



February 13, 2018

Scott Ralls, Ph.D.
President
Northern Virginia Community College
8333 Little River Turnpike
Annandale, VA 22003-3743

UPS Tracking #
1Z37X7Y30298251251

Re: Campus Crime Final Program Review Determination
OPE ID: 00372700
PRCN: 201140327698

Dear President Ralls:

On November 18, 2016, the U.S. Department of Education (the Department) issued a Program Review Report regarding Northern Virginia Community College's (NOVA; the College) failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*) and the Drug-Free Schools and Communities Act (*DFSCA*). The original text of that report is incorporated into this Final Program Review Determination (FPRD). The College submitted an acceptable response to the Department's initial report on March 1, 2017. NOVA's response and the supporting documentation submitted with the response are being retained by the Department and are available for inspection by the College upon request. Please be advised that this FPRD may be subject to release under the Freedom of Information Act and may be provided to other oversight entities now that it has been issued to the College.

Purpose:

Final determinations have been made concerning the findings identified during the program review. The purpose of this letter is to advise NOVA of the Department's final determinations and to close the review. Please note that this FPRD contains several findings regarding NOVA's failure to comply with the *Clery Act* and the *DFSCA*. Because these findings do not result in financial liabilities, they may not be appealed.

Due to the serious nature of these findings, this FPRD will be referred to the Administrative Actions and Appeals Service Group (AAASG) for consideration of a formal fine pursuant to 34 C.F.R. §668, Subpart G. If a fine action is initiated by AAASG, detailed information about the action and NOVA's appeal rights will be provided under separate cover.

Federal Student Aid
An Office of the U.S. Department of Education


830 First St., N.E. Washington, D.C. 20202
StudentAid.ed.gov

Record Retention:

Records relating to the period covered by this program review must be retained until the later of the resolution of the violations identified during the review or the end of the regular record retention period applicable to all Title IV records, including *Clery Act* and *DFSCA*-related documents as set forth in 34 C.F.R. §668.24(e).

We would like to express our appreciation for the courtesy extended by the officials at NOVA during the program review process. If you have any questions concerning this FPRD or the program review process, please contact Ms. Jannetta A. Guinhouya at 202-377-3152 or at Jannetta.Guinhouya@ed.gov.

Sincerely,



Candace R. McLaren, Esq.
Director
Clery Act Compliance Division

cc: Mr. Daniel Dusseau, Chief of Police, NOVA ddusseau@nvcc.edu
Mr. Raphael Soberano, Financial Aid Manager, NOVA rsoberano@nvcc.edu
Mr. James L. Moore, III, Senior Advisor, Clery Compliance/Campus Safety Operations, ED

Enclosure:

Final Program Review Determination

Prepared for:

Northern Virginia Community College

OPE ID: 00372700

PRCN: 201140327698

Prepared by:

U.S. Department of Education

Federal Student Aid

Clery Act Compliance Division

Final Program Review Determination
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A. The Clery Act and the DFSCA

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*), in § 485(f) of the Higher Education Act of 1965, as amended, (HEA), 20 U.S.C. § 1092(f), is a Federal consumer protection statute that provides students, parents, employees, prospective students and employees, and the public with important information about public safety issues on America's college campuses. Each domestic institution that participates in the Federal student financial aid programs under Title IV of the HEA must comply with the *Clery Act*. The institution must certify that it will comply with the *Clery Act* as part of its Program Participation Agreement (PPA) to participate in the Title IV, Federal student financial aid programs.

The *Clery Act* requires institutions to produce and distribute an Annual Security Report (ASR) containing its campus crime statistics. Statistics must be included for the most serious crimes against persons and property that occur in buildings or on grounds that are owned or controlled by the institution or recognized student organizations as well as on adjacent and accessible public property. These crimes are deemed to have been reported anytime such an offense is brought to the attention of an institution's campus police or security department, a local or State law enforcement agency of jurisdiction, or another campus security authority (CSA). A CSA is any institutional official who is: 1) designated to receive reports of crime and/or student or employee disciplinary infractions, such as Human Resources and Alternative Dispute Resolution professionals; and/or 2) an official that has significant responsibilities for student life or activities, such as residential life staff, student advocacy and programming offices, as well as athletic department officials and coaches.

The ASR also must include several statements of policy, procedures, and programmatic information regarding issues of student safety and crime prevention. The *Clery Act* also requires institutions to maintain a daily crime log that is available for public inspection, and to issue timely warnings and emergency notifications to provide up-to-date information about ongoing threats to the health and safety of the campus community. In addition, the *Clery Act* requires institutions to develop emergency response and evacuation plans. Institutions that maintain student residential facilities must develop missing student notification procedures and produce and distribute an Annual Fire Safety Report (AFSR), containing fire statistics and important policy information about safety procedures, fire safety and suppression equipment, and what to do in the case of a fire. Finally, the *Clery Act* amendments that were included in Section 304 of the Violence Against Women Reauthorization Act of 2013 went into effect on July 1, 2015. These provisions are aimed at preventing campus sexual assaults and improving the response to these crimes when they do occur.

The *Clery Act* is based on the premise that students and employees are entitled to accurate and honest information about the realities of crime and other threats to their personal safety and the security of their property. Armed with this knowledge, members of the campus community can make informed decisions about their educational and employment choices, can take an active role in their own personal safety, and secure and protect their personal property. For those reasons, the office of Federal Student Aid (FSA) must ensure that the information disclosed in each ASR and AFSR is accurate and complete. FSA uses a multi-faceted approach to ensuring that institutions comply with the *Clery Act*, which includes providing technical assistance and

training programs and materials, as well as monitoring and enforcement through program reviews and complaint resolution.

FSA may initiate a campus crime program review as a result of a complaint or based upon public reports of crimes and crime reporting and prevention at a particular institution. FSA also conducts Quality Assurance Reviews in cooperation with the Federal Bureau of Investigation's (FBI) Criminal Justice Information Service (CJIS) Audit Unit. Program reviews entail in-depth analyses of campus police and security records, and interviews with institutional officials, crime victims, and witnesses. During a program review, an institution's policies and procedures related to campus security matters are also examined to determine if they are accurate and meet the needs of the campus community.

Because more than 90% of campus crimes are alcohol and drug-related, the Secretary of Education delegated oversight and enforcement responsibilities for the Drug-Free Schools and Communities Act (*DFSCA*) in § 120 of the HEA, 20 U.S.C. § 1011(i) to FSA. The *DFSCA* requires all institutions of higher education that receive Federal funding to develop and implement a comprehensive drug and alcohol abuse prevention program (DAAPP) and to certify to the Secretary that the program is in place. The program must be designed to prevent the unlawful possession, use, and distribution of drugs and alcohol on campus and at recognized events and activities.

On an annual basis, each institution must provide a DAAPP disclosure to all current students (including all students enrolled for any type of academic credit except for continuing education units) and all current employees that explains the educational, disciplinary, health, and legal consequences of illegal drug use and alcohol abuse, as well as information about available counseling, treatment, and rehabilitation programs, including those that may permit former students or employees to return following expulsion or firing. The distribution plan must make provisions for providing the DAAPP disclosure annually to students who enroll after the initial distribution and for employees who are hired at different points throughout the year.

Finally, the *DFSCA* requires institutions to conduct a biennial review to determine the effectiveness of its DAAPP to identify areas requiring improvement or modification and to assess the consistency of enforcement actions imposed on students and employees that are found to be in violation of applicable Federal, State, and local drug and alcohol-related statutes or ordinances and/or institutional policies and codes of conduct.

Proper implementation of the *DFSCA* provides students and employees with important information about the detrimental consequences of illicit drug use and alcohol abuse. The conduct of a meaningful biennial review provides the institution with quality information about the effectiveness of its drug and alcohol programs. Any failure to implement these requirements may contribute to increased drug and alcohol abuse on campus as well as an increase in drug and alcohol-related violent crime. The *DFSCA* is monitored and enforced by the U.S. Department of Education (the Department).

B. Institutional Information

Northern Virginia Community College
8333 Little River Turnpike
Annandale, VA 22003

Institution Type: Public

Highest Level of Offering: Associate Degree

Accrediting Agency: Southern Assoc. of Colleges and Schools - Commission on Colleges

Total Student Enrollment: 21,000 (FTE: 12,000) (Approx. Fall 2017)

% of Students Receiving Title IV: 34% (Approx. Fall 2017)

Title IV Participation: (Expressed in USD per U.S. Department of Education Database)

2015-2016 Award Year

Federal Direct Loan Program	\$ 52,891,490
Federal Pell Grant Program	\$ 53,056,238
Federal Supplemental Education Opportunity Grant Program	\$ 1,048,525
Federal Work Study Program	\$ 1,094,802
Federal Perkins Loan Program	\$ 108,453
Total	<u>\$108,199,508</u>

Student Loan Default Rates

Direct Loans

2014: 13.8%
2013: 12.3%
2012: 12.0%

Perkins Loans

As of June 30, 2016: 29.89%
As of June 30, 2015: 26.80%
As of June 30, 2014: 28.13%

The College

Founded in 1964 as the Northern Virginia Technical College, Northern Virginia Community College (NOVA; the College) is the largest institution of higher education in the Commonwealth of Virginia and is the 2nd largest community college in the United States. The Department's review was limited to the Annandale, VA campus; however, NOVA also has campuses in Alexandria, Loudoun, Manassas, Springfield, and Woodbridge. At present, NOVA has over 50,000 students and 2,600 faculty and staff members. NOVA offers 5,000 classes in more than 100 areas of study. At the time of the site visit, the NOVA Police Department (NPD) was comprised of 49 sworn police officers, 6 certified security officers, 4 emergency management staff, and 6 dispatchers. NOVA police officers are deputized with full arrest powers and are authorized to carry firearms. All NOVA police officers are required to complete extensive law enforcement training at the Northern Virginia Criminal Justice Training Academy. NOVA officials represented that the NPD operates on a 24/7/365 basis. The NPD is a full service law enforcement agency that is charged with patrol and investigative responsibilities for the campus and also assists other local law enforcement agencies with cases, as needed.

C. Background and Scope of Review

The U.S. Department of Education (the Department) conducted a campus crime program review at Northern Virginia Community College starting in July 2011. The review was started by the Philadelphia School Participation Team and was reassigned to the Clery Act Compliance Division. The review was led by Ms. Jannetta Guinhouya. NOVA was selected for review following a complaint that was filed by a NOVA professor alleging violations of the *Clery Act's* timely warning provisions. After receiving the complaint, the Department conducted preliminary research and determined that a program review was warranted.

The objective of the review was to evaluate NOVA's compliance with the *Clery Act* and the *DFSCA*. The review consisted of an examination of NOVA's publications, written agreements, incident reports, arrest records, and disciplinary files as well as policies, practices, procedures, programs, and protocols related to the *Clery Act*. The review also included a comparison of the campus statistics submitted by NOVA to the Department and the data that was included in the College's ASRs. Staff interviews of institutional officials with *Clery Act* responsibilities were also conducted.

The Department reviewed samples of police incident reports, arrest reports, and disciplinary referral reports from calendar years 2009, 2010, and 2011. These reports documented incidents of Part I and Part II offenses, as defined by the FBI's Uniform Crime Reporting (UCR) system, that were reported to the NOVA police department including a sample of Part II arrests and disciplinary referrals for violations of certain laws pertaining to illegal drugs, illegal usage of controlled substances, liquor, and weapons. Both random and judgmental sampling techniques were used to select reports for this review. A subset of incident reports from the initial sample were also cross-checked against the daily crime log to ensure that crimes occurring within the patrol jurisdiction were entered properly on the log.

Disclaimer:

Although this review was planned and conducted in a thorough manner, neither the review nor this report can be assumed to be all-inclusive. The absence of statements in this report concerning NOVA'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 the College of its obligation to comply with all of the statutory and regulatory provisions governing Title IV, HEA programs, including the *Clery Act*.

Although official positions and offices are mentioned in this document, findings of violation are attributed solely to the College. The College is responsible for complying with the *Clery Act* and other statutory and regulatory requirements, and is responsible for the actions of its employees and agents. References to specific institutional officials are included solely to improve the clarity of the document.

D. Findings and Final Determinations

During the review, several areas of noncompliance were noted. This review brought to light a number of serious concerns about the College's campus safety and crime prevention programs as they relate to compliance with the *Clery Act* and with the *DFSCA*. The findings identified in the Department's November 18, 2016 Program Review Report (PRR) appear in italics below. NOVA submitted its official response to the Department's report on March 1, 2017. A summary of NOVA's response and the Department's Final Determination appear at the end of each finding. Please note that certain non-substantive edits were made to the text of the initial report.

Special Note - Intimidation/Retaliation Violation

As mentioned in the "Scope of Review" section of this Report, the Department received a complaint from a former faculty member at NOVA on May 13, 2011. The complaint alleged serious violations of the Clery Act. After receiving that complaint, the Department conducted its own preliminary research and determined that an on-site campus crime program review would be conducted. The decision to conduct this program review was specifically informed by information that was contained in the complaint.

The Clery Act is first and foremost a public safety and consumer protection law based on the premise that access to accurate, complete, and timely information about campus safety and crime prevention will make campuses safer. To achieve the Act's goal of making campuses safer, everyone must play a part. Members of each campus community must be vigilant and responsible to help ensure their own safety and that of others as well. The Department depends on concerned students, parents, employees, the media, and other stakeholders to inform us when they become concerned about dangerous conditions or when they have good reason to believe that an institution is not in compliance. To protect employees and students from mistreatment as a result of reporting compliance concerns to the Department, the Clery Act specifically prohibits any act by an institution or any person acting for the institution to "retaliate, intimidate, threaten, coerce or otherwise discriminate against any individual" for acting in accordance with the Clery Act or in response to a person's efforts to see that the Clery Act is effectively enforced.

The Department is aware that NOVA has initiated several personnel actions against the faculty member that filed the complaint, [REDACTED]. These actions have coincided with our oversight activities and have increased in severity during that time. We specifically note that the former faculty member was removed from her teaching responsibilities in October 2011. Documents examined by the Department further indicate that she was advised that she would have to submit to mandatory counseling and, shortly thereafter, was banned from the campus.

On March 9, 2012, the former faculty member received a letter from NOVA officials stating that she would be placed in "Leave without Pay" status on March 25, 2012, if she did not comply with certain requirements by March 12, 2012. Prior to our investigation and the complaint that preceded it, the record indicates that this individual had a stellar tenure at NOVA from the time of her initial appointment until as recently as Spring of 2011. We note that the former faculty member is well-credentialed and possesses several specialized certifications. She has also won numerous teaching awards and was an accomplished fundraiser for the institution. Moreover, she is well-published, was regularly sought after as a speaker, and has even testified as an expert witness before a committee of the U.S. House of Representatives. Given the focus of this review, we take special note of the fact that the faculty member possesses extensive training and experience in risk management, mitigation, and emergency response. And, that on the basis of this expertise, the former faculty member was selected to serve on the Presidential Advisory Committee on Campus Safety and Security in March 2011.

Our investigation indicates that NOVA's stated reasons for taking disciplinary action against the former faculty member appear questionable. In a letter to the faculty member's attorney, NOVA claimed that she was causing disruptions in the classroom and had conflicts with College personnel. Notwithstanding that characterization, the complainant contends that the punitive personnel actions taken against her were the direct result of her complaints about specific criminal acts committed by a NOVA student. The available record seems to support the former faculty member's contention that the acts of "insubordination" referenced by NOVA amount to a disagreement about whether or not the actions and words of a former student posed some credible threat to the individual's health or safety and that of her students. As noted above, the Department relies on members of all campus communities to come forward with concerns about campus safety and Clery Act compliance matters.

A controlling principle of the Clery Act is that students, employees, parent, and the public are entitled to accurate, complete, and transparent information about campus safety and crime prevention. The law relies on institutions to make campuses as safe as possible and on the vigilance of campus community members to call attention to safety concerns. The Department encourages campus community members to make informed decisions about their own safety and to act in the security interests of the larger community as well. For the Clery Act to be truly effective, students and employees must be assured that they can come forward with concerns about campus safety issues without fear of retaliation or other negative outcomes.

For all of these reasons, the Department makes an initial finding that that these alleged actions taken against the former faculty member constitute a violation of the above-referenced statute. This statutory provision is specifically intended to prohibit the types of actions that are alleged to have been taken against this former employee. The information further indicates that the disciplinary action and eventual termination of this individual was the result, at least in

significant part, of her attempts to ensure that the Clery Act was followed by the College and enforced by the Department. For obvious reasons, any detrimental impact that allegedly comes to an any person affiliated with NOVA as the result of submitting a good-faith complaint to the Department triggers a special regulatory concern and has a chilling effect on the willingness of others to come forward. Therefore, NOVA is required to address with specificity the allegations of retaliation and mistreatment in its official response to this PRR. All representations made and positions taken in the response to these allegations must be substantiated with credible supporting documentation. Finally, the College is required to provide a full accounting of any steps taken to remediate the retaliatory acts alleged by the complainant and provide an update on the current status of any claims by the former faculty member.

Citation:

The Clery Act and the Department's regulations clearly state that a participating institution, or officer, employee, or agent of an institution, may not retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individuals for exercising their rights or responsibilities under any provision in this section. 34 C.F.R. §668.46(m).

Noncompliance:

The Department found that NOVA retaliated against a faculty member based on that employee's filing of a complaint alleging serious violations of the Clery Act's timely warning provisions. As documented in the "Scope of Review" section of the PRR, the Department received a complaint from a complainant at NOVA on May 13, 2011. The complaint alleged serious violations of the Clery Act. After receiving that complaint, the Department conducted its own preliminary research and determined that an on-site campus crime program review would be conducted. The decision to conduct this program review, which spanned July 18 to July 21, 2011, was specifically informed by the aforementioned complaint.

The Department is aware that NOVA has initiated several personnel actions against the faculty member that filed the complaint. The Department has determined that these actions coincided with its oversight activities, and increased in severity during the period of review. We specifically note that, after 17 years of acclaimed service, the complainant was removed from her teaching responsibilities in October 2011 – only five months after the filing of her complaint, and 3 months after the Department's on-site visit. Documents examined by the Department further indicate that, sometime thereafter, the complainant was advised that she would have to submit to mandatory counseling, and, shortly thereafter, was banned from the campus.

On March 9, 2012, the complainant received a letter from NOVA officials, stating that, as of March 25, 2012, she would be placed in "Leave without Pay" status if she failed to comply with certain requirements by March 12, 2012. Prior to the Department's investigation and the complaint that preceded it; the record indicates that the complainant had a stellar tenure at NOVA from the time of her initial appointment in 1994 until Spring of 2011, when she filed her complaint.¹ More specifically, she is well-credentialed, possesses several specialized certifications, has won numerous teaching awards, and was an accomplished fundraiser for the

¹ See Appendix A - Faculty Contracts and Faculty Evaluations from 2009-2014 for faculty member.

institution. Moreover, the complainant is well-published, was regularly sought after as a speaker, and has even testified as an expert witness before a committee of the U.S. House of Representatives. Given the focus of this review, we take special note of the fact that the complainant possesses extensive training and experience in risk management, mitigation, and emergency response, and, as a result, was selected to serve on the Presidential Advisory Committee on Campus Safety and Security in March 2011.

The Department's extensive investigation revealed that NOVA's stated reasons for taking disciplinary action against the complainant are questionable, at best. For example, in a letter to the complainant's attorney, NOVA claimed that the complainant was causing disruptions in the classroom and had caused conflicts among College personnel. Notwithstanding those assertions, the complainant contends that the punitive personnel actions that NOVA took against her were the direct result of her complaints regarding specific criminal acts committed by a NOVA student against her and other students in her class.² The available record seems to support the complainant's contention that the complainant's acts of "insubordination" referenced in NOVA's letter amounted to no more than her attempts to alert the administration to the credible threat that the words and actions of the particular NOVA student referenced above posed to both his own health and safety, as well as to the health and safety of the larger NOVA community.³

The Clery Act is, first and foremost, a public safety and consumer protection law based on the premise that access to accurate, complete, and timely information about campus safety and crime prevention will make campuses safer. To achieve the Act's goal of making campuses safer, everyone must play a part. Members of each campus community must be vigilant and responsible to help ensure their own safety and that of others as well. The Department depends on concerned students, parents, employees, the media, and other stakeholders to inform us of concerns regarding dangerous conditions on campus, or whenever they have good reason to believe that an institution is not in compliance. To protect employees and students from mistreatment as a result of reporting compliance concerns to the Department, the Clery Act specifically prohibits any act by an institution or any person acting for the institution to "retaliate, intimidate, threaten, coerce or otherwise discriminate against any individual" for acting in accordance with the Clery Act or in response to a person's efforts to see that the Clery Act is effectively enforced.

A controlling principle of the Clery Act is that students, employees, parents, and the public are entitled to accurate, complete, and transparent information about campus safety and crime prevention. The law relies on institutions to make campuses as safe as possible, and on the vigilance of campus community members to call attention to safety concerns. The Department encourages campus community members to make informed decisions about their own safety and to act in the security interests of the larger community as well. For the Clery Act to be truly

² The aggravated assault by Student A upon Students B, C, and D will be fully explained with Finding #1.

³ A full explanation of the subsequent threats made by Student A to the complainant and another administrator is provided as part of Finding 1.

effective, students and employees must be assured that they can come forward with concerns about campus safety issues without fear of retaliation or other negative outcomes.

For all of these reasons, the Department made an initial finding that the actions taken against the complainant constituted a violation of anti-intimidation/retaliation provision of the Clery Act. This statutory provision is specifically intended to prohibit the types of actions that were alleged to have been taken against this employee. The information further indicates that the disciplinary action taken against this individual was the result, at least in significant part, of her attempts to ensure that the Clery Act was followed by the College and enforced by the Department. For obvious reasons, any detrimental impact that befalls any person affiliated with NOVA in response to the submission of a good-faith complaint to the Department triggers a special regulatory concern as it can have a chilling effect on the willingness of others to come forward.

Required Action:

As a result of this violation, NOVA was required to address, with specificity, the allegations of retaliation and mistreatment in its official response to this PRR. All representations made and positions taken in the response to these allegations were to have been substantiated by credible supporting documentation. Finally, the College was required to provide a full accounting of any steps taken to remediate the retaliatory acts alleged by the complainant and to provide an update on the current status of any claims by the complainant.

Institutional Response:

In its official response, NOVA management stated its disagreement with the finding, asserting that neither the institution nor its officials violated Department regulations with regard to the treatment of the complainant, as referenced in the PRR. At the onset, the College proffered that the Special Note regarding retaliation was not an actual finding for which the College was subject to a fine, and, therefore, NOVA would simply treat it as an inquiry and a request for additional information. Despite that position, NOVA denied that it took any retaliatory actions against the complainant, thereby denying any violations of the anti-intimidation/retaliation provisions of the *Clery Act*.

The College's response asserted two subsets of denials:

- a. The Department has failed to establish a causal connection between the faculty member's May 2011 Clery complaint and the personnel action taken by the College. As such, NOVA asserts that it took legitimate, non-retaliatory actions in an effort to assist the complainant and to protect NOVA students, faculty and staff from her disruptive behavior; and,
- b. The actions taken by the College were based on statements and behaviors that were not protected by the *Clery Act*'s anti-retaliation provision.

Final Determination:

In the Department's PRR, NOVA was cited for violations of the *Clery Act* and the Department's regulations as a result of specific acts of intimidation and retaliation that were directed against a faculty member who filed a complaint with the Department, as outlined above. Specifically, the review team found that the College engaged in a pattern of impermissible conduct against a well-regarded and long-tenured member of its faculty. The complainant had served with distinction in the [REDACTED] for more than 20 years. On May 13, 2011, the faculty member filed a complaint with the Department alleging serious violations of the *Clery Act* arising out of a series of serious and troubling criminal incidents perpetrated by a NOVA student in the RPK program.

In the above-referenced complaint, the faculty member alleged that NOVA had failed to issue timely warnings in response to two Clery-reportable violent crimes that were committed by the aforementioned student. Per the complaint, the problems began on October 7, 2009, during an outdoor class that was held near the McDiarmid building. The complaint further claimed, and institutional records show, that the incidents in question were reported to Campus Security Authorities, including the NPD. The complainant also expressed concern that these failures were part of a persistent pattern of noncompliance that later continued into 2011 and beyond. The specifics of those incidents are addressed in more detail in the Department's Final Determination under Finding #1.

In its response to the PRR, NOVA provided two subsets of denials in an attempt to demonstrate that the College did not take retaliatory action against the complainant. As such, the Department will address each subset in the order presented to explain the Department's rationale for sustaining the initial finding.

NOVA Denial #1

- (a) The Department has not established a causal connection between [the complainant's] May 2011 Clery [sic] complaint and the personnel actions taken by the College. NOVA took legitimate, non-retaliatory actions in an effort to assist [the complainant] and to protect NOVA students, faculty and staff.

The Department finds that the personnel actions taken against the complainant, subsequent to her May 13, 2011 complaint and the Program Review that resulted directly therefrom, were, at least in part, an organizational response to the faculty member's actions, namely the filing of the complaint and that such personnel actions would not have been taken had she not brought her concerns to the Department's attention. Prior to that time, the complainant had enjoyed a successful career at NOVA as a tenured faculty member, documented by the array of awards and accolades that she had amassed over the 20 years that she had been employed by the College. Despite her successful tenure to that point, the May 2011 complaint filing instigated a clear pattern of conduct on the part of NOVA that, based upon this complainant's history, does not appear to be, in any regard, standard, warranted, or justifiable. The Department takes further note that the series of specific actions taken against the complainant continued and, in some respects, accelerated and escalated after the commencement of the agency's July 2011 Program

Review. The Department takes similar notice of inconsistencies in NOVA's course of action during this time period. In this regard, it must also be noted, that although NOVA claimed that several of its personnel actions were prompted by serious concerns about the faculty member's well-being and her fitness for duty, these same College officials saw fit to allow the faculty member to serve as the point person for another successful production of the [REDACTED] event.⁴

The first personnel action that NOVA took against the complainant occurred on November 4, 2011, just days after her successful completion of the aforementioned [REDACTED] production. NOVA asserted that this personnel action was taken because "students who were interested in taking the complainant's course had informed the Division Dean that they were concerned about taking her classes because they were afraid that they could be subjected to possible assaults by the student who was charged with assault in 2009." As a result, NOVA placed her on administrative leave, with pay, and required her to seek counseling from the Employee Assistance Program (EAP) as a precondition to returning to work. In its response, NOVA explained that this action was intended to allow the complainant to speak to someone, in a neutral forum, about her fears and anxiety regarding Student A, and to protect students, faculty, and staff, who had become fearful in the wake of the complainant's continuous commentary regarding the 2009 aggravated assault perpetrated by Student A on several of her students.

When the complainant refused to seek counseling with the EAP, NOVA took a second personnel action against her, this time, placing her on Administrative Leave without pay on March 25, 2012. The College continued to claim that the complainant's mental stability was somehow in question, without providing any basis for that conclusion other than her expressed concern about the safety of her students and that of the wider campus community as well as for herself. Nevertheless, NOVA held steadfast to its position that the complainant needed to receive psychiatric counseling before she could return to the classroom.

In response to this second personnel action, the complainant filed an employment discrimination complaint with the Equal Employment Opportunity Commission (EEOC). Pursuant to that filing, NOVA and the complainant participated in a mediation session in an attempt to resolve the matter and ultimately entered into a Settlement Agreement on October 26, 2012 (see EXHIBIT B).⁵ The documentation examined by the review team established that NOVA failed to act in good faith with the terms of the EEOC settlement agreement from the onset, continuing on a retaliatory course of action against the complainant. For example, as per the settlement, the complainant was required to submit to a psychiatric evaluation before she could return to employment. On October 26, 2012, in accordance with the settlement agreement, the complainant submitted the requisite paperwork to process the EAP referral for counseling;

⁴ The [REDACTED] is an annual [REDACTED] event that had been solely and successfully developed, directed, promoted, and staffed by the complainant, in conjunction with her students, for the past 17 years. It is an event that generates a significant amount of revenue for the College as well as for Fairfax County, VA. Notably, the apparent concerns about the complainant's alleged instability did not extend to her continued participation in the [REDACTED] event.

⁵ See EXHIBIT B: October 16, 2012 EEOC Mediation Settlement Agreement.

NOVA delayed the completion of that EAP referral until early December 2012, further, and unnecessarily, delaying her return to work.⁶

In early December 2012, the complainant attended an EAP counseling session, at which time, the treating psychiatrist determined that she did not require any psychiatric treatment. The Department does not find any of the College's assertions about the supposed need for mental health evaluation and treatment to be persuasive. Moreover, the Department finds significant cause to believe that the slow processing of the referral was little more than another effort to punish the faculty member for pressing her point, which further delayed her return to work and her ability to attend to the education of her students.

The College's course of retaliatory conduct continued. The faculty member and NOVA entered into a settlement agreement to resolve the EEOC complaint on October 16, 2012. The complainant reported that she had hoped that the settlement agreement would mark a turning point in the ongoing controversy. However, notwithstanding the settlement, the College chose to delay the issuance of her new employment contract until February 4, 2013, when it arrived via electronic mail, some 111 days after the EEOC settlement agreement was signed. The complainant noted that this was the first time that her contract was not transmitted via regular U.S. mail, as had been the practice for at least 10 years nor was it sent via the campus mail system. As a result, it was not until February 18, 2013 -- 115 days after the execution of the settlement agreement -- that the complainant was able to execute her new employment contract with NOVA and received a confirmation, via electronic mail, of the College's receipt thereof.

Prior to the complainant's filing of a *Clery Act* complaint against NOVA, she had been awarded a five-year multi-year contract with the College. The Department reviewed electronic mail correspondence from the complainant's supervisor, forwarded to her on October 24, 2011 (see EXHIBIT D),⁷ in which the supervisor advised that the complainant "was eligible to apply for a three- or five-year multi-year appointment." Yet, the complainant was asked to leave the College within one week of receiving notification of her contract renewal in November of 2011. When details of the contract renewal were discussed during the EEOC mediation, NOVA informed the mediator that "NOVA didn't have five-year, multi-year contracts;" however, the October 24, 2011, electronic mail message to the complainant from her supervisor clearly contradicts this statement. And yet, despite that message and the complainant's history of holding multi-year contracts with NOVA prior to the Spring 2011 complaint, the contract that NOVA offered her in the wake of the EEOC settlement agreement was a short-term contract for the period of September 2013 through May 2014. Notably, to date, this complainant, who, prior to her complaint filing, had received multiple accolades and two multi-year contracts with the College, each for five years, has not received another multi-year contract. The Department maintains that NOVA's delay in executing the new contract, along with its refusal to renew the complainant's employment under the same or similar terms that it had previously, is further

⁶ See EXHIBIT C: Electronic mail messages between the administrators and faculty members regarding the EAP, dated October 23, 2012 through December 18, 2012.

⁷ See EXHIBIT D: Electronic mail correspondence, forwarded to the faculty from an administrator, regarding the complainant's eligibility to apply for a three-or five-year multi-year appointment.

support that the College's pattern of retaliation against the faculty member was a direct result of her complaints to institutional officials and, ultimately, to the Department.

Finally, NOVA reduced the complainant's course load within the [REDACTED] Program and refused to permit her to collapse two courses into one, as she had done without issue on several occasions, over many years, prior to the controversy. Specifically, prior to her filing of the complaint against NOVA, she had been allowed to collapse her course load as needed.⁸ NOVA's lack of approval to do so here resulted in a reduction of interest in the [REDACTED] Program at NOVA because some students had to delay or forego completion of the program or seek academic credits elsewhere. More specifically, because the College refused to allow the complainant to collapse her courses as she had done previously, some students had to be advised to take some of the requisite courses needed to complete their degree programs at other local colleges in order to stay on track for their projected graduation date. In this way, the actions taken against the complainant also had a tangible and detrimental effect on NOVA students in the [REDACTED] program, not the least of which were the additional expenses and inconveniences associated with taking courses at other area institutions. The Department maintains that the limitations that NOVA placed on the complainant and the manner in which she instructed her courses was an additional retaliatory tactic designed to punish her for reporting NOVA's potential *Clery Act* violations to the Department.

In upholding this finding of violation, the Department notes that the actions taken by NOVA at the time and the positions taken in its response cannot be justified. The Department finds a cognizable link between the faculty member's complaint and the subsequent and persistent pattern of personnel actions taken against her. There is no apparent "evidence" of her compromised mental state other than the fact that she disagreed with her superiors about whether or not the crimes committed by Student A and his continued presence on campus posed an ongoing threat to student and employee health and safety. In this context, it must be noted that the faculty member is a recognized authority on a range of public safety matters and was, in any case, better positioned to ascertain the nature of any such threat. The College obviously agreed with this assessment as these same credentials - knowledge, skills, and abilities - are the very reason why she was asked to serve on a campus safety committee and to contribute to various aspects of NOVA's campus safety plans and programs. Moreover, the facts substantiate the validity of her concerns and eventually the College agreed, as Student A was ultimately expelled as a result of his violent and unpredictable behavior. Even if she had had been wrong in her judgements or had not possessed her considerable proficiencies, the actions taken by NOVA could only serve as a warning to others to not challenge the prerogatives of management. The complainant and her counsel have noted that numerous colleagues and students expressed their

⁸ At the College, a class must attain a registration level of 12-15 students in order to be offered in a term. If registration falls below 12, the faculty member must request and obtain permission from the administration to offer a single class that satisfies the requirements of two separate courses. In this way, an instructor who offers two similar courses on two different dates and times, wherein seven students register for Course A and five students register for Course B can combine Course A and Course B to meet the minimum course registration level of 12 students, thereby allowing both courses to be offered.

⁸ See Appendix E: Electronic mail correspondence amongst various administrators, demonstrating their consideration of moving the [REDACTED] program to another location.

sadness and frustration about the difficulties that stemmed from the simple act of reporting a safety concern. In light of her travails, there is no question that the complainant's path would have been smoother if she had done nothing and that truth did not go unnoticed by colleagues and friends. The creation of such a climate necessarily had and has a "chilling effect" on the willingness of students and employees to come forward under similar conditions. Moreover, it must be emphasized that the Department's ability to effectively enforce the *Clery Act* substantially relies on the willingness of students, employees, and other campus community stakeholders to bring concerns to our attention. For all of these reasons, the Department cannot countenance any action that may impede the reporting of crimes, the registering of concerns about continuing threats, or the filing of allegations of noncompliance. Based on all the foregoing, the Department is, once again, forced to conclude that these continued actions were calculated to intimidate and retaliate against the complainant for actions that simply did not constitute a violation of any specific institutional policy or procedure. As such, the College's actions run counter to Federal law and established conventions of the contemporary higher education environment. Moreover, the actions taken by NOVA officials were not in line with how it treated its other employees, which prompted the complainant to file a second complaint with the EEOC in April 2013.⁹

The Department was informed in August 2015 that the complainant resigned her position as a full-time faculty member, becoming a part-time adjunct faculty member as of the Fall of 2015. Although NOVA contends that there is no causal connection between the complainant's May 2011 complaint and its subsequent personnel actions, the Department is unconvinced by the College's denials, determining that the personnel actions outlined above were illegitimate and retaliatory, and designed to punish the complainant for exposing NOVA's *Clery Act* violations.

NOVA Denial #2

- (b) The actions taken by the College were based on statements and behaviors that were not protected by the *Clery* [sic] *Act*'s anti-retaliation provision.

NOVA asserted that the series of personnel actions that it took against the complainant addressed statements and behaviors that are not protected by the *Clery Act*'s anti-retaliation provision, without citing any substantive basis for its position. Contrary to that claim, the Department is quite certain that the allegations presented in the complaint are, in fact, covered by the anti-intimidation/retaliation clause. Just three months prior to the May 2011 complaint, Student A had informed the psychiatrist that had been appointed to him during the pendency of his criminal court case that he was going to purchase a gun so that he could shoot the complainant – a fact that the Commonwealth's attorney, himself, communicated to the complainant. In turn, the complainant informed the NOVA administration and the campus police, and requested that NOVA's administrators release a statement regarding that February 2011 threat to make students and the campus community aware. None of NOVA's administrators responded to this request and no action was taken. Had the institution taken the faculty member's concerns seriously and acted upon them, it is unlikely that a complaint would have ever been filed in the first place. The

⁹ As of this writing, the April 2013 complaint is still pending with the EEOC.

Department finds NOVA's failure to act in this instance inexplicable. One of the clearest intents of the anti-intimidation and retaliation provision was to create protections for complainants to come forward and voice their concerns to an institution, the Department, or both without fear of reprisal. This case serves as a clear example of the need for the rule. The College's claim, in this context, is without merit and, as such, is rejected. In addition, NOVA contended that the complainant filed her complaint with the Department because of disagreements that she'd had with other College administrators involving matters unrelated to *Clery Act* crimes or obligations. This is simply not true, and it must be noted that NOVA did not present any information or documentation to support this assertion. Hence, the Department finds that NOVA has failed to present sufficient documentation to support this contention.

Additionally, per its response, NOVA stated that the personnel actions taken were intended to protect the complainant, along with the students, faculty, and staff whom she had supposedly frightened with her continuous references to the 2009 aggravated assault incident involving Student A. Based on the Department's review of statements presented by students and faculty, the Department finds the fears expressed by those persons were entirely reasonable in light of Student A's pattern of disturbing, threatening, and, ultimately, criminal conduct during this time period, which also included a threat against another NOVA administrator. Moreover, the Department is not persuaded by NOVA's claims that the institution somehow initiated these personnel actions in the best interest of the complainant and the larger campus community. The College's response presented a barely-veiled insinuation that, despite the finding of the EAP psychiatrist that the complainant required no psychiatric treatment, she was suffering a mental or emotional episode, if not some more serious and persistent disorder. That part of the response also suggests that, as a result, she had caused students and colleagues to fear her. Yet, the documents and information examined by the review team supported no such claims.

To reiterate and emphasize the point again, the Department disagrees that the actions taken by NOVA were based on statements and behaviors that were not protected by the *Clery Act* anti-intimidation/retaliation provision. To the contrary, as stated above, the statutory provision is specifically intended to prohibit the types of actions that the College took against this complainant. As such, the Department concludes that these actions were intended to punish her, first for disagreeing with NOVA's management about the significance of the ongoing threat posed by Student A - an individual who was eventually removed from the institution for myriad legal and conduct code violations - and secondly, for bringing her concerns to the attention of the Department. There can be no question that the complainant found herself in a less advantageous employment situation and saw her place among colleagues and the larger campus community diminished as a result of her efforts to see to it that the *Clery Act* was followed and enforced. It is also unquestionably true that the complainant, an esteemed academic, would have been in a better position, professionally and in nearly every other respect, had she done nothing at all. For the reasons documented here, all aspects of the finding are sustained.

Finding #1: Failure to Comply with Timely Warning and Emergency Notification Issuance and Policy Provisions

Citation:

Under the Clery Act, institutions must issue timely warnings to inform the campus community of crimes considered to be a threat to students and employees. §485(f)(3) of the HEA. These warnings must be issued in any case where an incident of 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 are required to include a number of detailed statements describing its timely warning policies in the ASR. 34 C.F.R. §668.46(b). The policy statements must include a statement of 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).

Noncompliance:

NOVA failed to issue adequate warnings in a timely manner in response to a serious Clery-reportable incident that posed an ongoing threat to the students and employees. The initial incident in question occurred on October 7, 2009, and was reported to the NPD on the same day. On October 7, 2009, at approximately 2:40 P.M., NOVA police officers were dispatched to the McDiarmid Building in response to a reported assault involving multiple students. Upon arrival on the scene, the officers were met by the instructor, who informed the officers that two of her students had been assaulted by another student in one of the building's elevators. While in the elevator, the assailant struck the two victims with a piece of plywood; one was struck on the forearm, while the other was hit in the face within inches of his eye. The suspect was observed leaving the McDiarmid Building and was in an agitated state and acting in an irrational manner. Witnesses eventually lost sight of the suspect and were not sure of where he was heading. The responding officers took statements from both injured students and, on the basis of their investigation thus far, an arrest warrant was issued for the suspect at approximately 7:50 P.M.

Under the Clery Act, an aggravated assault occurs anytime an assailant commits an unlawful attack with a weapon that causes or puts a victim in apprehension of serious violence that could cause serious bodily harm. On these facts, it is clear that this incident should have been classified as an aggravated assault and that this Clery-reportable crime did in fact pose a serious and ongoing threat to student health and safety. Nevertheless, the College did not prepare or disseminate any notification in a manner that would have provided clear and timely notice of the threat to the health and safety of campus community members. In addition, NOVA failed to follow its own policy for the issuance of timely warnings, as published in its annual security report that was in place on October 7, 2009. As of that date, NOVA's ASR included the following policy statement:

"In the event of a significant emergency or dangerous situation involving the immediate threat to the health or safety of persons on campus, the College will notify the community using the NOVA Alerts system and other media outlets to advise it of the situation, unless

notification would otherwise compromise the effort to assist victims or contain the emergency."

Under the circumstances known to NOVA officials at the time, including the assailant's prior pattern of behavior, the facts strongly indicated or should have indicated to NOVA officials that the assailant was acting in an agitated and irrational manner and was still at large and, therefore, posed an ongoing threat to the health and safety of the NOVA students, employees, and other members of the campus community. The sense of urgency shown by NOVA police officers by their efforts to quickly secure an arrest warrant demonstrates that law enforcement was aware of the seriousness of the situation. The Department's review of the police reports, coupled with the timeline of the events provided by the College, clearly indicates that the issuance of a timely warning was required and would have been in the best interest of the campus community. The student was arrested and taken into custody on October 8, 2009. At the time of his arrest, the suspect verbalized suicidal ideations that were observed by police officers. As a result, the suspect was transported to a mental health facility for his own protection where he remained in police custody. At the time of his arrest, an officer informed the suspect that he was banned from the campus and that he would be charged with trespassing if he returned to NOVA without the expressed approval of the Dean of Students.

Although the offender was effectively barred from the campus, that action did not put an end to his threats against NOVA employees and students. The former student was released from custody on November 3, 2009. Shortly thereafter, he began to harass the NOVA faculty member who filed the Clery Act complaint that led to this program review. The former student made numerous harassing phone calls and also sent threatening electronic mail messages that caused the faculty member to fear for her own well-being and that of her students. The faculty member forwarded several electronic mail messages to the Dean of Student Conduct, requesting that some disciplinary action be taken. Despite the attacks that occurred in the previous month and the harassing communications directed at the faculty member, no disciplinary action was taken and no warning was issued. For an extended period of time, no new threats were made against NOVA employees or students. Then in July 2010, new threats surfaced. This time, the target was the immediate supervisor of the faculty member who had been previously harassed. The threat was transmitted by electronic mail and stated that, "the next time that you need help, the police won't be there to help you." The suspect also stated that he needed to evade law enforcement because further arrests and convictions could possibly complicate his efforts to purchase a firearm. The final threat was transmitted via electronic mail to the faculty member on August 16, 2010. On this occasion, the faculty member received an electronic mail message from the suspect that seemed to reference the mass tragedy at the Virginia Polytechnic Institute and State University (Virginia Tech) in April 2007. The message read,

"I have my values, unlike you...Don't think for a second I will end up like some crazy Korean kid. Now, I'm not going to blatter (sic) this out to the public because I believe in God...must I say more? Judgement (sic) day is coming to Ms.[Name Deleted]."

Given the student's reference to the Virginia Tech massacre, the faculty member was moved to not only fear for her own life and safety, but also for the lives and safety of her students and the campus community of NOVA. The faculty member immediately forwarded that electronic mail

message to the Provost, two Deans, and the NPD. The faculty member was told by one of the Deans that he would "deal with" the situation the next day. No other members of the NOVA administration contacted the faculty member. NOVA failed to warn the campus community at any time on August 17, 2010, about the imminent threat posed by the student on August 16, 2010.

After several months of numerous threats and the initial aggravated assault crimes, NOVA finally issued a "Police Alert" to faculty, staff, and students on August 20, 2010. This alert referenced the aggravated assaults in October 2009 as well as the fact that another arrest warrant was issued as a result of the assaultive threats that were made against the faculty member. The warning also included a picture of the suspect and urged students to be on the lookout for the individual and to not approach him. Although the student was barred from the campus, he remained enrolled at NOVA as an online student. The student was finally expelled from NOVA following an outburst at the Sylvan Learning Center on August 9, 2010.

On these facts, the review team finds that NOVA violated the timely warning provisions of the Clery Act when it failed to issue safety alerts about these crimes that clearly posed a serious, ongoing threat to the campus community. No warnings were disseminated until 10 months after the initial offenses and threats were reported to NOVA officials.

Failure to issue timely warnings about serious and ongoing threats deprives campus community members of access to vital, time-sensitive information to which they are entitled. Timely warnings are a primary means of providing updates about serious threats to the health and safety of campus community members. This essential information allows interested parties to make informed decisions regarding their own safety and security and supplements the longitudinal statistical data that is included in the ASR.

Required Action:

As a result of these violations, NOVA must review and revise its current timely warning policy. In accordance with 34 C.F.R. §668.46(e), NOVA must develop and implement policies and procedures to facilitate the timely issuance of warnings for all Clery-reportable crimes that may pose a serious or an ongoing threat to the campus community. NOVA must include in its policy statement for the making of timely warnings all of the required Clery geography that is prescribed by the Clery Act.

NOVA must consider the range of factors that will influence its process for determining if a warning will be issued, the timing of the notice, the means/media by which it will be disseminated, and then incorporate this information into its policies and procedures. In its response, the College also must explain how the emergency alert system functions within NOVA's overall emergency management system and response protocols and its crime prevention and mitigation strategies. The response also must address the College's assessment of the system's effectiveness and outline how effectiveness is tested. Finally, NOVA must implement specific procedures to ensure the operative facts of an incident, such as dates, times, and geographic locations, are recorded accurately in its incident reports and daily crime logs to ensure that the information in timely warnings and emergency notifications provide useful and

reliable information. Finally, NOVA must provide copies of all new and revised internal and public policies and procedures as part of its response to this PRR.

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

Institutional Response:

In its official response, NOVA management defended its failure to issue timely warnings in response to the serious Clery-reportable incidents committed by Student A that posed an ongoing threat of harm to its students and employees. More specifically, NOVA explained that events that occurred in the classroom at the McDiarmid Building on October 7, 2009 did not pose an ongoing threat that warranted the issuance of a timely warning for several reasons:

First, NOVA stated that this incident involved an altercation of several students attending the class and that this altercation had ended by the time the responding officers arrived. NOVA also asserted that, because the altercation between the students had ceased, this particular incident no longer posed an ongoing threat to other students or employees.

Next, NOVA reasoned that, because the October 7, 2009 incident was contained to a discrete group of students and based on a personal disagreement amongst those students, there was no indication that the suspect intended to cause harm to the campus at large.

Per the response, institutional officials also apparently reasoned that the suspect's disagreement was narrowly targeted to one specific student, without citing any basis for such a conclusion. Thus, although the aggressor threw a piece of plywood and struck a student other than his intended target, said object was thrown at and intended for one specific student. NOVA apparently believed that because the aggressor's actions were directed towards one specific student, the fact that he accidentally struck another student does not indicate any intent to inflict bodily harm on anyone other than his intended target.

In addition, NOVA contended that, due to the number of students involved in the October 7 incident, the NOVA police were not certain which student(s) was the aggressor. NOVA reasons that in order to have issued a notification under these facts, the NOVA police would have needed a clear indication and description of the aggressor beforehand.

NOVA further stated that, when the police arrived on the scene of the altercation, it was apparent that the suspect had discarded the plywood and walked away. NOVA opines that the fact that the suspect had departed the scene served as a clear demonstration that the incident had come to an end. NOVA reasoned that because the suspect was no longer at the scene of the altercation and no longer in possession of the weapon, there was no indication of an ongoing threat to the campus community.

Finally NOVA stated that, because the investigating officers had no knowledge of the suspect's previously violent or disruptive behaviors, a timely warning was not necessary. Accordingly, NOVA admitted that it did not issue a timely warning to the campus community.

On August 16, 2010, the same student aggressor noted above forwarded a threat, via electronic mail, to the complainant. Although this act posed a serious Clery-reportable incident, NOVA asserts that the College was not required to issue a timely warning under the circumstances. More specifically, NOVA states that, because the message was sent to the complainant's home in the early morning hours of August 16, 2010, because that home was not located within NOVA's Clery Geography, and because the complainant reported the threat to the Fairfax County Police, there was no indication that the student would target students or staff on campus. As such, because NOVA did not believe that the threat presented a serious, ongoing threat to the campus community, it did not to issue a timely warning or emergency notification in response to this incident.

NOVA also addressed an additional instance of noncompliance for its timely warning requirements that occurred with a separate incident on the College's campus on October 29, 2014.¹⁰ With this incident, the victim's mother called and reported that when her daughter was in the parking lot during the evening, she was approached by a male and that this male touched her daughter in an inappropriate manner on her buttocks around 10:19 PM. The victim and her mother returned to the campus police station at 11:30 PM to provide a detailed account of the incident. At that time the officer updated the dispatch call from a simple assault to a sexual offense. The NOVA police sent a timely warning for this incident at 4:54 PM the next day. Here NOVA contends that because the college closed the evening of October 29, 2014 at 11PM, the College did not reasonably believe that there was an ongoing threat to students and employees and that there was no continued risk of a reoccurrence of that particular crime. The College believes that it acted in good faith when it decided to not issue an alert while the campus was closed. The College asserts that once it was able to gather the appropriate information, it issued a timely warning less than 24 hours after the incident was reported.

Final Determination:

Finding #1 cited NOVA for multiple failures to issue required timely warnings and emergency notifications, as outlined in the Noncompliance section above. Specifically, the review team found that the College failed to advise the campus community, as required, of the crimes committed and threats made by Student A. The incidents in question are explained in detail throughout the PRR and this FPRD. As a result of these violations, NOVA was directed to review and revise its current policies and procedures pertaining to the issuance of crime alerts as part of an overall review of its emergency management and response program. In its response, NOVA stated its disagreement with the finding. Nevertheless, the College did submit

¹⁰ On December 20, 2016, The Department requested that NOVA respond to an addendum to the November 18, 2016, PRR. The addendum referred to an incident that occurred on October 29, 2014. The Department determined that a crime alert issued was in violation of the timely warning provisions of the *Clery Act*.

documentation that indicated that some steps were taken to enhance its timely warning and emergency notification procedures.

The Department carefully reviewed all available information, including NOVA's response and supporting documentation as well as its file review report. Based on that review, each of the violations noted in the initial finding is sustained. In upholding this finding, the Department points out that the first incident involving Student A was a Clery-reportable violent crime that certainly posed a potentially serious and ongoing threat. There is no question that the perpetrator, who had departed the scene, was in a highly-agitated state and that his whereabouts were unknown for an extended period of time. During this time, there was no way for NOVA officials to discern that Student A did not intend to commit additional crimes against other members of the campus community. On these facts, the Department finds that NOVA's analysis for not issuing a timely warning to the campus community unreasonable.

As noted, NOVA also violated the *Clery Act* by failing to warn the campus community about credible threats made by Student A via electronic mail on August 20, 2010. Four days later, the College finally issued a warning about these violent threats. In its response, NOVA contended that it did not believe that the threat was imminent and because the threat originated from an off-campus location, there was no requirement to issue an emergency notification or other warning of any kind. The College's claims make little sense in the context of Student's A pattern of behavior, starting with the prior classroom assault on October 7, 2009. The claim that the threat was communicated from an off-campus location makes even less sense because it was specifically directed to persons on the campus. For all these reasons, the finding stands.

With regard to the 2014 incident presented in the addendum to the PRR, NOVA's claim that a warning was not required because the timing of the report coincided with the closing time of the campus is similarly rejected. Here as with the other cases cited, the eventual issuance of a warning after a delay of nearly 24 hours is wholly inconsistent with the requirements of the *Clery Act*. Under the circumstances, not the least of which is the fact that students and employees were moving about the campus as they prepared to leave for the evening, campus community members should have been alerted straightaway, once the details of the crime made it clear that the incident should be classified as a sex offense. Once again in this case, NOVA apparently failed to consider the fact that the suspect was at-large during the intervening period.

The review team's examination also showed that the College has, for the most part, adequately identified and addressed the above-referenced violations. The submitted materials indicate that NOVA has developed and implemented new procedures and systems that are intended to ensure that the identified violations underlying this finding do not recur. As such, the Department has determined that the College's remedial action plan meets minimum requirements, and, for these reasons, has accepted the response and considers this finding to be closed for the purposes of this Program Review. Nevertheless, the officials and directors of NOVA are put on notice that the College must take any other action that may be necessary to address the deficiencies and weaknesses identified by the Department, as well as any additional deficiencies and weaknesses that were detected during the preparation of the response, and/or as may be needed to otherwise ensure that these violations do not recur.

NOVA 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” violations of this type once they occur. The issuance of timely warnings and emergency notifications to campus community members and other stakeholders to advise them of potential threats to student and employee health or safety are among the most basic requirements of the *Clery Act* and are fundamental to the law’s campus safety and crime prevention goals. The prompt dissemination of clear alerts supplements the longitudinal statistical data that must be included in the ASR and allows interested parties to make informed decisions and take a more active role in their own safety and security. NOVA asserted that it has taken adequate remedial actions, and, by doing so, is now in compliance with the *Clery Act* as required by its PPA. Nevertheless, the College 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: Crime Awareness Requirements Not Met - Failure to Distribute the Annual Security Report in Accordance with Federal Regulations

Citation:

The Clery Act and the Department’s regulations require that all institutions that receive Title IV, HEA funds must, by October 1 of each year, publish and distribute to its current students and employees, a comprehensive Annual Security Report that contains, at a minimum, all of the statistical and policy elements described in 34 C.F.R. §668.46(b).

The ASR must include several policy statements. These disclosures are intended to inform the campus community about the institution’s security policies, procedures, and the availability of programs and resources as well as channels for victims of crime to seek recourse. In general, these policies include topics such as the law enforcement authority and practices of campus police and security forces, incident reporting procedures for students and employees, and policies that govern the preparation of the report itself. Institutions are also required to disclose alcohol and drug policies and educational programs. Policies pertaining to sexual assault education, prevention, and adjudication must also be disclosed. Institutions also must provide detailed policies of the issuance of timely warnings, emergency notifications, and evacuation procedures. All required statistics and policies must be included in a single comprehensive document, known as an ASR. With the exception of certain drug and alcohol program information, cross referencing to other publications is not sufficient to meet the publication and distribution requirements of the Act. §485(f) of the HEA; 34 C.F.R. §668.46(b).

Noncompliance:

NOVA did not produce accurate and complete ASRs in calendar years 2008, 2009, and 2010. Although NOVA did not produce actual comprehensive ASR documents during this period, the review team was able to locate some required policy and statistical disclosures posted under various links on the College’s intranet site. During this site visit, NOVA officials started the process of creating a consolidated ASR and subsequently posted the report on the official website. The review team also found that the 2010 ASR was not actively distributed to required

recipients by the October 1, 2010 deadline. During the site visit, NOVA officials presented the review team with an incomplete version of the 2010 report that was produced on or about July 6, 2011. As part of a standard document request, the review team asked for proof that the 2010 report was actively distributed and were advised that no such evidence was available.

Failure to actively distribute an accurate and complete ASR to current students and employees within the timeframe established by Federal law deprives the campus community of timely access to important campus crime information to which they are entitled.

Required Action:

As a result of this violation, NOVA was required to take all necessary actions to address this violation and all others identified with the Program Review to provide reasonable assurance that those identified deficiencies would not recur. Specifically, NOVA was required to review and revise its current policies and procedures that governed the production of the ASR and the active distribution of the report to enrolled students and current employees in the required manner. NOVA's new and revised internal guidance had to specifically state how prospective students and employees would be actively notified about the ASR, its contents, and how to obtain a copy of the report. The distribution procedures were required to provide full documentation of NOVA's efforts to comply with all requirements.

In addition, NOVA was required to conduct an internal review of its 2015 and 2016 ASRs to identify any omitted and inadequate disclosures, with a special focus on the VAWA provisions. If deficiencies were identified, NOVA was required to produce a revised 2016 ASR and then actively distribute the report to all current students and employees no later than January 15, 2017. (NOVA was granted an extension to submit this documentation no later than March 1, 2017) NOVA was also required to submit a copy of the original 2016 ASR and any revised versions of the report, along with credible evidence showing that each report was actively distributed to mandatory recipients as part of its response. Appendix B of the November 18, 2016, PRR included additional information about information that had to be submitted with NOVA's response.

The November 18, 2016, PRR indicated that based on an evaluation of all available information, including NOVA's response, the Department would determine whether or not NOVA was required to take additional actions to remedy this finding.

Institutional Response:

In its official response, NOVA management conceded that it had failed to adequately comply with the *Clery Act's* ASR policies, specifically the ASR distribution requirements. NOVA acknowledged that it did not produce singular documents for its ASR requirements for the calendar years 2008, 2009, and 2010. In addition, NOVA affirms that, as the November 18, 2016, PRR stated, the College did compile complete and accurate ASR data that was posted to various locations on the College's website for the calendar year 2010; however, the College was unable to provide proof that it actively distributed the ASR to the required recipients by the October 1, 2010, deadline when requested to do so. NOVA further asserted that it "is" and has

been in compliance with *Clery Act* regulations since some point prior to the Department's July 2011 onsite Program Review," and submitted documentation with its response to demonstrate the College's compliance.

More specifically, since 2011, NOVA has taken the following actions to become compliant with *Clery Act* distribution policies, as demonstrated below:

1. Recruited and hired a full time *Clery* Coordinator in 2012, who has been able to maintain compliance in the production and distribution of the ASR;
2. Corrected and updated information contained within its ASRs;
3. Provided documentation about how it distributes its ASR to its faculty, staff, and students, including a notification letter of the ASR availability forwarded to the campus community by the NOVA Chief of Police each year; prior to 2011, NOVA had failed to produce and distribute a complete ASR and that it had posted its safety policies on the College's website in a fragmented manner; and,
4. Included information required by the Violence Against Women Reauthorization Act of 2013 (VAWA) in its 2015 ASR.

Final Determination:

Finding #2 cited NOVA for multiple violations of the *Clery Act* and the Department's regulations, as noted in the Noncompliance section above. Specifically, the review team found that the College did not produce a single, comprehensive document that conformed to the most basic of ASR requirements during a three-year period, from 2008 to 2010. Many of the discernible campus safety disclosures that were issued by the College during this period were found to be deficient or missing entirely. As a consequence of these conditions, NOVA also failed to comply with the ASR active distribution and notification provisions during the review period. When the review team inquired as to whether NOVA could provide proof that the 2010 ASR had been actively distributed, NOVA officials responded that no such evidence was available for the years 2008, 2009, 2010, or any other year prior.

As such, NOVA was required to review and revise its current policies and procedures that governed the production and distribution of its annual ASR. Accordingly, NOVA submitted documentation to demonstrate that it has taken corrective action to ensure that its annual ASR would be published and distributed each October 1 by: hiring a *Clery* Coordinator in 2012; correcting and updating the information contained within its ASRs; demonstrating that it now publishes and distributes complete ASRs by the October 1 deadline as required by the *Clery Act*; and, lastly, including all VAWA offenses in its annual ASRs, as required by the *Clery Act*.

The Department has carefully reviewed NOVA's response and all supporting documentation submitted with that response. Based on this review and NOVA's admissions, the violations noted in the initial finding are sustained. Notwithstanding these concerns, the Department finds that the noncompliance identified in its November 18, 2016, PRR has been satisfactorily addressed by the College's subsequent ASRs and the College's new and revised internal policies and procedures for the publishing and distribution of its ASRs. As such, the Department has determined that NOVA's corrective action plan meets minimum requirements. For these reasons, the Department has accepted NOVA's response and considers this finding to be closed

for the purposes of this Program Review. However, the institution must initiate any other action that may be needed to fully address the deficiencies and weaknesses identified by the Department. These remedial measures must also address any deficiencies that were identified during the preparation of the College's response or as may otherwise be needed to ensure that these violations do not recur.

NOVA 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 requirement to produce an accurate and complete ASR and to distribute the report to enrolled students and current employees is fundamental to the campus safety and crime prevention goals of the *Clery Act*. Access to this information permits campus community members and their families to make well-informed decisions about where to study and work, and empowers individuals to play a more active role in their own safety and security. NOVA asserted that it has taken adequate remedial actions, and that, by doing so, is now in compliance with the *Clery Act*, as required by its PPA. Nevertheless, NOVA's management must understand that the violations documented by the Program Review deprived students and employees of important campus safety and crime prevention information to which they are entitled. For these reasons, the College is advised that its remedial 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: Drug and Alcohol Abuse Prevention Program Requirements Not Met

Citation:

The Drug-Free Schools and Communities Act (DFSCA) and Part 86 of the Department's General Administrative Regulations require each institution of higher education (IHE) to certify that it has developed and implemented a drug and alcohol abuse prevention program (DAAPP). The program must be designed to prevent the unlawful possession, use, and distribution of drugs and alcohol on campus and at recognized events and activities.

On an annual basis, each IHE must provide the following information in writing to all current students (enrolled for any type of academic credit except for continuing education units) and all current employees:

- *A written statement about its standards of conduct that prohibits the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees;*
- *A written description of legal sanctions imposed under federal, state, and local laws and ordinances for unlawful possession or distribution of illicit drugs and alcohol;*
- *A description of the health risks associated with the use of illicit drugs and alcohol abuse; A description of any drug or alcohol counseling, treatment, and rehabilitation/re-entry programs that are available to students and employees; and, A statement that the IHE will impose disciplinary sanctions on students and*

employees for violations of the institution's codes of conduct and a description of such sanctions.

The distribution plan must make provisions for providing the DAAPP disclosure annually to students who enroll at a date after the initial distribution and for employees who are hired at different points throughout the year.

In addition, each IHE must conduct biennial reviews to determine the effectiveness of its DAAPP and to ensure consistent enforcement of applicable drug and alcohol-related statutes, ordinances, and institutional policies against students and employees found to be in violation. The biennial review materials must be maintained by the IHE and made available to the Department upon request. 34 C.F.R. §§86.3 and 86.100.

Noncompliance:

NOVA violated multiple provisions of the DFSCA and the Department's Part 86 regulations during the review period. Specifically, the review team found that NOVA did not distribute an annual DAAPP disclosure to all current employees and students enrolled for academic credit. The College also persistently failed to conduct biennial reviews to evaluate the effectiveness of its DAAPP and the consistency of sanctions imposed for violations of its student and employee codes of conduct. As a consequence of this violation, NOVA also was unable to produce the required report of findings to document the research methods used during the review and the results of the study. The Department's investigation indicates that these exceptions applied to the entire review period and most likely predate that timeframe.

Failure to comply with the DFSCA's DAAPP requirements deprives students and employees of important information regarding the educational, disciplinary, health, and legal consequences of illegal drug use and alcohol abuse. Failure to comply with the biennial review requirements also deprives the institution of important information about the effectiveness of its own drug and alcohol programs. Such failures may contribute to increased drug and alcohol abuse as well as an increase in drug and alcohol-related violent crime.

Required Action:

As a result of these violations, NOVA was required to take all necessary corrective actions to resolve the identified violations. At a minimum, NOVA was required to take the following actions:

- Develop and implement a comprehensive DAAPP and publish a materially-complete DAAPP disclosure that includes all of the required elements and summarizes the program. A copy of this document was required to accompany the College's response to the Department's November 18, 2016, PRR;*
- Develop procedures for ensuring that the DAAPP disclosure is actively distributed annually to every student who is currently enrolled for academic credit and all employees. NOVA was required to provide a draft copy of its DAAPP and new distribution policy with its response to the November 18, 2016, PRR. Once the new*

DAAPP disclosure is approved by the Department, the College will be required to distribute it in accordance with the Part 86 regulations and provide documentation evidencing the distribution as well as a statement of certification attesting to the fact that the materials were distributed in accordance with the DFSCA. This certification must also affirm that the College understands all of its DFSCA obligations and that it has taken all necessary corrective actions to ensure that these violations do not recur;

- *Conduct a biennial review to measure the effectiveness of its DAAPP and prepare a report of findings. NOVA's report was required to include a description of the research methods and data analysis tools that were used to determine the effectiveness of the program and the consistency of its enforcement strategy. The report was required identify the responsible official(s) and office(s) that conducted the biennial review and be approved by the College's President. The biennial review must be completed by February 28, 2017, and the College's report of findings, recommendations for improvement, and supporting documentation must be submitted to the Department by March 1, 2017. This element of the response must be submitted via electronic mail to the attention of Ms. Guinhouya at jannetta.guinhouya@ed.gov. All other information collected or generated during the biennial review must be maintained by NOVA and made available to the Department upon request; and,*
- *Establish policies and procedures to ensure that all subsequent biennial reviews are conducted in a timely manner and are fully documented and to take all other necessary action to ensure that this violation does not recur. A copy of these new policies and procedures must accompany NOVA's biennial review report.*

Institutional Response:

In its official response, NOVA management admitted that the College failed to develop a comprehensive drug and alcohol prevention program "due to the unique composition of NOVA's diverse and diffuse student population, coupled with the community college's operation on several disparate campuses." NOVA contends that these factors have made it very difficult to develop and assess a unified DAAPP for its students. NOVA has demonstrated that it has included policy statements regarding drug and alcohol prevention on its website and has taken steps to combat drug and alcohol abuse on many fronts. NOVA includes information regarding events and presentations in the Public Safety newsletter, which is distributed monthly to all NOVA faculty, students, and staff. This information is also posted on the NOVA Campus Police website. NOVA further admits that, although it has taken these minor efforts toward maintaining a DAAPP on its campus, the DAAPP disclosure has not been actively distributed to its employees and students to date. More specifically, NOVA conceded that, although its Office of Human Resources distributed its DAAPP disclosure to its employees on February 16, 2017, the College did not distribute the disclosure to the students during the 2017 year. Consequentially, the distribution was not complete.

Because NOVA has not developed a comprehensive DAAPP, it has also admittedly failed to compile biennial reviews inclusive of all areas of reporting. Although NOVA reports that it did conduct biennial reviews for the years 2009-2011 and 2012-2014, those reports did not

adequately assess the effectiveness of the program, or describe the research methods used to conduct those reviews.

In its response, NOVA claimed that it has complied with the required actions set forth in the Department's November 18, 2016, PRR. The College also claimed that it has completed some of those requirements, proof of which it submitted in its response. More specifically, NOVA presented a draft of its plan for conducting its biennial reviews, subject to approval by the Department. The College also claimed that it established a committee, consisting of the Office of Student Services and Enrollment Management, the Deans of Students Council, and the Office of Human Resources, to develop measurable goals and objectives for the College's DAAPP program, and to conduct future biennial programs using various assessment methods. This committee will coordinate and oversee the DAAPP for students and employees, and will take all necessary actions to ensure that NOVA meets the requirements set forth in the DFSCA when biennial reviews are conducted.

Final Determination:

Finding 3 cited NOVA for multiple violations of the *DFSCA* and the Department's Part 86 Regulations, as outlined in the Noncompliance section above. Specifically, the review team determined that the College had failed to establish and implement a DAAPP in accordance with Federal Regulations, during the review period and all prior years. As a result, because NOVA had failed to implement a DAAPP, the Department also determined that the College failed to ever conduct an effective biennial review to assess the effectiveness of its program and accordingly was unable to produce the required reports of findings and recommendations prior to the Department's Program Review. The College attempted to conduct biennial reviews for the years 2009-2011 and 2012-2014; however, those reports did not adequately assess the effectiveness of the program, or describe the research methods used to conduct those biennial reviews.

These separate and distinct violations necessarily follow from one another because the biennial review is primarily a study of the DAAPP's effectiveness. Therefore, an institution cannot conduct a proper biennial review until it has a fully-functional DAAPP in place and program requirements and standards of conduct are communicated clearly to all members of the campus community. As a result of these violations, NOVA was required to develop and implement a comprehensive DAAPP, produce and distribute an annual DAAPP disclosure, and conduct a substantive biennial review, as soon as initial program data was available, in order to produce an initial report. With its March 1, 2017 response, NOVA submitted a procedural plan that would ensure the implementation of a comprehensive DAAPP program at its college, subject to the Department's approval. The Department has carefully reviewed NOVA's procedural plan for the development of its DAAPP program and all of its supporting documentation. Based on that review, each of the violations noted in the initial finding is sustained. The review team's analysis also showed that the identified violations were, for the most part, satisfactorily addressed by the College's responses, its revised DAAPP, its new annual disclosure, new biennial review report, and its new internal policies and procedures. As such, the Department has determined that NOVA's remedial action plan meets minimum requirements, and, for these reasons, has accepted the response and considers this finding to be closed for purposes of this

program review. Nevertheless, the officials and directors of NOVA are put on notice that the College must take any other action necessary to address the deficiencies and weaknesses identified by the Department, those that were detected during the preparation of the response to the Department's report, and any that may otherwise be needed to ensure that these violations do not recur.

In this regard, NOVA is advised that it must continue to develop its DAAPP. The College must also ensure that it distributes accurate and complete DAAPP materials to all students and employees on an annual basis, in accordance with the Department's regulations and the College's procedures. In light of these violations, NOVA's management must ensure that responsible officials conduct substantive biennial reviews going forward, and do so on the required schedule. College officials must also take care to ensure that each review is, in fact, a probative inquiry into the program's effectiveness and not merely a conclusory ratification of existing policy. Finally, NOVA must produce detailed reports that clearly state the methods used and outcomes reached during each review. Each report must also be approved by the College's Chief Executive and/or its Board.

NOVA is specifically reminded that the exceptions identified above constitute serious and persistent violations of the *DFSCA* that by, their nature, cannot be cured. There is no way to truly "correct" violations of this type once they occur. The College asserted that it has taken adequate remedial actions, and, by doing so, is now in compliance with the *DFSCA* as required by its Program Participation Agreement (PPA). However, NOVA officials must understand that compliance with the *DFSCA* is essential to maintaining a safe and healthy learning environment. This is true for all institutions, regardless of their size, location, or organizational structure. Data compiled by the Department show that the use of illicit drugs and alcohol abuse is highly correlated to increased incidents of violent crime on campus. Substance abuse is also a leading cause of poor academic performance and contributes to higher rates of absenteeism and a failure to complete a program of study. *DFSCA* violations also deprive students and employees of important information regarding the educational, financial, health, and legal consequences of alcohol abuse and illicit drug use, and deprive institutions of important information about the effectiveness of their drug and alcohol programs. For these reasons, the College is advised that its remedial measures 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 additional remedial measures as a result.

Finally, the Department strongly recommends that NOVA re-examine its DAAPP policies and procedures on at least an annual basis and revise them as needed to ensure that they continue to reflect current institutional policy and are in full compliance with the *DFSCA*. Please be advised that the Department may request information on a periodic basis to test the effectiveness of the College's new policies and procedures.

Conclusion

The Department acknowledges that NOVA has provided the additional supplemental documentation as part of its official response. The College has asserted that this documentation,

along with its new policies and procedures, and its remedial plan, will bring the institution into compliance with the *Clery Act*.

The violations identified throughout this program review triggered a special concern for the Department. Compliance with the *Clery Act* is an essential part of an effective campus safety and crime prevention program. Access to accurate, complete, and transparent disclosures of safety information helps students, employees, and other stakeholders to make well-informed decisions about where to study, work, and live. The transparency created by these disclosures also empowers campus community members to play a more active role in their own safety and security. NOVA asserted that it has taken adequate remedial actions, and that, by doing so, is now in compliance with the *Clery Act*, as required by its PPA. Nevertheless, NOVA officials must understand that the violations documented here deprived students, employees, parents, the media, and other interested parties of access to important campus safety, crime prevention, and substance abuse prevention information to which they are entitled. For these reasons, the College is, once again, advised that its remedial actions cannot and do not diminish the seriousness of these violations, nor do they eliminate the possibility that the Department may require additional corrective actions as a result.

The Department's objective in conducting this, and all Campus Crime Program Reviews, is to improve the safety of America's college campuses. The development and implementation of a substantive corrective action plan is an essential first step in moving NOVA toward full compliance with the *Clery Act* as soon as possible.

The Department strongly recommends that NOVA 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. As part of these periodic reviews, NOVA officials may wish to review the Department's "Handbook for Campus Safety and Security Reporting" (2016) for guidance on complying with the *Clery Act*. The handbook is available online at: www2.ed.gov/admins/lead/safety/handbook.pdf. The Department also provides a number of other *Clery Act* training resources. NOVA officials can access these materials at: www2.ed.gov/admins/lead/safety/campus.html. The regulations governing the *Clery Act* can be found at 34 C.F.R. §§668.14, 668.41, and 668.46.

Finally, NOVA management is also advised to take immediate action to ensure that the College is in compliance with Section 304 of the Violence Against Women Reauthorization Act of 2013 (VAWA). VAWA amended the *Clery 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 its ASRs. All institutions were already obligated to comply with the statutory requirements of VAWA and must include the new required amendments in the 2014 ASR. Because the Department issued Final Rules on the VAWA amendments on October 20, 2014, the new regulations went into effect on July 1, 2015, per the Department's Master Calendar. NOVA officials may access the text of the Final Rule at: <http://ifap.ed.gov/fregisters/attachments/FR102014FinalRuleViolenceAgainstWomenAct.pdf>.