



DEC 14 2007

Dr. Donald Loppnow
Executive Vice President
Eastern Michigan University
202 Welch Hall
Ypsilanti, MI 48197-2214

Sent Via Federal Express
OPE-ID: 00225900

Dear Dr. Loppnow:

This letter is to inform you that the U.S. Department of Education (Department) intends to fine Eastern Michigan University (EMU/University) \$357,500, 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). 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 EMU'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). 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). 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. An institution must also specifically report on any crime that manifests evidence of a hate crime. 34 C.F.R. § 668.46(c). An institution must, in a manner that is timely and that will aid in the prevention of similar crimes, report to the campus community about such crimes, and about crimes considered by the institution to represent a threat to its students and employees. 34 C.F.R. § 668.46(e). The ASR must be distributed to current students and

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employees and 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). An institution that maintains a campus police or a campus security department must maintain a written, easily understood daily crime log. 34 C.F.R. § 668.46(f). Institutions must submit the crime statistics annually to the Department, which makes them publicly available. 34 C.F.R. § 668.41(e)(5).

From April 3-5, 2007, a Department review team conducted a program review at EMU. The purpose of the review was to examine EMU's compliance with the Clery Act. One particular objective of the review was to determine if EMU had complied with the requirements regarding the issuance of a "timely warning" as provided in the Department's regulations at 34 C.F.R. § 668.46(e), after the murder and sexual assault of an EMU student in December 2006. The reviewers also evaluated the accuracy and completeness of the campus crime statistics submitted by EMU to the Department and published in the ASR. The reviewers evaluated the adequacy of the campus security policy statements and procedures published by EMU in its ASR, which is distributed to current and prospective students and employees, and which is provided to the Department for public dissemination.

On June 29, 2007, the Department issued a Program Review Report to EMU, which included the review team's findings that EMU had not complied with the Clery Act and with the Department's implementing regulations. On July 30, 2007, the Department received EMU's response to the Program Review Report. EMU's response stated that it concurred with the findings of the Program Review Report. EMU also submitted documents to show its attempts to rectify the findings identified in the report. The Department issued its Final Program Review Determination (FPRD) letter to EMU on November 14, 2007. 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 EMU: failed to provide a required timely warning in response to the homicide investigation of the December 2006 on-campus death of an EMU student; lacked administrative capability as required by the Department's regulations; lacked the required timely warning policy; failed to properly disclose crime statistics for the years 2003, 2004, and 2005; lacked adequate policy statements for the years 2003, 2004, and 2005; failed to report all required statistics for the years 2003, 2004, and 2005; and failed to properly maintain a Campus Crime Log. Based on these specific and extensive violations of the Clery Act and the Department's regulations, the imposition of a fine is warranted. 34 C.F.R. § 668.84(a)(1)(i).

FAILURE TO PROVIDE TIMELY WARNING

Under 34 C.F.R. § 668.46(e), all institutions participating in the Title IV, HEA programs must, in a manner that is timely and will aid in the prevention of similar crimes, provide a timely warning to the campus if certain crimes are reported to campus security authorities and are considered to represent a threat to students and employees. These crimes include

1) criminal homicide (murder and manslaughter); 2) sex offenses (forcible and non-forcible); 3) robbery; 4) aggravated assault; 5) burglary; 6) motor vehicle theft; 7) arson; 8) liquor law, drug law and illegal weapons possession violations; and 9) hate crimes. The only exception to this requirement is if the crime is reported to a pastoral or professional counselor. 34 C.F.R. § 668.46(e)(2).

EMU failed to comply with the requirements of 34 C.F.R. § 668.46(e). Specifically, EMU did not issue a timely warning to the campus community (students and employees) of the suspicious death of a student. On December 15, 2006, a female student was found dead in her dormitory room. Upon discovery of the body, a resident assistant called EMU's Department of Public Safety (DPS), the University's campus police department, and both the DPS director and assistant director were among the first to respond. DPS subsequently called the Michigan State Police (MSP), Ypsilanti, for assistance and asked for the MSP to arrange for crime lab personnel to come to the scene. EMU's assistant vice president for student affairs was also present after the discovery of the body.

The review team's interviews of staff at DPS and the MSP revealed that the police immediately considered the death suspicious in nature, possibly a homicide. The dormitory room and other areas of the dormitory were treated as a crime scene. The crime lab spent numerous hours going through the dormitory room. It was discovered that the student's car keys and dormitory key were missing, although the dormitory room had been locked from the outside.

In response to the student's death, EMU issued a press release the day after the body was discovered, stating that "at this point there is no reason to suspect foul play." EMU continued to publicly state to the campus community, the press, and the student's parents that there was no reason to suspect foul play, despite the fact that the DPS and MSP were investigating the case as a homicide. MSP officers told the reviewers that there was obvious evidence of a murder and a sexual assault, which was the reason that DPS called them for assistance and requested the presence of the crime lab on the night the student's body was discovered.

Within three days of the discovery of the student's body, the MSP and DPS staff involved in the investigation met on a regular basis to discuss the evidence and report their findings to the medical examiner's office. The director and assistant director of DPS were present at the first meeting and the assistant director participated in subsequent meetings. Two investigating MSP officers told the reviewers that DPS eventually led the investigation, and, within two weeks of reviewing surveillance tapes at the dormitory's front door, they had identified a registered EMU student as a suspect.

Despite the ongoing homicide investigation, including the identification of a possible suspect, who may have had the student's keys to the dormitory as well as her car, EMU did not issue a warning to the campus community to advise it of a significant safety concern. EMU did not take any steps to re-key any of the locks on the dormitory. Even the student's parents were not told of the suspicious nature of her death, but rather were told that she had died of natural causes.

On February 23, 2007, a suspect was arrested by the police and charged with raping and killing the student. It was only at this point in time – 10 weeks after the student’s death – that the University advised the campus community and the student’s parents of specific information about the crime. The suspect’s arrest resulted in a public outcry and outrage regarding the safety of EMU’s campus, and the University’s failure to provide accurate and complete information.

Some EMU staff members told the reviewers that the decision not to disclose the suspicious nature of the student’s death, and thus the decision not to issue a warning to the campus community, was based on their view that the medical examiner’s findings were not conclusive. During the interviews with the reviewers, the DPS staff argued that the student’s death was treated only as a “death investigation” which did not necessitate any kind of warning to the campus community.

The Clery Act requires that institutions issue a timely warning in situations in which a homicide (or other serious crime) is reported or suspected and such warning would aid in the prevention of similar crimes. Given the fact that the student’s death was treated as a possible homicide by campus and local police from the day the body was discovered, EMU clearly violated the timely warning requirement of the Clery Act. An on-campus homicide is one of the most egregious of crimes, and all efforts should be made to warn the community of the commission, or possible commission, of such a crime.

EMU’s response to the Program Review Report, including the particular finding regarding the lack of a timely warning, accepted the findings of the Department’s report and concurred with the Department’s determination that it had failed to issue a timely warning as required by the HEA and the Department’s regulations. EMU noted that it had developed new procedures, including a new timely warning policy statement to include in EMU’s Safety Awareness Handbook.

Although EMU’s response indicated steps were being taken to address the problem, the violation itself is one of the most serious of all Clery Act violations. It is essential to students, employees, and the public that institutions provide timely warnings as frequently and systematically as needed to ensure the safety and well being of the campus community. EMU’s response to the student’s death was an egregious violation of the regulations and of its responsibility to its students, employees, parents and the public.

LACK OF ADMINISTRATIVE CAPABILITY

The Department’s regulations require that for an institution of higher education to participate in the Title IV, HEA programs, the institution must be capable of adequately administering the Title IV programs in accordance with all applicable statutory and regulatory provisions. 34 C.F.R. § 668.16. The Program Review Report indicates that EMU violated the requirements of the Clery Act and the Department’s regulations. See 34 C.F.R. §§ 668.41, 668.46. These violations were numerous and systemic and reflect a lack of administrative capability.

Specifically, EMU did not issue a timely warning to its campus community after the suspicious death of one of its students, thereby endangering the entire campus community. Furthermore, EMU did not have a timely warning policy; did not provide correct required crime statistics; failed to establish and maintain adequate policies; and failed to take action to ensure the safety of the campus community. The findings indicate a lack of adequate institutional training, oversight and supervision in ensuring the University's compliance with the Clery Act, and a lack of administrative capability.

While visiting EMU's campus, the reviewers identified another example of EMU's failure to adequately fulfill its campus security responsibilities. In August 2005, an EMU contractor lost a master set of keys that would allow access to almost any building on campus, including the dormitory buildings. EMU's response was to send an email alert only to senior administrators, and not to the full campus community. EMU told the reviewers that it eventually re-keyed the locks to all of the dormitory halls, but not all the indoor locks which grant access to classrooms and faculty offices. Furthermore, EMU claimed in its alert to the senior administrators that the keys had been lost, although it reported the incident to DPS as "larceny of master keys."

As has already been mentioned, EMU accepted all of the findings of the entire Program Review Report, including the finding of the lack of administrative capability. EMU submitted evidence of its initiatives to correct and improve its campus security administration and its compliance with the requirements of the Clery Act. In regard to the 2005 "loss" of the master keys, EMU provided the reviewers with copies of correspondence from DPS to senior administrators, as well as work orders, to show that the exterior locks on campus buildings were fully re-keyed by August 29, 2006. The institution indicated, however, that the re-keying of the interior locks on all faculty doors of the main campus would not be completed until September 2007 – more than 2 years after the "loss" of the master set of keys.

As discussed in the FPRD, EMU has not adequately administered the regulatory requirements related to campus security and the Clery Act. EMU also failed to take appropriate and required actions after the suspicious death of one of its students. Moreover, EMU was extremely derelict in its response to the missing set of master keys. The campus community was not adequately warned about the loss of the keys, and although the occurrence took place over two years ago, the work to complete the re-keying of all the appropriate locks has not yet been fully completed.

EMU's continued failure to understand and take seriously the requirements of the Clery Act endangers the entire campus community. EMU's serious and numerous violations of the Clery Act indicate a complete lack of administrative capability.

LACK OF A TIMELY WARNING POLICY

The Department's regulations require that all institutions participating in the Title IV, HEA programs must prepare an ASR that contains the information listed in 34 C.F.R. § 668.46. One of the requirements is that the ASR must include a statement of current

campus policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus. This statement must include the institution's policies concerning the response to those reports. In particular, the institution's ASR must include its policies for making timely warning reports to members of the campus community regarding crimes, such as homicide, listed in 34 C.F.R. § 668.46(b)(2)(i).

In reviewing EMU's ASR, which the University refers to as its Safety Awareness Handbook, the reviewers did not find any statement of EMU's policy for making timely warning reports to the campus community. Although the reviewers found evidence in the records that EMU had issued some timely warnings in response to previous criminal activity that posed a threat to the campus community, the University had not published a policy for issuing such timely warnings, as required by the Clery Act and the Department's regulations. It was also evident that in the face of the most serious of criminal activities, i.e., the suspicious death of an on-campus student, and the larceny or loss of the University's master set of keys, EMU failed to issue timely warnings.

EMU accepted all of the findings in the Program Review Report, including the determination that it did not have the required timely warning procedure. While the reviewers were on campus, EMU began to update its Safety Awareness Handbook to include such a statement. However, the new Security Awareness Handbook provided to the Department by EMU during the review did not meet the regulatory requirements. The Handbook did not include all of the crimes that require consideration for a timely warning, e.g., the policy did not include crimes involving liquor law violations, drug law violations, and illegal weapons possessions. See 34 C.F.R. § 668.46 (c)(1) and (e)(1). Accordingly, the Department has concluded that EMU has consistently violated the regulatory requirement to have and publicize a policy for providing timely warnings to students and employees as required by the Clery Act and the Department's regulations.

FAILURE TO PROPERLY DISCLOSE CRIME STATISTICS

Under the Clery Act and the Department's regulations, institutions participating in the Title IV, HEA programs must make available statistical information related to certain reported crimes and arrests/campus disciplinary referrals for alcohol, drug and illegal weapons possession violations. The statistical information must be disclosed by location – on campus (dormitories vs. residential facilities), in or on non-campus buildings or property, and on public property – and must be provided for the three most recent calendar years. 34 C.F.R. §§ 668.46(a), 668.46(c)(1) – (c)(4).

The statistical reporting must be disclosed and made available as part of the institution's ASR by October 1 of each year, and it must be electronically submitted to the Department for its inclusion in the Campus Crime and Security Website. The Department has established timeframes within which institutions must electronically submit the information. 34 C.F.R. § 668.41(e)(1)-(e)(5). EMU did not provide accurate crime statistics to its students and employees in the ASR. In particular, EMU did not comply with the Clery Act reporting requirements for calendar years 2003, 2004, and 2005, as follows:

- (1) EMU did not accurately report the numbers of forcible and non-forcible sex offenses in its ASR to students and employees. During each year, the ASR included some sex offenses as non-forcible even though they met the definition of forcible sex offenses. Although these incidents were not reported accurately in EMU's ASR, they were properly reported as forcible sex offenses in the electronic crime statistic information sent to the Department;
- (2) In its ASR for each year, EMU did not properly report arrest statistics related to alcohol, drug and illegal weapons possession violations. EMU reported arrest statistics, but it did not report by location, as required. As in #1 above, the statistics in the ASR provided to students and employees were different from the statistics for the same categories that were electronically reported to the Department; and
- (3) EMU did not properly report in the ASR campus judiciary referrals for liquor, drug, and illegal weapons possession violations. The statistics were reported on an academic year basis rather than on a calendar year basis. Additionally, the ASR did not include the number of violations that occurred in dormitories or residential housing as required. EMU did provide the Department with statistics for these same campus judicial referral categories on the correct required calendar year basis, but the numbers are not similar to those in the ASR and cannot be reconciled because of the statistical discrepancies in the reporting structures.

Prior to the completion of the program review, EMU reviewed its crime data and corrected information included on its ASR, but it did not include the breakdown by location.

As previously mentioned, EMU accepted the findings of the Program Review Report and acknowledges that it did not properly disclose campus crime statistics for the 2003, 2004 and 2005 calendar years. In its response to the finding regarding its failure to disclose crime statistics, it submitted a statistical validation report as required by the report, and provided revised crime statistics for the 2004 and 2005 calendar years, categorized by the appropriate crime classification, location of the crime, and by the required calendar year reporting periods. EMU also prepared a Safety Awareness Handbook with revised published crime statistics for the required calendar years. EMU corrected data that appears on the Department's website, but it did not make those corrections until September 7, 2007, after the Department called the omission to its attention.

Although EMU has taken steps to correct its data collection process and correct the inaccurate crime data it previously provided to students, employees and the public, those efforts have not fully addressed the problems. Moreover, the efforts do not excuse EMU's failure to comply with the Clery Act's requirements that it provide accurate and complete crime information to students and employees during the earlier periods.

LACK OF ADEQUATE POLICY STATEMENTS

Under the Clery Act and the Department's regulations, an institution must include within its ASR, a statement of current campus policies that include, but are not limited to, the following:

- 1) How the institution prepares the annual disclosure of crime statistics;
- 2) The availability of campus sexual assault programs to assist in preventing sex offenses, and steps that should be followed or are available when a sex offense occurs, including the availability of school personnel to assist sexual assault victims in notifying on or off campus law enforcement, and the rights available to the victim and the accused in a campus disciplinary hearing process; and
- 3) The availability of and process for obtaining information regarding registered sex offenders on campus.

34 C.F.R. §§ 668.46(b)(2), (b)(11), and (b)(12).

The reviewers found that EMU's Safety Awareness Handbook for the last three years did not include all of the required elements in regard to its campus crime policy statement. Specifically:

- 1) EMU's policy statement disclosing how it completes and prepares campus crime statistics was incomplete and inadequate. It did not include a statement that addresses its reporting of calendar year crime statistics to the Department via a website that is generally accessible to the public. EMU inaccurately reported that under the Clery Act it is required to provide crime statistical information to the MSP. EMU further provided no description of the roles of other institutional officers, officials, and campus security authorities in the process of compiling and providing crime and disciplinary statistics;
- 2) EMU's policy statement regarding sexual assault procedures was incomplete because it omitted the statement that EMU personnel would be available to assist victims in notifying on or off campus law enforcement authorities, and it did not specify that in campus disciplinary procedures the accuser and the accused would have the same rights in regard to any disciplinary proceeding; and
- 3) EMU provided no statement in regard to obtaining information about registered sex offenders.

During the program review, EMU updated several sections of its online Safety Awareness Handbook. The University told the reviewers that it would provide updated information to anyone requesting a written copy of the Handbook. However, as noted in

the FPRD, EMU did not make all of the necessary revisions to the policy statement regarding the crime statistic reporting process.

EMU has accepted the findings of the Department's report. In response to the original finding regarding its lack of adequate policy statements, EMU provided the Department with a current edition of its Safety Awareness Handbook. The revised Handbook included the required policy statements that had previously been missing or were inaccurate. Furthermore, EMU stated that it changed its procedures for compiling crime statistics for its ASR, and subsequently reported those statistics to the Department. It had designated a single staff member as responsible for compiling the data to replace its prior system under which two different staff members handled the campus crime reporting duties without coordinating the data reported to the campus community and the Department.

EMU made corrections and improvements in reporting crime statistical data, and addressed the missing or inaccurate policy statements required by the Clery Act. However, inconsistencies still exist because the crime statistics reported to the Department were not originally corrected at the same time that EMU made corrections to the data made available to students and employees.

FAILURE TO REPORT ALL REQUIRED STATISTICS REGARDING CRIMES OCCURRING ON "PUBLIC PROPERTY" AND IN "NON-CAMPUS BUILDINGS OR PROPERTY"

The Clery Act and the Department's regulations require an institution participating in the Title IV, HEA programs to include in the crime statistics in its ASR, reportable crimes that occur in areas defined as "Public Property" and "Non-campus Buildings or Property." 34 C.F.R. §§ 668.46 (a), 668.46(c), (c)(4), (c)(8). An institution is required to make a "reasonable, good faith effort" to obtain the required statistics from other police agencies that have jurisdiction over these areas. If an institution is unable to obtain the required statistics after making such a reasonable, good faith effort, the institution is not responsible for a police agency's inability or refusal to provide the information. If a police agency does provide the information, the institution may rely on such information in compiling its campus crime statistics. 34 C.F.R. § 668.46(c)(9).

The reviewers found that in 2003, 2004, and 2005, EMU failed to include in its Safety Awareness Handbook reportable "Public Property" and "Non-campus Buildings or Property" crime statistics obtained from other police agencies. Although EMU did report a limited number of crimes under the "Public Property" category, these were incidents in which the DPS, which has legal jurisdiction within the City of Ypsilanti, was already involved. However, certain off-campus buildings that meet the definition of "Non-campus Buildings and Property," fall under the jurisdiction of the Ypsilanti City Police Department.

EMU informed the reviewers that its DPS has been unable in the past to obtain and report the required "Public Property" and "Non-campus Buildings or Property" statistics from

the Ypsilanti City Police Department. However, DPS officials did not provide any evidence to show that EMU had tried to obtain the required information or that the Ypsilanti City Police Department either failed or refused to provide the information.

The reviewers were informed that the DPS, the Ypsilanti City Police Department and other area law enforcement agencies have recently combined their criminal reporting databases. The Department required EMU to ensure that these errors in crime statistics reporting are corrected prior to its issuance of its 2007 Safety Awareness Handbook, and that accurate statistics are reported to the Department's website for 2007, and for subsequent years.

EMU accepted the findings of the Program Review Report, and concurs that it failed to properly include in its campus crime statistics for 2003, 2004 and 2005 reportable crimes that occurred in areas defined as "Public Property" and "Non-campus Buildings or Property." EMU's consistent and repeated failure to make good faith efforts to collect and report crime statistics for crimes occurring in areas defined as "Public Property" and "Non-campus Buildings and Property" in its 2003, 2004 and 2005 ASRs violates the requirements of the Clery Act and the Department's regulations.

FAILURE TO PROPERLY MAINTAIN THE CRIME LOG

The Clery Act and the Department's regulations require an institution that maintains a campus police or a campus security department to maintain a written, easily understood daily crime log that records, by the date the crime was reported, any crime that occurred on campus, on a non-campus building or property, on public property or within the patrol jurisdiction of the campus police or the campus security department, and is reported to the campus police or the campus security department. 34 C.F.R. § 668.46(f).

The crime log must include the nature, date, time and general location of each crime, as well as the disposition of the complaint, if known. 34 C.F.R. § 668.46(f)(1)(i). The entries and updates must be completed within two business days unless an institution determines, among other things, that an update would jeopardize the confidentiality of a victim or jeopardize an on-going criminal investigation or the safety of an individual. 34 C.F.R. §§ 668.46(f)(2) and (3). The institution must make the crime log available for public inspection. 34 C.F.R. § 668.46(f)(5).

EMU violated the Department's regulations when it did not update its Crime Log to report the disposition of the December 15, 2006 death of the student on campus. The program reviewers noted that the crime log entry on December 15, 2006, was reported as "Medical Assist." There was no subsequent update of the disposition of the crime, even though EMU confirmed the student's death as a homicide on February 23, 2007. EMU's failure to update Crime Log entries could result in reportable crime statistics not being properly categorized and disclosed in its criminal statistical reports and results in inaccurate information being provided to the public.

EMU accepted the findings of the Program Review Report and concurred that it failed to update its Crime Log to reflect the status of the disposition of the crime that occurred on December 15, 2006.

The Department is aware that EMU has initiated many of the corrective actions identified in the FPRD to improve its compliance with the Clery Act. However, these improvements do not diminish the seriousness of the violations that existed at the time of the review, and the fact that it failed to report the disposition of the homicide that occurred on campus in December 2006. The Clery Act is intended to ensure that students, their families, and institutional employees receive essential information in a timely manner, and information that is accurate and complete, so that they are able to make informed decisions about their safety on campus.

The Title IV statute and program regulations permit a fine of up to \$27,500 for each violation of any provision of Title IV or of any regulation or agreement implementing that Title. 20 U.S.C. § 1094(c)(3)(B); 34 C.F.R. § 668.84(a). 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 B'nai 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.

In EMU's case, the latest year for which complete funding data is available is the 2005-06 award year. According to Department records, students enrolled at EMU received in the 2005-06 award year \$11,436,097 in Federal Pell Grant funds; \$92,893,011 in Federal Family Education Loan (FFEL) funds; and \$4,206,534 in Campus-Based funds. The latest information available to the Department indicates that, for institutions participating in the Title IV programs, the 2005-06 median funding levels are \$809,374 for the Federal Pell Grant program; \$1,980,688 for the FFEL program; and \$284,848 for the Campus-Based programs. Accordingly, EMU is not a small institution because its Federal Pell Grant, FFEL, and Campus-Based funding levels are all above the median.

As detailed in this letter, the Clery Act violations identified at EMU are very serious, numerous and repeated. These failures have endangered EMU's students and employees who must be able to rely on the timely warning of a serious crime, the accurate reporting of crimes and crime statistics, and disclosures of campus crime policies and statements in order to take precautions for their safety and security. Moreover, the Department considers an institution's compliance with the Clery Act requirements to be part of its administrative capability, and EMU's failure to comply with those requirements constitutes an inability to administer properly the Title IV programs.

After considering the gravity of the violations outlined in this letter and the size of the institution, I have set the fine amount at \$357,500.

I have assessed \$27,500 for EMU's failure to provide a timely warning to its students and employees in response to the murder of an on-campus student. This is an egregious

violation, which endangered the entire EMU campus community. The fact that EMU's administration did not issue an immediate timely warning, but rather reported the incident not to be foul play, is reprehensible. The violation is compounded by the University's more than two-month delay in reporting the incident – to the student's parents as well as the University community and the public – as a murder and a sexual assault. This violation warrants a \$27,500 fine.

I have assessed \$27,500 for EMU's lack of administrative capability. As described above, the total number, the repeated nature, and the seriousness of EMU's violations of the Clery Act illustrate EMU's lack of administrative capability and trustworthiness, warranting a fine amount of \$27,500.

I have also assessed \$27,500 for EMU's failure to have a timely warning policy to inform students and employees of reported crimes that may represent a threat. Although EMU has made attempts to correct this failure, its attempts have not been adequate, and thus this violation warrants a \$27,500 fine.

I have assessed \$27,500 for each of the three years (2003, 2004 and 2005) that EMU failed to properly disclose crime statistics, totaling \$82,500. If an institution does not correctly classify and accurately report its statistics, students and employees are unable to make informed decisions about the safety of the campus community. In addition, EMU reported statistics to the Department, which differed from the statistics included in its ASR. Furthermore, EMU failed to make all the corrections required by the Program Review Report. The failure to properly disclose crime statistics continued over at least a three-year period of time, and warrants a fine of \$27,500 for each of the three years.

I have assessed \$27,500 for each of the three years (2003, 2004 and 2005) that EMU failed to include within its ASR correct, complete and adequate policy statements, totaling \$82,500. This is a serious violation because current and prospective students/employees must be able to rely on accurate and complete campus crime information. EMU's omissions were significant and substantive, and although the University has corrected some of its policy statements, it still failed to provide consistent information to the public and to the Department. This failure to provide adequate policy statements in its ASR continued over at least a three-year period of time, and warrants a fine of \$27,500 for each of the three years.

I have assessed \$27,500 for each of the three years (2003, 2004 and 2005) that EMU failed to report all required statistics regarding crimes occurring on public property and in non-campus buildings or property, totaling \$82,500. This is a serious violation because without access to all such statistics, students and employees are again unable to make informed decisions about the safety of the campus community. Although EMU attempted to respond to this finding, it was unable to obtain all of the necessary statistics, and it had not followed up with law enforcement agencies that had not responded to its request for information.

I have assessed \$27,500 for EMU's failure to properly maintain its crime log. Specifically, EMU failed to report the disposition of the murder and sexual assault of an on-campus student on December 15, 2006, but rather maintained it in the Crime Log as a "medical assist." EMU's failure to maintain and update its crime log entries could result in reportable crime statistics not being properly categorized and disclosed in its criminal statistical reports. Again, students and employees are unable to make informed decisions on the safety of the campus community if incorrect statistics are reported, or if the crimes committed and placed in the Crime Log do not include their disposition. The Crime Log, which is to be available to the public, the Department and institutional employees, must be accurate for others to rely on it. The fact the EMU failed to properly maintain its Crime Log is a very serious violation, and warrants a \$27,500 fine.

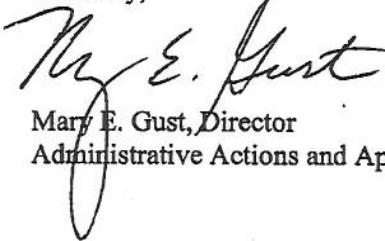
The fine of \$357,500 will be imposed on January 4, 2008, unless we receive by that date, a request for a hearing or written material indicating why the fine should not be imposed. EMU may submit both a written request for a hearing and written material indicating why a fine should not be imposed. If EMU chooses to request a hearing or to submit written material, you must write to me, via the U.S. Postal Service or an express mail service, at the following address:

Administrative Actions and Appeals Division
U.S. Department of Education
Federal Student Aid
Program Compliance/School Eligibility Channel
830 First Street, NE, Room 84F2
Washington, DC 20002-8019

If EMU requests a hearing, my office will refer the case to the Office of Hearings and Appeals. That office will arrange for assignment of the case to an official, who will conduct an independent hearing. EMU is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If EMU does not request a hearing, but submits written material instead, I shall consider that material and notify you of the amount of the fine, if any, which will be imposed. Any request for a hearing or written material that EMU submits must be received by January 4, 2008; otherwise, the fine will be imposed on that date.

If you have any questions or desire any additional explanation of EMU's rights with respect to this action, please contact Nan Shepard at (415) 486-5615.

Sincerely,



Mary E. Gust
Mary E. Gust, Director
Administrative Actions and Appeals Division

Enclosure