrests was 22, resulting in an under-report of five such arrests.*

## ***3) Inaccurate Disciplinary Referral Statistics***

*The review team was not able to determine the accuracy of CWM’s disciplinary referral statistics based on the materials provided to the reviewers. As such, additional sampling and examination of documents will be necessary as discussed previously with institutional officials.*

*Failure to classify and disclose incidents of crime reported in an accurate and complete manner violates the HEA and the Department’s regulations and deprives the campus community and the public of vitally important information regarding crime and safety concerns.*

### ***Required Action Summary:***

*As a result of this finding, CWM must correct all errors in its crime statistics. This requirement applies to the exceptions noted above and any other errors identified during the preparation of the response. CWM must reclassify the crimes and violations discussed above and correct the errors in its crime statistics as published in the ASR and as submitted to the online database administered by the Department. If CWM believes that its initial classification is correct, the College may provide documentation to support its position that the incidents referenced in this finding were, in fact, classified and reported properly.*

*In addition, the College must examine and improve its policies, procedures, internal controls, and training programs to ensure that all incidents of crime reported to the police or a non-law enforcement campus security authority (CSA) are properly classified and included in the College's subsequent ASR.*

*Furthermore, CWM must prepare an accurate and complete audit trail in support of its disciplinary referral statistics for calendar year 2008. Additionally, copies of all disciplinary referral files associated with the following incident numbers must be provided with the College's response: 200800053; 200800006; 200800136; 200800197; 200800237; 200800308; 200800301; 200800343; 200800384; 200800391; 200800537; 200800012; 200800422; 200800495; 200700895; 200800005; 200800447; 200701326; 200800318; 200800340; 200700966; 200701094; 200701199; 200800815; 200800495; 200800184; 200800475; 20080009; 200800215; 200800222; and 200800259. At a minimum, each of the above files must contain an incident report, a hearing letter, and a final disposition document. All of the above materials, including copies of all new or revised policies and procedures, must be submitted with CWM's response.*

### **Institutional Response:**

In its official response, CWM concurred with the finding and stated that remedial action was taken as directed in the program review report. In summary, College officials reported the following: In acknowledging the violations, CWM asserted that specific action was taken to correct the violations once the review team identified the issue. CWM also claimed that relevant staff received additional training on crime classification and *Clery Act* compliance. In addition, College management asserted that enhanced procedures will require supervisors to more closely scrutinize incident reports submitted by subordinates, thereby minimizing the likelihood of future classification errors. Finally, CWM represented that all necessary corrections to its crime statistics were made and that the revised statistics were included in future ASRs and in its data submissions to the Department's Campus Safety and Security Data Analysis Cutting Tool (CSSDACT).

### **Final Determination:**

Finding #1 of the program review report cited CWM for improperly classifying certain criminal offenses. Due in part to this violation, the College also failed to disclose accurate and complete 2008 crime statistics in its 2009 ASR and in its reporting to the CSSDACT. Specifically, CWM's 2008 crime statistics did not include 11 incidents: five reported criminal offenses and six arrests for drug and liquor law violations. The breakdown of these incidents is as follows: one forcible sex offense, one burglary, two motor vehicle thefts, one hate crime - a simple assault based on racial basis, one drug law arrest, and five liquor law violation arrests. Each of these offenses and arrests occurred on CWM's campus. The sexual assault referenced above occurred in a residence hall. As a result of this violation, the College was required to review the incidents of crime identified above and submit documentation that supported its classifications or reclassify the incidents and to adjust its crime statistics accordingly. CWM was also required to prepare an accurate and complete audit trail to substantiate the validity of the disciplinary referral statistics that were included

in the 2009 ASR. In addition, the College was required to re-examine and improve its policies, procedures, internal controls, and training programs to ensure that all incidents of crime are classified and disclosed accurately, going forward. In its official response, CWM concurred with the finding and stated that adequate remedial action was taken. CWM also represented that it revised its campus crime statistics to include the previously-undisclosed incidents and included them in its 2010 ASR. The College also submitted documentation in support of its remedial action claims.

The Department carefully examined CWM's narrative response and supporting documentation. Based on that review and CWM's admission of noncompliance, the Department has determined that each of the exceptions noted in the initial finding are sustained. The review team's examination also indicated the identified violations were, for the most part, satisfactorily addressed by the College's subsequent ASRs, new training initiative, and new and revised policies and procedures. As such, the Department determined that CWM's remedial action plan meets minimum requirements. For these reasons, the Department has accepted CWM's response and considers this finding to be closed for the purposes of this program review; however, the officers and directors of CWM are put on notice that the institution must take all additional actions that may be necessary to address the deficiencies and weaknesses identified by the Department as well as those that were detected during the preparation of the institution's response and as may otherwise be needed to ensure that these violations do not recur.

Although the finding is now closed for the purposes of this program review<sup>1</sup>, CWM is reminded that the exceptions identified above constitute serious violations of the *Clery Act* that by their nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. CWM asserted that it has taken adequate remedial actions and that by doing so, that it is now in compliance with the *Clery Act* as required by its PPA. Nevertheless, College officials must understand that the requirement to compile and disclose accurate and complete campus crime statistics is fundamental to the campus safety and crime prevention goals of the *Clery Act*. For these reasons, the College is advised that its remedial actions cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

---

<sup>1</sup> Subject to CWM's full and timely production of the documentation listed in Appendix A

## **Finding #2: Failure to Distribute ASR in Accordance with Federal Regulations**

### **Citation:**

*The Clery Act and the Department's regulations require institutions to provide the ASR to all current students and employees through appropriate publications and mailing. Acceptable means of delivery include direct mailing to each individual through the U.S. Postal Service, by direct hand or campus mail distribution to the individual, or posting on the institution's official website. If an institution chooses to distribute its ASR by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all current and prospective students and employees that includes a statement of the ASR's availability and its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. Regardless of the delivery mode, the distributed ASR must contain all required information in a single comprehensive document. 34 C.F.R. §668.41(e)(1), 20 U.S.C. §1092(f)(1), and 34 C.F.R. §668.41(e)(4).*

### **Noncompliance:**

*The College failed to distribute its 2009 ASR to all current students and employees by October 1, 2009 and failed to adequately inform prospective students and employees of the ASR's availability. During the site visit, CWM police officials produced documentation showing that the 2009 ASR had not been finalized or distributed as of October 9, 2009. The same document, an e-mail from the Lieutenant charged with preparing the 2009 ASR to the Director of Student Conduct, showed a target date for distribution of October 15, 2009.*

*This e-mail message from the Lieutenant to the Director of Student Conduct included a renewed request for calendar year 2008 disciplinary referral statistics needed for the 2009 ASR that was required to be distributed by October 1, 2009. CWMPD records clearly show that the Lieutenant requested crime statistics from CSAs and local law enforcement beginning in August 2009 for inclusion in the 2009 ASR. However, during the review, it was also determined that there was no formal process for soliciting crime statistics from CSAs other than from the Director of Student Conduct. On November 19, 2009, the CWMPD Chief provided the 2009 ASR to all current students and employees, 49 days after the deadline.*

*Moreover, CWM failed to adequately notify prospective students and employees of the availability of the 2009 ASR, its contents, and how to acquire an electronic or printed version. The reviewers examined the College's publications and areas of the websites typically used by prospective students and employees and no Clery Act compliance disclosure could be found.*

*CWMPD officials advised that this issue was identified during its own "pre-audit review." At the request of the CWMPD Chief, a statement regarding the College's compliance with the Clery Act and a link for the 2009 ASR was added to those sections of the website most frequented by prospective students and employees. The statement will be added to all subsequent printings of student and employee handbooks and course catalogs.*



*Failure to actively distribute an accurate and complete 2009 ASR to current students and employees within the timeframes established by the Department's regulations and to adequately notify prospective students and employees of the availability of the 2009 ASR deprives the campus community of timely access to vitally important information regarding crime and safety concerns. Access to this information permits campus community members and their families to make well-informed decisions about where to work and study and empowers them to play a more active role in their own safety and security.*

***Required Action:***

*As a result of this finding, CWM must review and revise its policies and procedures for distributing its future ASRs and take all necessary steps to ensure that future ASRs are distributed by October 1<sup>st</sup> of each year.*

*In addition, CWM must ensure that an adequate and conspicuous notification statement regarding the availability of the ASR is added to all core materials that are normally used by and/or are provided to prospective students and employees.*

*CWM must also refine and formalize its process for requesting and compiling statistics of incidents of crimes reported to its CSAs. The College is also urged to consider issuing its requests for crime statistics from local law enforcement agencies earlier in the ASR preparation cycle. A copy of all policy changes and improvements must be provided with the College's response to this program review report.*

***Institutional Response:***

In its official response, CWM concurred with the finding and stated that remedial action was taken as directed in the program review report. In summary, College officials reported the following: CWM officials once again noted that this violation was identified during an internal review that was conducted shortly after the program review was announced. The College's management team stated that they are confident that the internal processes that contributed to this violation have been addressed and that future ASRs will be distributed on-time. Per the response, the College has taken steps to expedite the collection of crime information from its Campus Security Authorities and local law enforcement agencies. Finally, CWM officials represented that specific steps were taken to ensure that prospective students and employees are now notified about the availability of the ASR via a link in the section of the website that is intended for applicants for admission and/or employment as well as by the inclusion of *Clery Act* information in publications intended for applicants.

***Final Determination:***

Finding #2 of the program review report cited CWM for the failure to distribute the ASR in accordance with Federal regulations. Specifically, the 2009 ASR was not distributed until November 19<sup>th</sup>, 49 days late. The review team also found that prospective students and employees were not actively notified about the availability of this report. This determination was based on a thorough review of publications typically provided to prospective students and employees as well as the responses of institutional officials to



questions posed by the review team. As a result of this violation, CWM was required to review and revise its policies and procedures for distributing its future ASRs and take all necessary steps to ensure future ASRs are distributed by October 1<sup>st</sup> of each year. The College was also required to include adequate and conspicuous notification statements about the ASR in the publications that are typically provided to or used by prospective students and employees. Finally, CWM was required to improve its processes for requesting and compiling crime statistics reported to its CSAs and local law enforcement because the review team found that delays in the data collection process contributed to this violation. In its response, the College concurred, described its remedial actions, and submitted documents in support of its claims.

The Department carefully examined CWM's narrative response and supporting documentation. Based on that review and CWM's admission of noncompliance, each of the violations identified in the initial finding are sustained. The review team's examination also indicated that the identified violations were, for the most part, satisfactorily addressed by CWM's new and revised internal policies and procedures. As such, the Department also determined that CWM's remedial action plan meets minimum requirements. For these reasons, the Department has accepted CWM's response and considers this finding to be closed for the purposes of this program review. Nevertheless, the officials and directors of CWM are put on notice that they must continue to develop the College's campus safety and *Clery Act* compliance programs and take all other action that may be necessary to address the deficiencies identified by the Department as well as those that were detected during the preparation of the response, and/or as may otherwise be needed to ensure that these violations do not recur.

Although the finding is now closed for the purposes of this program review<sup>2</sup>, CWM is reminded that the exceptions identified above constitute serious and persistent violations of the *Clery Act* that by their nature cannot be cured. There is no way to truly "correct" violations of this type once they occur. The requirement to actively distribute an accurate and complete ASR to members of the campus community and make prospective members aware of the report are among the most basic requirements of the *Clery Act* and are fundamental to its campus safety and crime prevention goals. The College asserted that it has taken adequate remedial actions and that by doing so, that it is now in compliance with the *Clery Act* as required by its PPA. Nevertheless, CWM officials must understand that these ongoing compliance failures deprived students and employees of important campus security information to which they are entitled. For these reasons, the College is advised that its remedial efforts cannot and do not diminish the seriousness of these violations nor do these efforts eliminate the possibility that the Department will impose an adverse administrative action and/or additional corrective measures as a result.

---

<sup>2</sup> Subject to CWM's full and timely production of the documentation listed in Appendix A.

### **Finding #3: Omitted or Inadequate Statements of Policy and Procedures**

#### **Citation:**

*The Clery Act and the Department's regulations require institutions to include several policy statements in the ASR. These disclosures are intended to inform the campus community about the institution's security policies, procedures, and programs as well as and the availability of resources and channels to seek recourse. In general, these policies include topics such as the law enforcement authority and practices of campus police and security forces, incident reporting procedures for students and employees, and policies that govern the preparation of the ASR itself. Institutions are also required to disclose alcohol and drug policies and educational programs. Policies pertaining to sexual assault education, prevention, and adjudication must also be disclosed. Among other requirements, the ASR must include a notification to students that reasonable academic and residential accommodations will be provided to victims of sexual assaults. § 485(f) of the HEA; 34 C.F.R. § 668.46 (b)(2)-(b)(12).*

#### **Noncompliance:**

*CWM failed to include all required policy statements in its October 1, 2009 ASR. In some cases, no statement of policy or procedure was published while other statements were not adequate to give readers of the 2009 ASR actual notice of the College's official policies and procedures as well as available programming and services.*

*The areas of deficiency are:*

- No statement regarding any options for victims or witnesses to report incidents of crime on a confidential basis;*
- No detailed description of the type and frequency of programs on crime prevention or campus security procedures and practices;*
- No statement of policy concerning the monitoring of criminal activity and student conduct at off-campus locations;*
- Inadequate statement on a student's option to notify local police of a sexual assault and that institutional officials will assist the student in notifying said officials upon the student's request; and,*
- No detailed statement of the procedures that students should follow to preserve evidence that may support a criminal charge in cases of alleged sex offenses.*

*The Department notes that additional information regarding some of these topic areas can be found in other College publications or on the College's website. In his letter detailing the findings of the "pre-audit review," the CWMPD Chief noted that some elements of the 2009 ASR were recently "rewritten" to "fulfill the requirements of the Act."*

**Required Action:**

*As a result of this finding, CWM must review and revise all Clery Act-related consumer information to ensure that all required statements of campus safety policies, procedures, programs, and protocols are accurate and sufficient to give actual notice to all readers of future versions of the ASR.*

*A copy of all policy changes and enhancements must accompany the College's response and be incorporated into its subsequent ASRs.*

**Institutional Response:**

In its official response, CWM concurred with the finding and stated that remedial action was taken as directed in the program review report. In summary, College officials reported the following: CWM stated that each of the noted disclosures existed at the time of the review and were available to students by way of various publications. Nevertheless, College management conceded that the required information was not included in the 2009 ASR and that it was included in all subsequent reports.

**Final Determination:**

Finding #3 of the program review report cited CWM for omitted or inadequate statements of policy and procedures. Specifically, the five significant policy disclosures listed in the noncompliance section above were omitted from the 2009 ASR. As a result of this violation, the College was required to review and revise its existing campus safety and crime prevention information and to develop and implement new policies and procedures as needed to ensure that all future ASRs include all information required by 34 C.F.R. §668.46(b). Then, in accordance with that regulation and its new and revised internal policies and procedures, the College was then directed to produce a 2010 ASR that met all program requirements and to actively distribute the report to all required recipients by October 1, 2010. In its response, CWM concurred with the finding, asserted that all necessary remedial action was taken, and submitted documents in support of its claims.

The Department carefully examined CWM's narrative response and supporting documentation. Based on that review and CWM's admission of noncompliance, the Department has determined that the violations identified in the initial finding are sustained. The review team's examination also showed that the identified violations were, for the most part, satisfactorily addressed by the College's subsequent ASRs and its new and revised internal policies and procedures. As such, the Department also determined that the College's remedial action plan meets minimum requirements. For these reasons, the Department has accepted CWM's response and considers this finding to be closed for the purposes of this program review. Nevertheless, the officers and directors of CWM are once again put on notice that the College must take any additional actions that may be needed to address these violations as well as any other similar deficiencies and weaknesses that were detected during the preparation of its response and/or as may otherwise be needed to ensure that these violations do not recur.



Although the finding is now closed for the purposes of this program review<sup>3</sup>, CWM is reminded that the exceptions identified above constitute serious violations of the *Clery Act* that by their nature cannot be cured. There is no way to truly “correct” violations of this type once they occur. The requirement to develop, implement, and disclose accurate and complete statements of policy, procedure, and programs and to include them in its ASRs is a violation of the most basic requirements of the *Clery Act*. CWM asserted that it has taken adequate remedial actions and that by doing so, has brought its overall campus safety program into compliance with the *Clery Act* as required by its PPA. Notwithstanding these actions, CWM is advised that its remedial actions cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Because of the serious consequences of *Clery Act* violations, the Department strongly recommends that CWM re-examine its campus security and general Title IV policies and procedures on an annual basis to ensure that they continue to reflect current institutional practices and are compliant with federal regulations. As part of these periodic reviews, CWM officials are encouraged to continue to use the Department’s “Handbook for Campus Safety and Security Reporting” (2011) as a reference guide for *Clery Act* compliance. The Handbook is online at: [www2.ed.gov/admins/lead/safety/handbook.pdf](http://www2.ed.gov/admins/lead/safety/handbook.pdf). The Department also provides a number of other *Clery Act* training resources. College officials can access these materials at: [www2.ed.gov/admins/lead/safety/campus.html](http://www2.ed.gov/admins/lead/safety/campus.html). The regulations governing the *Clery Act* can be found at 34 C.F.R. §§668.14, 668.41, 668.46, and 668.49.

CWM management is also reminded that Section 304 of the Violence Against Women Reauthorization Act of 2013 (VAWA) amended the *Clery Act* to require institutions to compile and disclose statistics for incidents of sexual assault, dating violence, domestic violence, and stalking. VAWA also requires institutions to include new policy, procedural, and programmatic disclosures regarding sexual assault prevention, response, and adjudication in their ASRs. All institutions were already obligated to make a documented good-faith effort to comply with the statutory requirements of VAWA and to include all new required content in the 2014 ASR. The Department issued Final Rules on the *Clery Act* amendments on October 20, 2014. Therefore, the regulations went into effect on July 1, 2015, per the Department’s Master Calendar. CWM officials may access the Final Rule at: <http://ifap.ed.gov/fregisters/attachments/FR102014FinalRuleViolenceAgainstWomenAct.pdf>.

Finally, CWM officials are strongly advised to review the accuracy and completeness of its Drug and Alcohol Abuse Prevention Program (DAAPP) as required by the Drug-Free Schools and Communities Act (DFSCA) and Part 86 of the Department’s General Administrative Regulations. At the time that this program review commenced, the DFSCA was under the jurisdiction of another office in the Department; however, FSA is now responsible for monitoring compliance with the DFSCA. Therefore, it is essential that the College makes sure that it has developed and implemented a comprehensive DAAPP, has produced and distributed accurate and complete program materials to the campus community, and has and continues to conduct substantive biennial reviews to assess the

---

<sup>3</sup> Subject to CWM’s full and timely production of the documentation listed in Appendix A

effectiveness of its program and produces detailed biennial review reports. For more information about the *Clery Act* and/or the *DFSCA*, please contact your program review team or another member of the Philadelphia School Participation Division.



## **Appendix A**

As part of the resolution of this program review, CWM must submit the following information to the Department:

1. Copies of CWM's 2011, 2012, 2013, and 2014 Annual Security Reports with credible evidence showing that each of these reports was actively distributed to mandatory recipients. Suitable evidence of distribution may include copies of e-mail messages used to transmit the report or other similar documentation.
2. Copies of CWM's 2011, 2012, 2013, and 2014 Annual Fire Safety Reports with credible evidence showing that each of these reports was actively distributed to mandatory recipients.
3. A status report on CWM's efforts to implement the requirements of Section 304 of the Violence Against Women Reauthorization Act of 2013.
4. A copy of CWM's current DAAPP program materials, current annual disclosure, and two most-recent biennial review reports.

These materials must be submitted via electronic mail to the CACT at [clery@ed.gov](mailto:clery@ed.gov) within 45 days of its receipt of this FPRD,

CWM's submission must reference the PRCN noted on the cover letter to this FPRD, in the subject line of its e-mail message. If any of the requested records were not produced or do not exist, CWM officials must clearly communicate that fact to the Department in writing via electronic mail. In this context, CWM officials are advised that no new documents are to be created at this time for the purpose of attempting to demonstrate compliance with any *Clery Act* or *DFSCA* requirement for past periods. The College is also advised that a failure to respond to this request for document production will result in a referral for the imposition of administrative actions, in addition to any such referrals that may be made to address the violations identified by the Department during the initial review period.