



April 12, 2010

Dr. Richard C. Levin
President
Yale University
246 Church Street
New Haven, CT. 06520-8288

Certified Mail
Return Receipt Requested
70051160000115187490

RE: **Program Review Report**
OPEID: 00142600
PRCN: 200730326836

Dear Dr Levin:

From June 18 to June 22, 2007, Mr. James L. Moore, III and Mr. Donald I. Tantom, as representatives of the U.S. Department of Education, conducted a review of Yale University's compliance with The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The findings of that review are presented in the enclosed report.

Our review disclosed several violations and weaknesses in the University's campus security operations in general and its approach to the Act in particular. This program review report contains specific findings of non-compliance. These findings are referenced to the applicable Federal laws and regulations. Each finding also sets forth specific corrective actions. These corrective actions are specifically designed to assist the Yale University toward full compliance with the Clery Act and to provide accurate and complete campus security information to the campus community.

Please review and provide a substantive response to each finding. The University's response must state with particularity the causes for the finding, progress on all required corrective actions, and all other specific steps taken by the University to correct these

School Participation Team NE - Philadelphia
The Wanamaker Building
100 Penn Square East, Suite 511
Philadelphia, PA 19107-3323

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findings. Your response should be sent directly to this office, to the attention of Mr. Moore and Mr. Tantom within 90 calendar days of the date of this letter.

Please reference the Program Review Control Number (PRCN: 200730326836) in all correspondence relating to this report. If you have any questions concerning this report, please contact Mr. Tantom at (215) 656-6467 or Donald.Tantum@ed.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nancy P. Gifford".

Nancy P. Gifford
Area Case Director

cc: Ms, Caroline G. Hendel, Associate General Counsel, Yale University
Mr. James A. Perrotti, Chief, Yale University Police Department

Prepared for
Yale University



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Prepared by
U.S. Department of Education
Federal Student Aid
School Participation Team – New York/Philadelphia

Program Review Report

April 12, 2010

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A. Institutional Information

Yale University
246 Church Street
New Haven, CT. 06520 8288

Type: Private - Nonprofit
Highest Level of Offering: Doctoral Degrees

Accrediting Agency: New England Association of Schools and University - CHE

Current Student Enrollment: 11,398

Percentage of Students Receiving Title IV: 40%

Title IV Participation, Per U.S. Department of Education Data Base
(Postsecondary Education Participants System) for the 2008 /2009 Award Year

Federal Family Education Loan Program	\$59,871,543
Federal Pell Grant Program	\$ 1,902,185
Federal Perkins Loan Program	\$ 2,800,100
Federal Supplemental Education Opportunity Grant Program	\$ 1,858,568
Federal Work-Study Program	\$ 2,660,180
ACG/SMART	\$ 292,400
Total	\$69,384,976

FFEL Default Rate:	2007	1.0%
	2006	0.4%
	2005	0.5%

Perkins Default Rate:	2007	0.6%
	2005	0.7%
	2004	0.9%

Founded in 1701 as the *Collegiate School*, Yale University (Yale; the University) is a private non-profit university in New Haven, Connecticut. Yale has approximately 3,300 faculty members, 5,300 undergraduate students, and 6,000 graduate students. The central campus is situated on 310 acres, which includes downtown areas of New Haven and the residential neighborhoods outside the city. The University also maintains over 600 acres of athletic fields and natural preserves. The Yale Police Department (YPD) employs 151 security personnel, of whom 83 are sworn officers. Each of the sworn officers have full jurisdiction throughout the City of New Haven as conferred by the New Haven Board of Police Commissioners. The YPD security force is assigned to buildings and parking facilities and conducts vehicle, foot and bicycle patrols of the Yale campus. In addition,

the department provides safety services, such as escorts, theft deterrent programs and lockout services, and responds to alarms from college residence facilities.

B. Scope of Review

The U.S. Department of Education's (Department's) New York/Boston Team initiated an offsite program review (PRCN 200440123544) of Yale's compliance with the Clery Act requirements after reviewing an article published in the July/August 2004 edition of the Yale Alumni Magazine that raised questions about Yale's management of the campus security requirements. Specifically, the New York/Boston Team's October 15, 2004 letter requested information to address the following allegations:

1. Yale only collected campus crime statistics from the police and not from any official who has significant responsibility for student and campus activities.
2. Yale excluded disciplinary referrals in its crime statistics. Specifically, the University's limited efforts to gather crime data violated the regulatory requirement that all pertinent crime data be collected and included in the reported campus crime statistics.
3. Yale's dissemination of information regarding sexual assault to students was lacking.

Based on Yale's November 15, 2004 response, the Department determined it needed to expand the review to an on-site campus security review.

The on-site campus security review was conducted June 18-22, 2007 by Mr. James L. Moore, III and Mr. Donald I. Tantum, Senior Institutional Review Specialists in the Department's Philadelphia office. Therefore, this and all future reports and correspondence regarding the off and on-site reviews are and will be referenced under PRCN 200730326836.

The focus of the on-site review was to determine the accuracy and completeness of campus crime statistics and policy disclosures published in Yale's 2004, 2005, and 2006 Annual Campus Security Reports (ACSR) and to investigate the concerns identified during the off-site review. The review team examined a sample of Yale's incident reports maintained by the Yale Police Department and a sample of student disciplinary files adjudicated under the University's disciplinary processes for calendar years 2001, 2002, 2003, 2004 and 2005. Several institutional officials and students were interviewed as well.

Disclaimer:

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning the institution's specific practices and procedures

must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve Yale of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

This report reflects initial findings for all years stated in the scope. These findings are not final. The Department will issue its final findings in a subsequent Final Program Review Determination letter (FPRD).

C. Findings

During the review, several areas of noncompliance were noted. Findings of noncompliance are referenced to the applicable statutes and regulations and specify the actions required by Yale to bring campus policing and security operations into compliance with the Clery Act statutes and regulations.

#1: Failure to Properly Compile and Disclose Crime Statistics

Citation: 34 C.F.R. § 668.46 (c) (2007)

Under the Clery Act and the Department's implementing regulations, participating institutions must 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 the number of arrests and disciplinary actions related to certain violations of Federal or State drug, liquor, and weapons laws. 34 C.F.R. § 668.46 (c)(1). To comply with these requirements, the institution must develop a system to collect incidents of crime reported to any law enforcement or campus security authority (CSA). 34 C.F.R. § 668.46 (c)(2).

Noncompliance:

Yale failed to compile and disclose its crime statistics in an accurate and complete manner. The campus crime statistics published by Yale in its annual campus security reports for the review period (calendar years 2001, 2002, 2003, 2004, and 2005) did not include all incidents of crime reported to CSA's. There are two parts to this violation.

1. Yale did not include in its statistics the forcible sex offenses reported to its Sexual Harassment Grievance Board (SHGB). The Department has determined that Yale's campus crime statistics in the ACSR's prior to 2004 only included crimes reported to the Yale and New Haven Police Departments and the Yale Executive Committee (ExComm).

Therefore, the Department, in a letter dated October 15, 2004, required Yale to re-examine its crime statistics and report its findings to the Department. The required review resulted in the identification and disclosure of four additional forcible sex offenses, two in 2001 and two in 2002.

As part of the June 2007 site visit, the review team conducted interviews with several University officials, including the Dean of Student Affairs for Yale College. These interviews revealed that Yale officials could not explain with specificity the bases for the revised statistics noted above. Yale officials indicated that the SHGB and other conduct hearing boards did not keep any records for most cases and that no one had requested statistics prior to the complaint and the controversies that led to it. For this reason, the Department has determined that the revised statistics are, at best, an unverifiable estimate allegedly based on the best recollections of SHGB members.

2. Yale failed to request and compile required statistics for incidents of crimes reported to all university campus security authorities. Specifically, for all years under review, Yale officials charged with compiling crime statistics for inclusion in the ACSR's failed to request data from the SHGB and the staffs of the residential colleges. In 2003, Yale officials stated that the university did not collect crime statistics for calendar year 2002 from CSA's because of a three-week labor strike that ran from August 28, 2003 until September 18, 2003. During this time, according to the University, workers were unavailable to send out requests for crime statistics. Before 2004, Yale did not collect crime statistics from any other university sources except YPD and ExComm.

Yale officials also stated that statistics were not requested from other CSA's because all incidents of crime were reported to law enforcement. However, the interviews conducted and documents reviewed contradicted this statement. The review team did note that since the media coverage and the off-site review in 2004, Yale has implemented some improvements in this area.

Yale has 12 residential colleges. Each college has a support structure for students, including a Dean, Master, affiliated faculty, and resident Fellows. The review found that the colleges did not provide adequate data to officials with Clery Act responsibilities including YPD to ensure that incidents of crime reported to residential college officials were included in the University's crime statistics. The colleges did not provide proper documentation of incidents on a timely basis, and/or the documents lacked sufficient details to determine if a reportable crime had occurred. In addition, the University failed to implement a system to coordinate information regarding reportable incidents and disciplinary matters handled by the Yale College Executive Committee, SHGB, the Dean of the Graduate School, and possibly other student disciplinary boards. As a result, numerous accounts of the same event were frequently generated that could not be cross-referenced.

Failure to compile all required crime statistics from law enforcement and all CSA's and to accurately and completely publish those statistics in the ACSR's violates the Clery Act and deprives the campus community of important campus safety information.

Required Action:

Yale must take all necessary corrective actions to cure the exceptions identified in this finding. In addition, the University must develop and implement a comprehensive system of policies and procedures to ensure that the finding does not recur.

Yale's response must include a description of how it will ensure that statistics of all incidents of crime reported to law enforcement or any CSA will be gathered, compiled, reconciled, and included in the University's campus crime statistics. The response must address issues of access to records, custody and retention of records, the flow of information, communication processes, and coordination among all University officials and external entities such as the New Haven Police Department. A copy of all revised policies and procedures must be submitted with Yale's response.

Based on an evaluation of all available information including Yale's response, the Department will determine if additional actions will be required and advise the University accordingly in the FPRD.

#2: Failure to Comply with the Timely Warning and Crime Log Requirements

Citation: 34 C.F.R. § 668.46 (e) and (f)

For purposes of crime prevention, institutions must issue timely warnings to the campus community of crimes considered to be a threat to students and employees. See § 485(f)(3) of the HEA. These warnings must be issued to the campus community in any case where an incident of a crime listed in 34 C.F.R. § 668.46 (c)(1) or (c)(3) that represents a threat to students or employees is reported to a CSA. 34 C.F.R. § 668.46 (e). In addition, institutions must include a number of detailed policy statements in the ACSR's. 34 C.F.R. § 668.46 (b)(2). The policies must include the institution's policy for making timely warnings and clear notice of the procedures that students and others must follow to report crimes and other emergencies that occur on campus. 34 C.F.R. § 668.46 (b)(2)(i).

The Clery Act also requires institutions with a police or campus security department to maintain a written, easily understood, daily crime log that records all crimes that occurred on campus, in/on a non-campus building or property, on certain public property, or within the patrol jurisdiction of the campus police or the campus security department and are reported to the campus police or security department. The crime log must record crimes by the date they were reported. The log must include the nature, date, time, general location, and disposition of each offense. The crime log must be kept up to date and be accessible to any requestor. 34 C.F.R. § 668.46 (f).

Noncompliance:

Yale failed to issue timely warnings in accordance with Federal regulations. Although the YPD does have records and internal protocols that demonstrate a formal system for

preparing and disseminating time-sensitive crime bulletins to all students and employees for crimes reported initially to campus police, Yale failed to issue timely warnings of certain incidents that represented a threat to the campus community during the review period. Specifically, Deans and Masters of the residential colleges limited the distribution of warnings to the members of their residential college. In addition, the warnings that were issued by the Deans and Masters were not prepared or disseminated in a manner that gave clear and timely notice of the threat to the health and safety of students and employees. Further, there was no evidence that residential college staff received any training on the requirements of the Clery Act.

The lack of an effective timely warning practice was also documented by the Yale Daily News following an attack on a Davenport College student in late October 2005. Yale officials cited poor coordination with police officials for the delay in issuing some alerts. However, the lack of proper coordination with CSA's does not explain this violation nor does it do anything to address it going forward.

Yale also failed to maintain an accurate and complete crime log for its entire patrol jurisdiction. The YPD website and other University publications state that the YPD had and continues to have full jurisdiction throughout the City of New Haven. However, the crime log did not include all crimes within YPD's jurisdiction.

Yale's failure to properly issue timely warnings to all its students and employees and to disclose all required information in its crime log deprived its campus community of vital time-sensitive security information.

Required Action:

Yale must revise review and revise its policies and procedures to ensure that timely warnings are issued to all students and employees and that the crime log is maintained in accordance with Clery Act requirements. A copy of all revised policies and procedures must be submitted with the University's response to this Program Review Report.

Based on an evaluation of all available information including Yale's response, the Department will determine appropriate additional actions and advise the University accordingly in the FPRD.

#3: Failure to Properly Define the Campus and Report Crime Statistics for the Yale School of Medicine and the Yale-New Haven Hospital in Accordance with Federal Regulations

Citation: 34 C.F.R. § 668.46 (a)

Federal law requires institutions to compile and publish crime statistics for each location or facility. Disclosure must be accomplished according to the following definitions in the Clery Act and the Department's regulations:

Campus: (1) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and,

(2) 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, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

3) Noncampus Building or Property: (1) Any building or property owned or controlled by a student organization that is officially recognized by the institution; or (2) any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

4) Public Property: All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus or immediately adjacent to and accessible from the campus.

An institution must comply with the statistical reporting requirements of 34 C.F.R. § 668.46 for each administrative division, location, or property that is considered a separate campus and not in the same reasonably contiguous geographical area as the main location. 34 C.F.R. § 668.46 (d)

Noncompliance:

Yale failed to include all properties as required by the definition of campus established by the Clery Act. Yale utilizes other properties in direct support of or in a manner related to its educational purposes. The Yale New Haven Hospital (YNHH) is one such location. YNHH is located across the street from Yale's School of Medicine. The hospital is directly linked to the School of Medicine by crosswalks, thoroughfares, and hallways. In addition, formal affiliation agreements have been established between the hospital and

the University that directly support a student's educational purpose. (Please see: http://business.yale.edu/map/pdf/yale_map_letter_size.pdf)

Required Action:

Yale must conduct a review of all buildings and property that it owns and/or controls and that are used to directly support university programs, and redefine its campus for the purposes of complying with the definition of campus referenced above. With its response, Yale must provide a copy of the revised policy that includes this definition and an accurate list of all properties that it currently owns or controls and those locations that are used in support of university programs and activities. Yale's review and response should include detail as to what location(s) and property it has defined as contiguous and non-contiguous.

Once the campus has been properly defined, the University must ensure that all incidents of crime reported are included in the statistical disclosure section of all ACSR's going forward. As part of this review, Yale must also develop and implement a program of internal controls to ensure that newly acquired buildings and properties are properly identified and classified for Clery Act purposes and that crime statistics are compiled and published accordingly. The internal control program also must ensure crime statistics are reported separately for all non-contiguous locations.

Based on an evaluation of all available information including Yale's response, the Department will determine appropriate additional actions and advise the University accordingly in the FPRD.

#4: Required Policy Statements Omitted from Annual Campus Security Reports

Citation: 34 C.F.R. § 668.46 (b)(2)

Federal regulations require institutions to include certain policy statements in their ACSR's. These disclosures are intended to inform the campus community about the institution's security policies and programs. In general, these policies must include information about the law enforcement authority and practices of the campus police and security forces; reporting procedures for students and employees; policies that govern the preparation of the report itself; disclosure of alcohol and drug policies and educational programs; disclosure of policies pertaining to sexual assault education, prevention and adjudication; and a notice to students that victims of sexual assault may change their academic or living arrangements, among others.

Noncompliance:

Yale failed to include certain required policy statements in its ACSR's during the review period. For example, the October 1, 2004 ACSR did not contain adequate statements of specific University policies regarding:

- 1) The issuance of timely warnings;
- 2) Preparation of the annual disclosure of crime statistics;
- 3) Encouraging prompt reporting of crimes to the police;
- 4) A description of the type and frequency of campus safety programs;
- 5) A description of crime prevention programs;
- 6) The importance of preserving evidence in cases of alleged sex crimes and an explanation of how to preserve the evidence; and
- 7) Voluntary confidential reporting of crimes.

The review team notes that some of the policy disclosures missing from the 2004 ACSR were included in the October 1, 2005 ACSR.

Required Action:

In response to this finding, Yale must take all necessary steps to ensure that each required policy statement is included in the next ACSR. A copy of all new and revised policies must be submitted with the University's response. Yale is encouraged to comment on any new policing and campus safety programs implemented since the site visit (e.g., information on Yale's text messaging alert system, active shooter protocols, and crisis intervention programs).

Based on an evaluation of all available information including Yale's response, the Department will determine appropriate additional actions and advise the University accordingly in the FPRD.

F. Required Corrective Actions

Yale must address all aspects of the violations identified in this Program Review Report. In its response, the University may concur with or challenge all or part of each finding. Additional information for consideration may be submitted with Yale's response, which is due within 45 days from the date of receipt of this report.

The objective of the review was to determine the accuracy and completeness of Yale's campus crime statistics for the calendar years 2001, 2002, 2003, 2004 and 2005. As a result of the serious violations (dating back to 2001) identified during the review, Yale is required to conduct an institutional self-study of its Clery Act compliance during calendar years 2006 to current. Yale must appoint an institutional official with sufficient knowledge and authority to coordinate the self-study and act as the point of contact for the review team. The self-study must include a comprehensive review of campus security policies and procedures with specific attention to the following:

- Identification of reportable incidents;
- Identification of CSA's;
- Collection and compilation of statistics;
- Communication and coordination with internal and external offices and agencies;

- Preparation and publishing of the ACSR;
- Preparation and issuance of timely warnings as well as proposed plans for complying with the new Emergency Notification and Missing Persons requirements; and,
- Policies, procedures, methods and systems for documenting compliance with each provision of the Clery Act.

At the conclusion of the self-study, Yale must prepare a detailed report of its findings and submit it with its response. The purpose of this plan is four-fold: 1) identify past violations and weaknesses and their causes; 2) develop immediate remedial measures; 3) develop and implement long-term corrective actions; and, 4) provide a baseline and framework for on-going compliance monitoring.

For each item above, the following considerations should guide Yale's responses:

- 1) What was the stated policy or procedure in place at the time in question?
- 2) What was actually done notwithstanding the policy or procedure?
- 3) Who was responsible for carrying out the function and who was responsible for supervising that function? (Please identify individuals by position and not name.)
- 4) Why did the violation or internal control weakness occur?
- 5) What change(s) will be implemented to address this condition?
- 6) How will these changes be monitored and by whom?
- 7) What budgetary, staffing, training or systems changes are needed to implement these new policies and procedures?

Please submit the University's response to:

U.S. Department of Education
Federal Student Aid
The Wanamaker Building
100 Penn Square East, Suite 511
Philadelphia, PA 19107
Attn: Mr. Donald I. Tantum and Mr. James L. Moore, III

Based on an evaluation of all available information including Yale's response, the Department will determine appropriate next steps and advise the University accordingly in the Final Program Review Determination.