



NOV 14 2014

Dr. Harry Lee Williams
President
Delaware State University
1200 North Dupont Highway
Dover, DE 19901-2277

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Dear Dr. Williams:

On June 20, 2014, the U.S. Department of Education (Department) notified Delaware State University (DSU) of its intent to fine DSU \$55,000 for its failure to comply with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) in §485(f) of the Higher Education Act of 1965, as amended (HEA). The proposed fine was based on the findings in a Final Program Review Determination (FPRD) issued on January 25, 2012. In a letter dated July 8, 2014, Mr. Thomas Preston, General Counsel for DSU submitted a written response to that fine notice on DSU's behalf and requested that the Department withdraw the June 20, 2014 proposed fine notice without prejudice, or settle the matter for \$20,000. DSU did not request for a hearing on the proposed fine.

The Department has considered the arguments and facts presented in your letter. This letter provides the Department's final decision on DSU's request for the withdrawal of the June 20, 2014 fine notification or a reduction of the proposed fine.

In the June 20, 2014 fine notice, the Department proposed to fine DSU a total of \$55,000 based on the following findings:

1. DSU lacked the administrative capability to participate in the federal student financial aid programs authorized by Title IV of the HEA (Title IV programs) in violation of 34 C.F.R. §68.16. Despite numerous requests from the Department over two years, DSU failed to provide the Department with documentation from the Department of Housing and Resident Life and Student Affairs, which have authority to receive and maintain records of crime or incident reports. In particular, DSU failed to provide the Department with completed incident/violation reports and referrals from its residence halls for calendar years 2004 through 2007. The Department proposed to impose a fine of \$27,500 for DSU's lack of administrative capability in violation of the Department's regulations.
2. DSU failed to report accurate crime statistics. Specifically, the Department was unable to verify the crime statistics reported in DSU's Annual Security Reports (ASR) and to the

Federal Student Aid

An OFFICE of the U.S. DEPARTMENT of EDUCATION

Administrative Actions and Appeals Service Group
830 First St., N.E. Washington, D.C. 20002-8019
StudentAid.gov

Department's Campus Crime and Security Website for calendar years 2004, 2005, 2006, and 2007. The Department proposed to impose a fine of \$27,500 for DSU's failure to maintain or produce documentation to support the crime statistics reported in the ASR and provided to the Department in violation of the requirements of the HEA and the Department's regulations.

The Department's letter notifying DSU of the proposed fine also notified the institution that it could request a hearing or submit written material contesting the proposed fine. DSU did not request a hearing. Instead, in Mr. Preston's letter of July 8, 2014, DSU contended that it had offered the Department the opportunity to review documents that it contended included those which it was previously obligated to produce, but that the Department had not responded. DSU did not otherwise contest the findings reflected in the FPRD and on which the proposed fine was based. We address the violations and DSU's response below.

1. Lack of administrative capability.

The FPRD concluded that DSU did not demonstrate administrative capability. The Department made multiple requests to DSU for all documentation related to conduct, incidents, or events which may be reportable under the Clery Act. The Department requested information during the course of the review, in personal interviews and in electronic correspondence.

In its response to the fine notification, DSU conceded that it had not provided the Department with all the requested documents during the program review because the documents had been initially mislaid.

Contrary to DSU's argument, however, the Department provided DSU with numerous opportunities to produce the required documents. As detailed in our June 20, 2014 fine notification, from August 2008 through December 2010, the Department made 8 specific requests for documentation from DSU. Despite numerous requests, DSU failed to provide to the Department completed incident/violation reports and referrals from the residence halls for calendar years 2004, 2005, 2006, and 2007. Moreover, in an April 20, 2012 letter from Brian Siegel, the Department gave DSU another opportunity to submit any documentation it wanted to submit to the program reviewers. DSU did not submit the documentation to the Department, but instead claimed that it would make the documentation available for review at some future time. Even in the July 8, 2014 letter from Mr. Preston, DSU did not provide any documentation but simply claimed that it would make it available.

We note that on numerous instances, including in the July 8, 2014 response to the fine notification, DSU conceded that it did not have the requested documents during and after the program review. DSU had ample opportunity to respond to the Department's continued requests

for this documentation but has consistently failed to do so. Accordingly, DSU has not demonstrated that it has the required administrative capability to participate in the Title IV programs.

2. Failure to report accurate crime statistics and provide documentation and records to substantiate crime statistics reported to the Department and included in the ASR.

The FPRD found that DSU did not have the documentation to support the crime statistics reported in DSU's ASRs and to the Department's Campus Crime and Security Website for calendar years 2004, 2005, 2006, and 2007. As noted in the Department's fine notification letter to DSU, DSU has claimed that it has the supporting documentation but it has never provided that documentation to the Department despite numerous opportunities to do so. Therefore, the Department concludes that DSU cannot demonstrate that the crime statistics provided to its students, employees, potential students and employees, the Department and the public are accurate.

Final Decision

For the reasons discussed above, the Department affirms the proposed fines of \$27,500 for DSU's lack of administrative capability, and \$27,500 for its failure to report accurate crime statistics. Therefore, the Department imposes a total fine of \$55,000.

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

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Program Compliance
830 First Street, NE – UCP-3, Room 84F2
Washington, DC 20002-8019

Please identify the payment as Bill No. AAA201501016 to ensure proper crediting of your payment account.

Dr. Harry Lee Williams
Delaware State University

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

Sincerely,



Mary E. Gust, Director
Administrative Actions and Appeals Service Group
Federal Student Aid/Program Compliance
U.S. Department of Education

cc: Mr. Thomas P. Preston, Esq., DSU's General Counsel
Dr. Elizabeth H. Sibolski, Middle States Commission on Higher Education, via info@msche.org
Mr. Patrick J Dunn, Delaware Department of Education, via Pat.dunn@doe.ed.us