



JUL 1 2015

Mr. Mitsu Sato
President
Mitsu Sato Hair Academy
9062 Metcalf Avenue
Overland Park, KS 66212-1457

Sent: United Parcel Service
Tracking #: 1Z A87 964 01 9616 5413

OPE-ID: 04205300

Dear Mr. Sato:

This letter is to inform you that the U.S. Department of Education (Department) intends to fine Mitsu Sato Hair Academy (Mitsu) a total of \$15,000 based on the violations of statutory and regulatory requirements outlined below. This fine action is taken in accordance with the procedures that the Secretary of Education (Secretary) has established for assessing fines against institutions participating in any or all of the programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 *et seq.* (Title IV, HEA programs). As detailed below, this fine action is based on Mitsu'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 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 ASR must also include statements explaining the institution's policies on certain specified campus security topics. 34 C.F.R. § 668.46(b).

The Department reviewed the report of an audit of Mitsu's participation in the Title IV HEA programs prepared by Clifton Larson Allen, LLP. The report was prepared in accordance with the Department's Audit Guide – Audits of Federal Student Financial Assistance Programs at Participating Institutions and Institutions Servicers – January 2000 and covered the period of January 1, 2012 through December 31, 2012. The audit included a review of Mitsu's compliance with applicable laws and regulations including the Clery Act and the HEA. The audit report included a finding, among others, that Mitsu did not distribute its 2012 ASR in accordance with the requirements of the Clery Act and the Department's regulations. The audit report also included Mitsu's response to the findings dated July 2, 2013.

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

The Department reviewed the audit report and issued its Final Audit Determination (FAD) letter to Mitsu on January 9, 2014. The FAD is incorporated by reference into this fine action. (Enclosure 1).

The Department is taking this fine action based on the finding in the FAD that Mitsu did not properly distribute its ASR for calendar year 2012.

MITSU FAILED TO PROPERLY DISTRIBUTE ITS 2012 ASR

Under the Clery Act and the Department's regulations, an institution participating in the Title IV, HEA programs must distribute its ASR to all enrolled students and current employees through appropriate publications and mailings. The ASR must be distributed by October 1 of each year. The ASR must be distributed by an appropriate method including by: direct mailing to each individual through the U.S. Postal Service, campus mail, or electronic mail; a publication or publications provided directly to each individual; or posting on an Internet website or an Intranet website. 34 C.F.R. § 668.41(e).

If an institution chooses to distribute its ASR to enrolled students by posting the disclosure on an Internet website or an Intranet website, the institution must, by October 1 of each year, distribute to all current students a notice that includes a statement of the report's availability, the exact electronic address at which the report is posted, a brief description of the report's contents, and a statement that the institution will provide a paper copy of the report upon request. 34 C.F.R. § 668.41(c)(2) and (e)(2).

If an institution chooses to distribute its ASR to current employees by posting the disclosure on an Internet website or an Intranet website, the institution must, by October 1 of each year, distribute to all current employees a notice that includes a statement of the report's availability, the exact electronic address at which the report is posted, a brief description of the report's contents, and a statement that the institution will provide a paper copy of the report upon request. 34 C.F.R. § 668.41(e)(3).

In addition, the institution must provide a notice to all prospective students and employees that includes a statement of the ASR's availability and contents. If the institution chooses to provide its ASR to prospective students and prospective employees by posting the disclosure on an Internet website, the notice must include the exact electronic address at which the report is posted, and a statement that the institution will provide a paper copy of the report upon request. 34 C.F.R. § 668.41(e)(4).

Mitsu did not distribute its 2012 ASR to current students and employees. Additionally, the FAD found that Mitsu did not notify prospective students and employees about the availability of the 2012 ASR and how to obtain a hard copy of the report. In its response to the audit, Mitsu concurred with the finding and stated that it had taken remedial actions to properly distribute the ASR annually. However, the promise to distribute the ASR in the future does not excuse Mitsu's earlier failure to comply with the law. The Clery Act requires institutions to provide students

and employees with vital crime statistics and information through the ASR by October 1 each year. Mitsu failed to comply with this requirement and thus deprived its students and employees of important safety information.

In determining the amount of a fine, the Department considers both the gravity of the offense and the size of the institution. 34 C.F.R § 668.92. Pursuant to the Secretary's decision In the Matter of Bnai Arugath Habosem, Docket No. 92-131-ST (August 24, 1993), the size of an institution is based on whether it is above or below the median funding levels for the Title IV, HEA programs in which it participates. The latest year for which complete funding data is available for Mitsu is 2013-2014 award year. According to the Department records, Mitsu received approximately \$146,829 in Federal Pell Grant (Pell) funds, and \$326,486 in Federal Direct Loan funds. The latest information available to the Department indicates that the median funding level for institutions participating in the Federal Pell Grant program is \$1,571,915, and for institutions participating in the Federal Direct Loan programs, the median funding level is \$2,408,978. Accordingly, Mitsu is a small institution because its funding levels for Federal Pell Grant, and Federal Direct Loan funds are below the median funding levels for those Title IV, HEA programs.

As detailed in this letter, the Clery Act violations identified at Mitsu are very serious. Mitsu failed to provide its 2012 ASR to its students and employees by the statutory deadline. Moreover, Mitsu did not send a notification to prospective students and employees about the availability of the 2012 ASR and about how those prospective students and employees could obtain a paper copy. The ASR is a basic source for providing safety and security information to students and employees. As a result of Mitsu's violations of the Clery Act, students and employees were deprived of information that would help them take precautions for their safety and prospective students and employees were not given important information about crime at the institution. Moreover, the Department considers an institution's compliance with the Clery Act requirements to be part of its administrative capability, and Mitsu's failure to comply with those requirements constitutes an inability to administer properly the Title IV programs.

After considering the gravity of the violations and size of the institution, I have assessed a fine of \$15,000 for Mitsu's failure to properly distribute its ASR for calendar year 2012. This is a serious violation because current students and employees were denied information about campus safety that would help them make informed safety decisions.

The fine of \$15,000 will be imposed on **July 20, 2015**, unless I receive, by that date, a request for a hearing or written material indicating why the fine should not be imposed. Mitsu may submit both a written request for a hearing and written material indicating why a fine should not be imposed.

Mr. Mitsu Sato
Mitsu Sato Hair Academy
Page 4

If Mitsu chooses to request a hearing or submit written material, you must write to me **to the attention of Lawrence Mwethuku** at:

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

Upon receipt of such a request, the case will be referred to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of Mitsu's case to a hearing official who will conduct an independent hearing. Mitsu is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If Mitsu does not request a hearing but submits written material instead, I will consider that material and notify Mitsu of the amount of fine, if any, that will be imposed.

ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT MITSU SUBMITS MUST BE RECEIVED BY JULY 20, 2015; OTHERWISE, THE \$15,000 FINE WILL BE EFFECTIVE ON THAT DATE.

If you have any questions or desire any additional explanation of Mitsu's rights with respect to this action, please contact Lawrence Mwethuku of my staff at 202/377-3684.

Sincerely,

A black rectangular redaction box covering the signature of Robin S. Minor.

Robin S. Minor, Acting Director
Administrative Actions and Appeals Service Group
Federal Student Aid/Program Compliance
U.S. Department of Education

Enclosure

cc: Tony Mirando, Executive Director, via amirando@naccas.org
Wendy Flowers, Remedial Action Fines, Kansas Board of Cosmetology, via
wendy.flowers@kboc.ks.gov