



June 2, 2015

Mr. Leo E. Morton
Chancellor
University of Missouri - Kansas City
5100 Rockhill Drive
Kansas City, MO 64110-2446

UPS Tracking #
1Z A87 964 02 9076 5355

RE: Final Program Review Determination
OPE ID: 00251800
PRCN: 200940727009

Dear Chancellor Morton:

The U.S. Department of Education (the Department) previously issued a program review report regarding the University of Missouri - Kansas City's (UMKC; the University) compliance with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*). The University 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). UMKC's response and any supporting documentation submitted with the response are being retained by the Department and are available for inspection by UMKC upon request. Please be advised that this FPRD and any supporting documentation may be subject to release under the Freedom of Information Act and/or may be provided to other oversight entities after it is issued.

Purpose:

Final determinations have been made concerning the findings identified during the program review. The purpose of this letter is to advise UMKC of the Department's final determinations and to close the review, subject to the full and timely production of requested documentation. Please note that this FPRD includes information about the Department's findings regarding UMKC's failure to comply with the requirements of the *Clery Act*. Because these findings do not result in financial liabilities, they may not be appealed.

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-related 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, please contact Ms. Cynthia Floyd-Davis on (202) 377-4523 or at Cynthia.FloydDavis@ed.gov.

Sincerely,

[Redacted]
James L. Moore, III
Compliance Manager
Clery Act Compliance Team

cc: Mr. Michael Bongartz, Chief of Police, UMKC umkcpd@umkc.edu,
Ms. Nancy Merz, Director of Financial Aid, UMKC FinAid@umkc.edu

Enclosures:

Final Program Review Determination

Prepared for:
University of Missouri - Kansas City

OPE ID: 00251800
PRCN: 200940727009

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

Final Program Review Determination
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Table of Contents

	Page
A. Institutional Information.....	2
B. Scope of Review.....	3
C. Findings and Final Determinations.....	3
Finding #1: Failure to Properly Classify and Disclose Crime Statistics.....	4
Finding #2: Inaccurate Disclosure of Campus Crime Statistics.....	8
Finding #3: Failure to Properly Define the Campus in Accordance with Federal Regulations.....	10
Finding #4: Failure to Distribute the Annual Security Report as Required.....	13
Appendix A: Supplemental Document Production Instructions.....	16

A. Institutional Information

**University of Missouri - Kansas City
5100 Rockhill Rd.
Kansas City, MO 64110**

Type: Public

Highest Level of Offering: Master/Doctoral Degree

Accrediting Agency: North Central Association of Colleges and Schools - Higher Learning Commission

Current Student Enrollment: 15,277 (Fall Semester 2010)

% of Students Receiving Title IV: 54% (2010-11 Academic Year)

**Title IV Participation, Per U.S. Department of Education Data Base
(Postsecondary Education Participants System):**

2007/2008 Award Year

Federal Pell Grant Program	\$ 6,345,251
Federal Supplemental Educational Opportunity Grant Program	\$ 462,236
Federal Work Study Program	\$ 1,424,658
Federal Perkins Loan Program (Perkins)	\$ 1,342,685
Federal Family Education Loan Program (FFEL)	\$ 91,262,927

FFEL Default Rate: **2007** **5.7%**
 2006 **3.5%**
 2005 **4.0%**

Perkins Default Rate: **2007** **7.5%**
 2006 **6.6%**
 2005 **12.6%**

The University of Missouri-Kansas City (UMKC; the University) offers more than 120 degree programs in twelve academic units including four professional schools. At the time of the site visit, the UMKC Police Department (UMKCPD) employed 28 sworn police officers and maintained a 24/7/365 presence on the UMKC campus and in the surrounding neighborhood, pursuant to agreements with local agencies. The UMKCPD maintains a close working relationship with the Kansas City Police Department and the Jackson County Sheriff's Office.

B. Scope of Review

The U.S. Department of Education (the Department) conducted a campus crime program review at UMKC. The review began with a site visit in August 2009. The review was conducted by the Clery Act Compliance Team (CACT).

The objective of the review was to evaluate UMKC's compliance with the *Clery Act* at §485(f) of the Higher Education Act of 1965 as amended (HEA), 20 U.S.C. §1092(f). UMKC was selected from a list of institutions of higher education with sworn police departments in the state of Missouri. The review was not the result of any specific complaint or other allegation of noncompliance. The Department's work consisted of an examination of UMKCPD incident reports, arrest records, disciplinary files policies and procedures related to the *Clery Act*. In addition, interviews were conducted with UMKC officials with campus safety-related responsibilities.

The Department reviewed a sample of 137 UMKCPD incident reports and arrest records as well as 21 disciplinary reports from calendar year 2007 as part of its testing of the 2008 ASR. Document samples were selected using judgmental and random techniques. Approximately 50 incident reports were cross-checked against the daily crime log to ensure that crimes were entered properly. Finally, the Department examined the University's policies and procedures related to campus safety and crime prevention that were in effect during the review period.

Disclaimer:

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning UMKC's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific policing and campus safety practices, procedures, and policies. Furthermore, it does not relieve UMKC 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 occurring during the stated review period.

C. Findings and Final Determinations

During the review, several findings of noncompliance were identified. The findings identified in the Department's initial program review report appear in italics below. At the conclusion of each finding is a summary of UMKC'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 incidents: criminal homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. In addition, institutions are 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:

UMKC failed to properly classify four incidents reported during calendar year 2007 in accordance with the Clery Act's crime classification requirements. Specifically, UMKC Police report case # 0486¹ was improperly classified as a "Miscellaneous Investigation." In this incident, the complainant reported that a man accosted her, made sexually explicit comments, and repeatedly touched her in an unwanted and assaultive manner. The offensive touching included the grabbing of her buttocks. Based on these facts, the correct classification should have been Forcible Sex Offense-Forcible Fondling. Case report # 07-0270 was classified improperly as "Property Damage- Institutional Vandalism." In this incident, the complainant reported, and a UMKC police officer observed, that paper had been set on fire in Grant Hall. Burn marks were observed on the student's dormitory door. Based on the review team's assessment of the incident report, this incident should have been classified as an Attempted Arson.

Two additional Cases #s 07-0177 and 07-0416 were improperly classified as "Theft from a Building." In Case #07-0177, audio-visual equipment valued at \$900.00 was stolen from an office. In Case #07-0416, some of a student's belongings were missing after employees of a contract cleaning service packaged the student's property for storage. Both cases should have been classified as burglaries. More precisely, Case 07-0177 is a Constructive Burglary based on the facts in the report. While the cleaning service had legal access to the room, the subsequent illegal act converts the larceny to a crime against the habitation. These classification errors caused UMKC's crime statistics to be under-reported.

UMKC also failed to include another incident in the campus crime statistics. Case # 0461 was properly classified as an Attempted Auto Theft. However, the University's

¹ UMKC Police report cases are those generated by the UMKC Police Department. Hereafter, these reports will be referred to as Case(s).

audit trail does not indicate that this incident, which occurred in UMKC Parking Area 40 South, was included in the statistics in its annual security report (ASR).

Finally, UMKC could not provide an accurate and complete audit trail to support the disciplinary referral statistics for liquor, drug, and weapons offenses published in its 2008 ASR. The list of disciplinary adjudications provided to the review team is incomplete since it did not provide any information on incidents in September or October 2007. Consequently, it is impossible to establish whether the number of disciplinary cases reported to the Department, and included in UMKC's ASR, includes all cases handled during calendar year 2007. Records for disciplinary proceedings are retained by the UMKC's Residence Life Office in some cases and in the Office of Student Life in others. The determination of which office handles a particular case and keeps documentation was not made clear to the review team and may be a contributing factor to the audit trail issue.

Failure to classify and disclose incidents of reported crimes result in the under-reporting of crimes statistics and deprives the campus community and the public of important security information.

Required Action:

In response to this finding, UMKC may provide documentation to demonstrate that the incidents referenced in this finding were, in fact, properly classified. Otherwise, UMKC must reclassify these incidents and correct the errors in its crime statistics. Additionally, the University must re-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 are properly classified and included in future ASR statistical disclosures as required.

Furthermore, UMKC must conduct a comprehensive review of its disciplinary referral records to ascertain any systemic breakdowns that led to the inability to produce records that verify the disciplinary referral statistics published in its ASR. UMKC must prepare a summary report of its findings and propose corrective actions to review all statistical inaccuracies and omissions for calendar year 2007. UMKC officials must brief the review team on its findings and plans of corrective actions before any revisions to its crime statistics are made and disseminated to the campus community.

Institutional Response:

In its official response, UMKC partly agreed with the violations identified in this finding. For some instances, the University submitted statements and documents that purported to show that certain incidents of crime were classified properly and were included in the crime statistics disclosure. UMKC also addressed each of the classification and/or disclosure violations cited in the finding.

The University's statements are outlined below:

- Incident Report #07-0416 (Misclassified as Theft from a Building) - The University did not agree with this finding. UMKC said the crime incident was classified as larceny from a building because it was a secured facility, only authorized personnel had access, and there was no report of forced entry.
- Incident Report #07-0461 (Properly Classified as Attempted Auto; But Not Disclosed) - The University partly agreed with the finding. UMKC acknowledged the crime incident was not included in the audit trail; however, it attested that the crime incident was properly classified and disclosed in the crime statistics for calendar year 2007.
- Incident Report #07-0177 (Misclassified as Theft from a Building) - UMKC conceded that the crime incident was incorrectly classified as larceny. It also stated the crime incident was reclassified and disclosed in the crime statistics as a burglary for calendar year 2007.
- Incident Report #07-0270 (Misclassified as Property Damage – Institutional Vandalism) - UMKC did not agree with the Department's finding for this violation. The University said the crime incident was classified as "institutional vandalism" because the incident did not occur in a dormitory, but to an office door in an academic building instead. UMKC also informed the Department that the crime incident was not investigated by a qualified arson investigator.
- Incident Report #07-0486 (Misclassified as a Miscellaneous Investigation) - UMKC refuted that the crime incident was misclassified. The University explained the crime incident was a sexual assault that occurred off-campus, and it was reported to the Kansas City Police Department. UMKC officials represented that all off-campus crimes were classified as a "Miscellaneous Investigation" or as an "Assist Other Department" for informational purposes to prevent duplicating statistics for those crimes in the Uniform Crime Reporting process later. UMKC said the statistic for this crime incident was disclosed in the ASR in a column under a heading entitled "reported by the local police" and shown as a forcible sex offense that occurred on public property during calendar year 2007.

UMKCPD also indicated that it consulted with the Missouri State Highway Patrol on a number of classification issues.

Finally, regarding the disciplinary referrals statistics, University officials claimed that in a secondary review conducted as part of its response to this finding, it found that there were no disciplinary referrals from September or October 2007 to be included in the Clery Report. The University also appointed a committee that conducted a comprehensive review of the disciplinary referral records. The committee also made recommendations for improvement in reporting crimes and in educating the campus community on crime reporting.

Final Determination:

Finding #1 cited UMKC for its failure to properly classify and disclose statistics for the incidents of crime in its 2008 ASR for calendar year 2007. UMKC was also cited for its failure to provide an accurate and complete audit trail to support statistical data for campus disciplinary referrals that involved liquor, drug, and weapons offenses that were disclosed in the ASR.

As a result of these violations, the Department required UMKC to review and improve its existing policies, procedures, internal controls, and training programs to ensure that all reported incidents of crime are classified properly and disclosed in the ASR. The Department also required UMKC to provide documentation that the incidents identified in the finding were classified properly. In addition, the University was instructed to review campus disciplinary records and verify the accuracy of its disciplinary referral statistics. The University's findings and information on its corrective actions were to be included in UMKC's response to this program review report. In its response, the University concurred in part with the finding while challenging other aspects of it. Management also submitted documents that purported to support its claims.

The Department carefully reviewed all available documentation including the University's response and supporting documents. Based on that review and UMKC's partial admission of noncompliance, the violations noted in the initial finding are sustained, with the exception of events associated with Incident Report #07-0486 as it appears that the incident was classified and disclosed correctly. Regarding these final determinations, UMKC is reminded of the following points regarding *Clerly Act* compliance: 1) While the Department's regulations require the use of several Uniform Crime Reporting (UCR) definitions, the *Clerly Act* does not follow all aspects of the UCR program. As such, institutions must apply those definitions in accordance with the Department's policy guidance. In this context, institutions must be mindful that state agencies, such as the Missouri State Highway Patrol, may not have a detailed understanding of *Clerly Act* requirements. As such, it is important to consult the Department's handbook and other *Clerly Act*-specific resources for guidance; 2) Any miscellaneous reports that are received from outside law enforcement agencies must be evaluated to determine if the narrative or other case facts indicate that a particular incident must be reflected in UMKC's campus crime statistics; and, 3) The University must maintain institutional records that document the accuracy and completeness of its campus crime statistics. As such, UMKC must establish an audit trail for its campus crime statistics going forward that will show the specific incidents (by incident report number) that substantiate the statistics for each category of crime by location for each calendar year.

In this regard, the University is also reminded to maintain records that explain any discrepancies between its *Clerly Act* statistics, UCR statistics, and any other data sets that are created to comply with various, Federal, state, or other reporting requirements. UMKC must also ensure that it classifies incidents in accordance with the specific definitions and other requirements of each reporting system. In terms of the *Clerly Act*,

for example, there is no requirement that an incident manifest evidence of forced entry to be classified as a burglary. The Department is also aware that some states have a law or policy that states that a fire is not to be defined as a crime of arson unless and until it is investigated by a fire marshal or an arson investigator and determined to be such. The *Clerly Act* does not include such a requirement. The Department's settled position is that evidence of a burning and/or the existence of flames where they should otherwise not be and that cannot be explained by some atmospheric (e.g. lightening), mechanical (e.g. electrical malfunction) or other specific non-criminal activity (e.g. a sanctioned bonfire) must be defined as an arson. The *Clerly Act* arson definition defines arson as the willful or malicious burning or attempt to burn a structure such as a house, a motor vehicle, or other personal property, additional conditions or requirements of state laws or local ordinances notwithstanding.

As noted above, the review team also evaluated UMKC's remedial action plan and based on that examination, determined that the plan meets minimum requirements. As such, the Department has accepted the University's response and considers this finding to be closed for program review purposes. Nevertheless, the officials and directors of UMKC are put on notice that they must take any 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 University's response and/or as may otherwise be needed to ensure that these violations do not recur.

Although the finding is now closed², UMKC is reminded that the exceptions identified above constitute serious violations of the *Clerly Act* that by their nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. The University was required to initiate all necessary remedial measures. UMKC asserted that it has taken adequate remedial actions and that by doing so that it is now in compliance with the *Clerly Act* as required by its Program Participation Agreement (PPA). Nevertheless, UMKC is advised that such 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.

Finding #2: Inaccurate Disclosure of Campus Crime Statistics

Citation:

The Clerly Act and the Department's regulations require that participating institutions compile and publish statistics concerning the occurrence on campus of the following incidents: 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).

² Subject to UMKC's full and timely production of records and other documentation listed in the Appendix to this FPRD.

Noncompliance:

The crime statistics in UMKC's 2008 ASR conflicted with the statistics it reported to the Department. The misreported statistics for calendar years 2005 and 2006 were included in the 2008 ASR, which the review team utilized during the review process. Specifically, the University reported 39 burglaries on campus for calendar year 2005 to the Department, while its 2008 ASR listed 42 burglaries and reported zero illegal weapons possession disciplinary actions on campus for calendar year 2006 to the Department, while its 2008 ASR listed one disciplinary action in that year.

Required Action:

The Clery Act requires participating institutions to report accurate statistics regarding campus crime and referrals for liquor, drug, and weapons violations. UMKC must enter crime statistics correctly when reporting to the Department's crime statistics web site. UMKC must review its submissions to ensure that the statistics reported to the Department and included in its ASR are correct. Incorrect reporting to the Department results in inaccurate information being presented to prospective and current students, parents, and employees. UMKC must develop procedures to ensure that correct information is reported to the Department. A copy of these procedures must be submitted in response to this report.

Institutional Response:

In its official response, the University acknowledged that it underreported its calendar year 2005 and 2006 crime statistics in its response to the Department's 2008 campus crime statistics survey. Per the response, UMKC revised its crime statistics and also included the corrected data in its 2009 ASR. University officials proffered that the reporting discrepancies may have resulted from a failure of staff to understand the survey instructions. UMKC management claimed that that its existing collection and reporting procedures were reviewed and revised. Specifically, the University established a Case Management Team that is charged with reviewing crime statistics before they are submitted to Department's Campus Safety and Security Data Analysis Cutting Tool (CSSDACT).

Final Determination:

Finding #2 of the program review report cited UMKC for including inaccurate and incomplete crime statistics in its 2008 ASR and for reporting discrepant crime statistics to the CSSDACT. As a result of the violations, the Department required UMKC to review its crime statistics that were submitted to the Department's online campus crime statistics database and those that were disclosed in the 2008 ASR for calendar years 2005 and 2006. In addition, the University was required to develop procedures to ensure that only accurate and complete information is reported to the Department and provided to students and employees. In its response, the University concurred with the finding, described its remedial actions, and submitted documents in support of its claims.

The Department carefully examined UMKC's narrative response and supporting documentation. Based on that review and the University's admission of noncompliance, the exceptions 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 UMKC's subsequent ASRs and CSSDACT submissions and its revised internal policies and procedures. As such, the review team has determined that UMKC's remedial action plan meets minimum requirements. For these reasons, the Department has accepted UMKC's response and considers this finding to be closed for program review purposes. Given the passage of time, no additional corrective measures are needed to address the specific violations above. Nevertheless, the officials and directors of UMKC are put on notice that they must take any 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 University's response and/or as may otherwise be needed to ensure that these violations do not recur.

Although the finding is now closed, UMKC 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. The University was required to initiate all necessary remedial measures. UMKC 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, UMKC is advised that such 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.

Finding #3: Failure to Properly Define the Campus in Accordance with Federal Regulations

Citation: 34 C.F.R. §668.46 (a)(1) and (2).

Federal regulations require institutions to compile and publish separate crime statistics for each location or facility. The relevant definitions for this requirement include:

- 1) *Campus I: any building or property owned or controlled by the institution within the same reasonably contiguous geographical area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls;*
- 2) *Campus II: any building or property owned by the institution that is within or reasonably contiguous to the area identified above, but is controlled by another person or entity;*
- 3) *Non-Campus Building and Property: any building or property owned or controlled by a recognized student organization; or any building or property owned and controlled by the institution as described in 1. above but is not in the same reasonably contiguous area; and,*
- 4) *Public Property: all public property that is within the boundaries of the campus or that is immediately adjacent to or accessible from the campus.*

In general, an institution must comply with the statistical reporting requirements for each administrative division, location, or property that is not in the same reasonably contiguous geographical area as the main location.

Noncompliance:

UMKC failed to properly define its campus for Clery Act reporting purposes in accordance with the Department's regulations. Specifically, UMKC did not include statistics of crimes reported as occurring in several homes that are owned by the University. Over many years, UMKC has acquired several homes and other parcels of land within or near the campus boundaries. Some of these homes are used as student housing. These homes are UMKC property, are reasonably contiguous, and are used in direct support of the University's educational mission (see definition #1 above). Statistics of incidents of crime reported as occurring at these properties were not included in the statistics for calendar year 2007.

Required Action:

UMKC must review all real estate and land that it owns or controls, determine the use(s) of each property, and apply the definition of campus to each building or property. UMKC must submit a summary report of the findings of the property reviewed in its response to this program review report. Once the campus is defined properly, UMKC must revise its crime statistics for each calendar year beginning with 2007 to ensure their accuracy and completeness with regard to any building and property that falls within the above definitions. Finally, UMKC must develop a program of internal controls to ensure the real estate list is updated and disseminated timely to the office responsible for determining what crimes will be included for Clery Act reporting purposes. The plan must include a specific procedure to notify the UMKC Police Department and all other campus security authorities on changes in ownership, control, or usage of all relevant buildings and properties. A copy of the policy and procedure must be submitted with UMKC's response.

Institutional Response:

In its official response, UMKC represented that the University properly applied the *Clery Act*'s geographical definitions to its campus and that crime statistics were disclosed accurately during the review period. In support of its claims, the University submitted copies of its property list for the years 2007 and 2010 and the UMKCPD Policy and Procedures Manual to demonstrate the property list was updated. Per the response, UMKC officials also stated that local law enforcement (LLE) agencies patrolled areas where several of the non-campus buildings and properties referenced in the finding are located. Finally, University officials claimed that these LLEs subsequently advised the UMKC Police Department about incidents of crime that were reported as occurring at these locations.

Final Determination:

Finding #3 of the program review report cited UMKC for its failure to properly apply the *Clerly Act's* geographical definitions (Clerly Geography) to all buildings and properties that the University owned or controlled during the review period. The review team also found that crime statistics were not disclosed for some of these locations. With regard to the second element of the finding, the review team specifically noted that that UMKC was unable to produce any records to substantiate that crime statistics were requested from LLE for these buildings and properties and that no Clerly-reportable crimes were noted on the audit trail that was intended to substantiate the validity of the University's crime statistics. As a result of these violations, UMKC was required to review its real estate portfolio to identify all buildings and properties that it owned or controlled and used for educational purposes. The University was also required to identify any such buildings or properties that were owned or controlled by recognized student organizations. Then UMKC was required to determine which of the *Clerly Act's* geographical definitions applied to each parcel. Moreover, the University was required to compile statistics of crimes reported as occurring at these locations during the review period and disclose its findings in its response. Finally, UMKC was required to develop procedures and internal controls to ensure that real estate lists are updated and distributed to offices responsible for administering any aspect of its *Clerly Act* compliance program. In its response, the University claimed that it had properly defined the campus and submitted records that purported to support its claims.

The Department carefully reviewed all available documentation including UMKC's response and supporting documents. The Department has accepted the University's explanation of the facts and circumstances and determined that the finding is not sustained. The decision to not sustain the finding is based primarily on the representations of UMKC officials; however, the University must continue to refine its crime statistics collection and disclosure methods and its recordkeeping processes going forward. In this context, UMKC is admonished to ensure that adequate systems are in place that will guarantee all Clerly-reportable incidents of crime are reflected in its ASRs and CSSDACT submissions and that it also generates and maintains records that document its efforts to comply.

Notwithstanding the Department's ongoing concerns, the review team's examination of UMKC's revised internal policies and procedures indicated that these process improvements should provide a reasonable framework for future compliance. The response also specifically indicated that UMKC established a committee to coordinate reforms and enhancements to the University's campus safety and crime prevention program. The Department is hopeful that that these changes will result in improved campus safety operations and *Clerly Act* compliance going forward. For these reasons, the Department has accepted UMKC's response and considers this finding to be closed for program review purposes. Nevertheless, the officials and directors of UMKC are put on notice that they must take any additional actions that may be necessary to ensure ongoing compliance with these requirements.

In this regard, the Department calls attention to UMKC's response to Finding #1 wherein the University explained that all incidents of crime reported to the Kansas City Police Department (KCPD) are transmitted to the UMKCPD under the "Miscellaneous Investigation" or "Assist Other Department" classifications. University officials represented that this practice was intended to prevent double-reporting to the UCR program. Of course, nothing that the KCPD did or didn't do in terms of its UCR reporting would affect the University's obligation under the *Clerly Act* to compile and disclose campus crime statistics to student and employees and to the Department. As such, the University is reminded that it must review the narratives of these reports and classify them accordingly making sure to include all Clerly-reportable offenses in the ASR and its CSSDACT submissions. All *Clerly Act* crimes statistics must be disclosed by offense classification, location, and calendar year. Statistics from the UMKCPD and other CSAs should be aggregated with statistics from LLE agencies to give the clearest possible representation of overall criminal activity on campus and in the near-campus community.

Finding #4: Failure to Distribute the Annual Security Report as Required

Citation:

All participating institutions must provide the ASR to all current students and employees through appropriate publications and mailing. Acceptable means of delivery include regular U.S. Mail, hand delivery, or campus mail distribution to the individual or posting on the institution's internet or intranet site. If an institution chooses to distribute its ASR by posting to an internet or intranet site, it must, by October 1 of each year, distribute a notice to all students and employees that includes a statement of the ASR's availability and its exact electronic address, a description of its contents and a statement that a paper copy will be provided upon request. 34 C.F.R. §668.41(e).

Noncompliance:

UMKC did not distribute its ASR to all current students and employees by October 1, 2008 as required by the Clerly Act. During the site visit, UMKC police officials produced documentation that a campus-wide e-mail announcing that the report was available was sent on October 13, 2008, 13 days late.

Required Action:

As a result of this finding, UMKC must review and revise its policies and procedures for distributing its ASR and take all necessary steps to ensure that it is distributed by October 1 of each year. A copy of all policy changes and improvements must be provided with UMKC's response to this program review report.

Institutional Response:

In its official response, UMKC conceded that its 2008 ASR was not distributed to its enrolled students and employees by the required October 1st deadline. University officials claimed that the required distribution was delayed because the University was in the process of bringing a new website online. Per the response, the new website that was not fully operational until October 13, 2008. In addition, UMKC management identified the current ASR distribution procedure that is part of the UMKCPD Policy and Procedure Manual. UMKC represented that the current procedure is adequate and that future ASRs will be completed well in advance of the due date to ensure timely dissemination.

Final Determination:

Finding #4 of this program review report cited UMKC for its failure to distribute its 2008 ASR by the October 1st deadline. As a result of the violation, UMKC was required to review and revise its internal policies and procedures for distributing its ASRs and its Annual Fire Safety Reports and take the necessary steps to ensure that all future reports are distributed by October 1st each year. The Department also instructed the University to provide a copy of the revised policy and procedures with its response. In its response, UMKC concurred with the finding. The University also stated that it determined that its existing procedures were adequate.

The Department carefully reviewed all available information, including UMKC's response and supporting documents. Based on that review and the University's admission of noncompliance, the violation identified in the initial finding is sustained. The Department also determined that UMKC's remedial action plan meets minimum requirements. For these reasons, the Department has accepted the University's response and considers this finding to be closed for the purposes of this program review. Nevertheless, the officers and directors of UMKC are put on notice that the University must take any additional actions that may be necessary to address the violations identified by the Department, as well as any other deficiencies and weaknesses that were detected during the preparation of its response and/or as may otherwise be needed to ensure that this violation does not recur.

Although the finding is now closed, UMKC is reminded that the exception identified above constituted a serious violation of the *Clery Act* that by its nature cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. The requirement to produce and distribute an accurate and complete ASR is the most basic requirement of the *Clery Act* and is fundamental to its campus safety goals. The University asserted that it has taken adequate remedial actions and that it is now in compliance with the *Clery Act* as required by its PPA. Nevertheless, UMKC is advised that such 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 such violations, the Department strongly recommends that UMKC re-examine its campus safety 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. To that end, UMKC officials are encouraged to consult the Department's "Handbook for Campus Safety and Security Reporting" (2011 edition) as a reference guide for *Clerly Act* compliance. The Handbook is online at: www2.ed.gov/admins/lead/safety/handbook.pdf. The Department also provides a number of other *Clerly Act* training resources. UMKC can access these materials at: www2.ed.gov/admins/lead/safety/campus.html. The regulations governing the *Clerly Act* can be found at 34 C.F.R. §§668.14, 668.41, 668.46, and 668.49.

UMKC management is also reminded that Section 304 of the Violence Against Women Reauthorization Act of 2013 (VAWA) amended the *Clerly 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 and response in their ASRs. All institutions are currently obligated to make a documented good-faith effort to comply with the statutory requirements of VAWA and were obligated to include all new required content in the 2014 ASR. The Department issued Final Rules on the VAWA amendments on October 20, 2014 and therefore, these regulations will go into effect on July 1, 2015, per the Department's Master Calendar. UMKC officials may access the text of the Fine Rule at:

<http://ifap.ed.gov/fregisters/attachments/FR102014FinalRuleViolenceAgainstWomenAct.pdf>.

Finally, UMKC officials are 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. FSA is now responsible for monitoring compliance with the DFSCA. Therefore, it is essential that the University continue to develop its DAAPP, actively distributes accurate and complete program materials to members of the campus community, and conducts comprehensive biennial reviews on the required schedule. UMKC's reports must include substantive information about the conduct of each review including details about the research methods used and outcomes reached. Care must also be taken to ensure that all findings and recommendations are supported by valid evidence. Finally, the report must indicate that it was approved by the University's President and/or its board. For assistance or more information on the *Clerly Act* and/or the DFSCA, please contact the Kansas City School Participation Division.

Appendix A

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

- 1) Copies of UMKC's 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 the UMKC's 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 current list of all buildings and properties that are owned or controlled by UMKC or any recognized student organization that is used in direct support of or manner related to the University's educational purpose. A list of all such holdings and transactions (acquisitions and sales) for calendar years 2013 and 2014.
- 4) A copy of any reports, policies, procedures and/or information about process enhancements and recommendations created by the committee referenced in UMKC's response to Finding #1.
- 5) A status report on UMKC's efforts to implement the requirements of Section 304 of the Violence Against Women Reauthorization Act of 2013.
- 6) A copy of the UMKC's current Drug and Alcohol Abuse Prevention Program materials and its two most-recent biennial review reports.

These materials must be submitted via electronic mail to the CACT at clery@ed.gov. Within 45 days of its receipt of this FPRD,

UMKC's submission must reference the Program Review Control Number, 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, UMKC officials must clearly communicate that fact to the Department in writing via electronic mail. In this context, UMKC officials are advised that no new documents are to be created at this time for the purpose of demonstrating compliance with any *Clery Act* or *DFSCA* requirement for past periods. The University 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.