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Dear Dr. Livingstone:

This letter is to inform you that the U.S. Department of Education (Department) intends to fine Baylor University (Baylor; the University; BU) a total of \$461,656 based on the violations of statutory and regulatory requirements outlined below. This fine action is taken in accordance with the procedures that the Department has established for assessing fines against institutions participating in any of the programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 *et seq.* (Title IV, HEA programs). As applicable here, under the Department's regulations, the Department may impose a maximum fine of \$58,328 for each violation that occurred after November 2, 2015. 34 C.F.R. § 668.84.¹ As detailed below, this fine action is based on Baylor's failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) in Section 485(f) of the HEA, 20 U.S.C. § 1092(f), as reflected in 34 C.F.R. §§ 668.41 and 668.46.

Under the Clery Act, institutions participating in the Title IV, HEA programs must prepare, publish and distribute an Annual Security Report (ASR) by October 1 of each year. 34 C.F.R. § 668.41(e). The ASR must include a description of the institution's campus security policies in specific areas. 34 C.F.R. § 668.46(b). In addition, the ASR must report statistics for the three most recent calendar years concerning the occurrence of certain crimes on campus, in or on certain non-campus buildings or property, and on public property. 34 C.F.R. § 668.46(c). An institution must compile and publish crime statistics for each separate campus. 34 C.F.R. § 668.46(d). The crimes that must be reported include: criminal homicide (murder and manslaughter); sex offenses (forcible and non-forcible); robbery; aggravated assault; burglary;

¹ The maximum fine cited in 34 C.F.R. § 668.84(a) has increased according to the Federal Civil Penalties Inflation Adjustment Act. See 77 Fed. Reg. 60047 (October 2, 2012); 81 Fed. Reg. 50321 (August 1, 2016); 82 Fed. Reg. 18559 (April 20, 2017); 83 Fed. Reg. 2062 (January 16, 2018); 84 Fed. Reg. 971 (February 1, 2019); and 85 Fed. Reg. 9 (January 14, 2020).

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motor vehicle theft; arson; and arrests for liquor law violations, drug law violations and illegal weapons possession.

The ASR must be distributed to current students and employees and must be made available to applicants for admission and employment to provide them with accurate, complete and timely information about crime and safety on campus. 34 C.F.R. § 668.41(e). Institutions must submit the crime statistics annually to the Department, which makes them publicly available. 34 C.F.R. § 668.41(e)(5). Institutions participating in the Title IV, HEA programs must, in a manner that is timely and that will aid in the prevention of similar crimes, provide a timely warning to the campus if certain crimes are reported to campus security authorities and are considered to represent a threat to students and employees. 34 C.F.R. § 668.46(e).

The Department's regulations require that institutions participating in the Title IV, HEA programs that maintain a campus police or a campus security department must maintain a written, easily understood daily crime log that records, by the date the crime was reported, any crime that occurred on campus, on a non-campus building or property, on public property, or within the patrol jurisdiction of the campus police or the campus security department and is reported to the campus police or the campus security department. 34 C.F.R. § 668.46(f)(1).

The Department conducted an on-site program review at Baylor from May 15, 2017 through May 19, 2017. The program review was prompted by the Department's review of over 30 media reports alleging a series of student-on-student sexual assaults at Baylor, dating back to 2012. Additionally, in April 2016, the Department received a complaint from the advocacy group "End Rape on Campus" alleging Baylor's noncompliance with the Clery Act during the period of April 2011 to August 2015. The allegations referenced several Baylor female students who had reported sexual assault incidents to the Baylor University Police Department (BUPD) by various members of the Baylor football team. The complaint further alleged that the University had failed to investigate these incidents and properly annotate them in the institution's Daily Crime Log (DCL). The Department's reviewers noted that despite the allegations contained in the complaint, the crime statistics reported to the Department and included as part of the University's ASRs did not report a single incident of sexual assault from CY 2008 to 2011.

The program review consisted of an examination of Baylor's police incident reports, arrest records, student conduct violation records, and policies and procedures related to the Clery Act. In addition to staff interviews, the Department's reviewers also reviewed a sample of over 600 campus police incident reports, arrest reports, and disciplinary referral reports in the review period. Files were randomly selected from a list of crimes reported to BUPD, Student Conduct Office, and arrest records for crimes reported by the Waco Police Department.

On April 18, 2019, the Department issued a Program Review Report (PRR) to Baylor. The review found that Baylor had not complied with the Clery Act and the Department's implementing regulations. Baylor responded to the PRR on September 16, 2019². After reviewing Baylor's responses, the Department issued a Final Program Review Determination

² The institution's undated response to the PRR states that it was responding to the Department's April 17, 2019 PRR. However, the FPRD states that the Department's PRR was issued on April 18, 2019.

(FPRD) letter to Baylor on March 17, 2020. The FPRD is incorporated by reference into this fine action. (Enclosure 1).

The Department is taking this fine action based on the following findings in the FPRD:³

Finding #1: Lack of Administrative Capability

Finding #2: Failure to Report Accurate Crime Statistics in the ASR and to the Department

Finding #3: Failure to Comply with Timely Warning Issuance and Policy Provisions

Finding #5: Failure to Maintain an Accurate and Complete Daily Crime Log (DCL)

I. LACK OF ADMINISTRATIVE CAPABILITY

To begin and to continue to participate in any Title IV, HEA program, an institution must demonstrate to the Department that it is capable of adequately administering the programs under each of the standards established by the Department's regulations. The Department considers an institution to have administrative capability if it administers the Title IV, HEA programs in accordance with all applicable statutory and regulatory provisions and all applicable special arrangements, agreements, and limitations entered into under the authority of statutes applicable to Title IV of the HEA. 34 C.F.R. § 668.16. The regulations also include a requirement that an institution must employ an adequate number of qualified staff to administer the Title IV, HEA programs. 34 C.F.R. § 668.16(b)(2). An institution is required to administer the programs with appropriate checks and balances in its system of internal controls. 34 C.F.R. § 668.16(c)(1). These standards apply to the institution's implementation of the HEA, the Clery Act and the Department's implementing regulations as reflected in 34 C.F.R. § 668.46 and 34 C.F.R. § 668.49.

The Clery Act and the Department's regulations require institutions to identify individuals or organizations, known as Campus Security Authorities (CSAs), to provide an expanded process of reporting crimes for the purpose of crime statistics and the issuance of timely warnings. To comply with these requirements, institutions must develop a system that allows for the collection of incidents of crimes reported to any CSA. 34 C.F.R. § 668.46(c)(2). Federal regulations define a CSA as a campus police department or campus security department of an institution, as well as any individuals who have significant responsibility for student and campus activities, including, but not limited to: athletics, student housing, student conduct, and programming offices. 34 C.F.R. § 668.46(a).

³ The Department is not taking a fine action for Finding 4. Furthermore, the Department is only assessing fines for violations that occurred in the 2015 and 2016 ASRs; and the statistical data submitted to the Department for the same years. While the program review found that Baylor's violations started in calendar year 2011 through 2016, the statute of limitations applies to the violations occurring in the 2012-2014 ASRs and statistical data submitted to the Department for the same years. 28 U.S.C. § 2462; see also *In the Matter of Lincoln University*, Decision of the Secretary, Dkt. No. 13-68-SF (April 25, 2016).

Under the Clery Act and the Department's regulations, an institution participating in the Title IV, HEA programs must keep records relating to its administration of those programs for three years after the end of the award year for which aid was disbursed. 34 C.F.R. § 668.24(e).

Baylor participates in the Title IV, HEA programs. Therefore, it is required to demonstrate to the Department that it is capable of adequately administering the programs under each of the standards established by the Department's regulations. The Department considers an institution to have administrative capability if it administers the Title IV, HEA programs in accordance with all applicable statutory and regulatory provisions and all applicable special arrangements, agreements, and limitations entered into under the authority of statutes applicable to Title IV of the HEA. 34 C.F.R. § 668.16. The HEA, the Clery Act, and the Department's implementing regulations are considered applicable statutory and regulatory provisions, and Title IV institutions must comply with those requirements or face sanctions. Moreover, compliance with the Clery Act is required by the Program Participation Agreement (PPA) which Baylor signed with the Department in order to participate in the Title IV, HEA programs.

The FPRD found that Baylor lacked the administrative capability required of Title IV participating institutions because it substantially failed to comply with the Clery Act throughout the review period. The regulations that govern the Title IV, HEA programs establish certain standards that all participating institutions must meet to be considered administratively capable. The program review findings demonstrated that Baylor failed to develop and implement an adequate system of internal controls, which contributed to the Clery Act compliance failures that occurred during the review period of 2011 through 2017. The Department's reviewers determined that Baylor's employees and contractor staff did not receive adequate training in Clery Act compliance. Prior to July 27, 2015, Baylor was unable to provide any evidence that it had trained its CSAs. In fact, in September 2014, the University's Title IX Program Review & Clery Act Compliance Assessment prepared by the institution's consultant recommended that additional attention be paid to the processes for identifying and training CSAs. Baylor provided the Department's reviewers with documentation that it had instituted a CSA- identification and training process that ultimately trained over 600 personnel from May 17, 2016 through October 28, 2016. However, the Department determined that even though Baylor provided multiple training sessions for these individuals, its training records indicated that over 50 personnel identified as CSAs had not attended a training session as of May 2017.

Additionally, the institution failed to exercise sufficient oversight, governance, and coordination of the university officials and departments that were responsible for campus safety, student and employee conduct, and the delivery of other safety-related services. The result of these breakdowns was a general failure to keep students, employees, other stakeholders, and the larger campus community informed of crime and other threats to their safety and security. As a result of all these deficiencies, the Department's reviewers determined that Baylor failed to properly classify and report accurate crime statistics for calendar years 2012-2015. Consequently, the institution's 2015 and 2016 ASRs, and the statistical data submitted to the Department for calendar years 2015 and 2016 were erroneous, incomplete and misleading. Additionally, the institution failed to issue timely warnings after three serious sexual assaults occurred on campus in 2015 and failed to maintain an accurate and complete DCL. The repeated and continued

violations of the Clery Act clearly demonstrate that Baylor lacked administrative capability from 2011 through 2016.

In its September 16, 2019 response to the program review, Baylor concurred that, during the review period, the institution had insufficient internal controls and training to ensure compliance with the Clery Act and the Department's regulations. Baylor enumerated several corrective actions the institution has taken since 2014. However, as noted above, the Department's reviewers determined that, prior to July 27, 2015, Baylor was unable to provide any evidence that it had trained all its CSAs. Further, even though Baylor provided multiple training sessions for CSAs after 2015, reviewers determined that over 50 personnel identified as CSAs had not attended a training session as of May 2017. Moreover, the correction of the deficiencies identified in the program review does not negate the harm already caused to the University's community. These violations were numerous and systemic and demonstrate that Baylor lacked administrative capability in implementing the Clery Act requirements.

II. THE CRIME STATISTICS IN BAYLOR'S ASR FOR CALENDAR YEAR 2015 AND 2016 DID NOT MATCH THE CRIME STATISTICS IT SUBMITTED TO THE DEPARTMENT IN CALENDAR YEARS 2015 AND 2016 AND FAILED TO ACCOUNT FOR SOME REPORTED CRIMES

Under the Clery Act and the Department's regulations, institutions participating in the Title IV, HEA programs must make available statistical information related to certain reported crimes and arrest/campus disciplinary referrals for alcohol, drug and illegal weapons possession violations. The statistics must be disclosed by location – on campus (including a separate statistic for dormitories and other residential facilities), in or on non-campus buildings or property, and on public property – and must be provided for the three most recent calendar years. 34 C.F.R §§ 68.46(a), 668.46(c)(1) – (c)(4). The statistics must be disclosed and made available as part of the institution's ASR by October 1 of each year and must be electronically submitted to the Department for its inclusion in the Campus Crime and Security Website. 34 C.F.R § 668.41(e)(1)-(e)(5).

Under the Clery Act and the Department's regulations, an institution participating in the Title IV, HEA programs must keep records relating to its administration of the Title IV, HEA programs for three years after the end of the award year for which aid was disbursed. 34 C.F.R. § 668.24(e).

The Department's reviewers determined that the crime statistics for calendar years 2012, 2013, 2014, and 2015 included in Baylor's 2015 and 2016 ASRs did not match the crime statistics it submitted to the Department for those years. Additionally, Baylor failed to report several crimes for 2012 and 2013 that were discovered by the Department during the review. Table 1 below lists the discrepant or missing data, demonstrating that the University either underreported crime statistics in its 2015 and 2016 ASRs, or underreported the statistical data it submitted to the Department.

Table 1: Crime Statistics Discrepancies Reported to the Department's CSSDACT vs. the Crime Statistics Reported in the University's 2015 and 2016 ASRs

Part A

Discrepancies in 2015 ASR

Calendar Year	Offense	Geography	ASR	CSSDACT	Difference
2013	Liquor Law Violations – Disciplinary Actions	On-Campus	9	11	2

Discrepancies in 2016 ASR

Calendar Year	Offense	Geography	ASR	CSSDACT	Difference
2013	Aggravated Assault	On-Campus – Student Housing	2	1	1
2013	Burglary	On-Campus	7	4	3
2013	Burglary	On-Campus – Student Housing	5	3	2
2013	Liquor Law Violations – Arrests	On-Campus	60	69	9
2013	Liquor Law Violations – Arrests	On-Campus – Student Housing	44	54	10
2013	Liquor Law Violations – Arrests	Non-Campus	4	6	2
2013	Drug Abuse Violations – Arrests	On-Campus	14	11	3
2013	Drug Abuse Violations – Arrests	On-Campus – Student Housing	13	9	4
2013	Liquor Law Violations – Disciplinary Actions	On-Campus – Student Housing	16	9	7
2013	Liquor Law Violations – Disciplinary Actions	Non-Campus	2	0	2
2013	Drug Abuse Violations – Disciplinary Actions	On-Campus	6	11	5
2013	Drug Abuse Violations – Disciplinary Actions	On-Campus – Student Housing	6	2	4

Part B

Unreported Crimes in 2014 and 2015 ASR

Calendar Year	Offense	Geography	ASR	CSSDACT	Clery Team Review	Difference
2012	Forcible Sexual Offense	On-Campus	2	2	5	3
2012	Forcible Sexual Offense	On-Campus – Student Housing	2	2	5	3

Unreported Crimes in 2015 ASR

Calendar Year	Offense	Location	2015 ASR	2016 ASR	2016 ASR Updated	Difference
2013	Forcible Sexual Offense	On-Campus	6	7	7	1

See Enclosure 1, p. 22-24.

In its September 16, 2019 response to the PRR, Baylor concurred that its 2015 and 2016 ASRs included crime statistics that did not match the statistical data the University submitted to the Department for calendar years 2015 and 2016. The University stated that it had taken corrective action to ensure future compliance. However, the corrective action taken after the Department alerted Baylor of its obligations does not excuse its earlier failure to comply with the requirements of the Clery Act. The failure to report crime statistics in the 2015 and 2016 ASRs that matched the statistical data submitted to the Department means that one or both were inaccurate. Thus, current students and employees, as well as prospective students and employees, were provided with an inaccurate crime profile of the University.

The Clery Act and the Department's regulations require that institutions ensure the accuracy of the crime statistics that they present to students and employees, potential students and employees, and members of the public who use the data to make decisions affecting their personal safety. Students and employees must be able to rely on the institution's reported statistics. An institution's correction of violations after the fact does not diminish the seriousness of failing to report on these incidents accurately at the time they occurred.

III. BAYLOR FAILED TO PROPERLY ISSUE TIMELY WARNINGS TO ITS CAMPUS COMMUNITY REGARDING THREE SEXUAL ASSAULT INCIDENTS

The Department's regulations require that institutions participating in the Title IV, HEA programs must, in a manner that is timely and that will aid in the prevention of similar crimes, provide a timely warning to the campus if certain crimes are reported to campus security authorities and are considered to represent a threat to students and employees. 34 C.F.R § 668.46(e). The crimes that must be reported include, among others: sex offenses (forcible and non-forcible). In 2015, Baylor did not issue a timely warning to its students and employees after three sexual assault incidents were reported to the University officials as follows:

1. Incident #15-1083 (Assault – As classified by BUPD) – On November 9, 2015, BUPD was notified that a female student had been walking on campus when she was slapped on the buttocks by an unknown Hispanic male riding a bicycle. Despite the fact that this fondling incident occurred on campus and could represent a threat, no notification was sent to the campus community.
2. Incident #15-1186 (Assault - As classified by BUPD) – Approximately one month after the above-referenced incident, on December 2, 2015, BUPD was notified by a female student that, earlier that day, she had been walking on campus, along “bear trail,” when an unknown male approached her and asked to speak with her. Upon stopping to speak with him, the male subject walked over to the victim and began to hug and kiss her on the cheek, stating repeatedly that he needed kisses, hugs, and money. The victim was able to escape from the suspect but as she fled the area, the suspect slapped her on the buttocks.
3. Incident #15-1105 (Assault Threat or Offense Touch - As classified by BUPD) Also, on December 2, 2015, after previous and similar incidents were reported to BUPD, a third victim was fondled, on campus, by a suspect matching a similar description and method of operation as the suspect from the two incident reports above. The suspect was apprehended a short time later, but no timely warning was issued to the campus community.

In its September 16, 2019 response to the PRR, Baylor concurred that it did not issue timely warnings for the three incidents detailed above. Although Baylor's response stated that it has taken steps to improve its process for reporting crime incidents, the three Clery Act violations are serious and posed a danger to the campus community. It is essential to students, employees, and the public that institutions provide timely warnings as frequently and systematically as needed to ensure their safety and well-being.

IV. BAYLOR DID NOT MAINTAIN AN ACCURATE CRIME LOG BETWEEN 2012 AND 2015

The Department's regulations require that institutions participating in the Title IV, HEA programs that maintain a campus police or a campus security department must maintain a written, easily understood daily crime log that records, by the date the crime was reported, any crime that occurred on campus, on a non-campus building or property, on public property, or within the patrol jurisdiction of the campus police or the campus security department and is reported to the campus police or the campus security department. 34 C.F.R. § 668.46(f)(1). This log must include the nature, date, time, and general location of each crime and the disposition of the complaint, if known. 34 C.F.R. § 668.46(f)(1)(i). The institution must make an entry or an addition to an entry to the log within two business days of the report of the information to the campus police or the campus security department, unless that disclosure is prohibited by law or would jeopardize the confidentiality of the victim. 34 C.F.R. § 668.46(f)(2). An institution may withhold information if there is clear and convincing evidence that the release of the information would jeopardize an ongoing criminal investigation or the safety of an individual; cause a suspect to flee or evade detection; or result in the destruction of evidence. 34 C.F.R. § 668.46(f)(3). The institution must make the crime log for the most recent 60-day period open to public inspection during normal business hours. The institution must make any portion of the log older than 60 days available within two business days of a request for public inspection. 34 C.F.R. § 668.46(f)(5).

The PRR concluded that Baylor did not maintain an accurate and complete crime log throughout the review period. First, the Department's reviewers examined Baylor's DCL from January 1, 2011 to December 31, 2016 to determine the accuracy of the information recorded. The reviewers then cross-referenced Baylor's incident reports with the all activity-call log. This examination revealed that Baylor's DCLs did not record all crime incidents. The Department's reviewers found that numerous sexual assaults were recorded as "information", resulting in the omission of those crime incidents from the ASRs and statistical data submitted to the Department. For example, Baylor omitted from its DCL in calendar year 2012, Incident #Y-0852 – A sexual assault that occurred at 700 Block Speight Avenue, reported on February 19, 2012. The omission of this sexual assault incident from the 2012 crime log also resulted in the omission of this sexual assault statistic from the 2013, 2014 and 2015 ASRs; and the statistical data submitted to the Department for the same years. The Table below lists the numerous crime incidents Baylor failed to properly record in its DCL, resulting in the omission of these crime statistics in multiple ASRs and several years of statistical data submitted to the Department.

Incidents Missing From the Daily Crime Log		
Incident as Reported by BU	Case Number	Reported Date
Assist Other Agency	Y-0480	November 6, 2011
Information	Y-0852	February 12, 2012
Information	Y-0982	March 1, 2012
Burglary of a Habitation / Home Invasion	Y-1043	April 19, 2012

Assist Other Agency	Z-0428	October 29, 2012
Assault – Family Violence	A-0929	September 25, 2013 December 18, 2013
Assist Other Agency	B-0605	December 2, 2014
Information	B-0163	August 27, 2014
Information	15-0036	January 19, 2015
Sexual Assault	15-0231	March 10, 2015
Aggravated Assault with Motor Vehicle	15-0458	May 15, 2015

In its September 16, 2019 response to the PRR, Baylor concurred that it did not maintain an accurate crime log during the review period. The University stated that it had taken corrective action to ensure future compliance. However, the revision of procedures after the Department alerted the University of its obligations does not excuse its earlier failure to comply with the law. A crime log provides vital day-to-day crime information for the campus community. The information in the crime log is also necessary to confirm crime statistics that the institution reports on its ASRs and to the Department. In the absence of a complete and accurate crime log, the campus community does not have accurate and timely information necessary to make decisions regarding safety and security. Moreover, without an accurate crime log, an institution is likely to produce an incorrect and incomplete ASR. Baylor's failure to maintain an accurate and complete crime log from 2012 through 2015 is a serious violation of the Clery Act and the Department's regulations because the University continued to distribute incomplete and inaccurate ASRs. The errors in the DCL listed above meant that Baylor's ASRs and statistical data submitted to the Department in 2015 and 2016 omitted numerous violent crimes.

INITIATED FINES

In determining the amount of a fine, the Department considers both the gravity of the offense and the size of the institution. 34 C.F.R. § 668.92. Pursuant to the Secretary's decision In the Matter of Bnai Arugath Habosem, Docket No. 92-131-ST (August 24, 1993), the size of an institution is based on whether it is above or below the median funding levels for the Title IV, HEA programs in which it participates. The latest year for which complete funding data is available for Baylor is the 2018-2019 award year. According to the Department's records, Baylor received approximately \$12,361,838 in Federal Pell Grant (Pell) funds, \$123,237,597 in Federal Direct Loan funds and \$5,435,407 in Campus-Based funds. The latest information available to the Department indicates that the median funding level for institutions participating in the Federal Pell Grant program is \$1,523,678; for institutions participating in the Federal Direct Loan programs, the median funding level is \$2,694,892; and for institutions participating in the Campus-Based programs, the median funding level is \$255,684. Accordingly, Baylor is a large institution because its funding levels for Federal Pell Grant, Federal Direct Loan, and Campus-Based funds exceed the median funding levels for each of those Title IV, HEA programs.

As detailed in this letter, Baylor's violations of the Clery Act and the Department's regulations are very serious. Baylor's current and prospective students and employees must be able to rely on accurate disclosures of campus crime statistics. Additionally, Baylor's students and

employees were not provided a timely warning when three sexual assaults occurred on the campus in 2015. Furthermore, the Department considers an institution's compliance with the HEA and the Clery Act requirements to be part of its administrative capability, and Baylor's failure to comply with those requirements constitutes an inability to properly administer the Title IV programs.

I.

After considering the gravity of the violations and size of the institution, I have assessed a fine of \$58,328 for Baylor's lack of administrative capability. This is a serious violation because an institution must be capable of adequately administering the Title IV, HEA programs. As described above in the discussion of each finding, the University lacked administrative capability because it did not have an adequate system of internal controls to ensure that it complied with the requirements of the Clery Act and the Department's implementing regulations. Baylor's ASRs for calendar years 2015 and 2016 were incomplete, erroneous and inaccurate, as detailed above. Additionally, the statistical data the University submitted to the Department for calendar years 2015 and 2016 was equally erroneous. In fact, the Department's reviewers determined that from 2011 to 2016, Baylor's campus security reports provided to current and prospective students and employees omitted numerous crime statistics, rendering them unhelpful to current and prospective students and employees. Additionally, Baylor failed to provide timely warnings for at least three sexual assaults on campus and failed to maintain an accurate and complete daily crime log. The maximum fine amount is appropriate for this violation because administrative capability is a foundational standard for Title IV participation.

II.

In determining the appropriate fine amounts for this violation, I considered the Secretary's decisions in In the Matter of Tarleton State University, Dkt. No.09-56-SF (Decision of the Secretary, June 1, 2012) and In the Matter of Washington State University, Dkt.No. 11-56-SF (Decision of the Secretary, Aug. 29, 2012). Those decisions concluded that it is appropriate to impose a fine calculated based on each missing criminal offense in a crime report.

As indicated in the chart below, I have assessed a total of \$288,328 for the numerous crime statistics Baylor did not include in its ASRs for calendar years 2015 and 2016, and the statistical data submitted to the Department for the same years. The Department's reviewers determined that for crime incidents that occurred from calendar years 2012 through 2015, Baylor either underreported those crime statistics in its 2015 and 2016 ASRs, or underreported the data submitted to the Department. In its response to the PRR, the University acknowledged that it had reported inaccurate and discrepant data in its 2015 and 2016 ASRs and the statistical data submitted to the Department for the same years. Because an unreported crime constitutes a single violation of the Clery Act's crime reporting requirements set forth at 20 U.S.C. § 1092(f), the fines assessed are as follows:

Part A

Discrepancies in 2015 ASR

Calendar Year	Offense	Geography	ASR	CSSDACT	Difference/ Fine Amount
2013	Liquor Law Violations – Disciplinary Actions	On-Campus	9	11	2 Fine $\$500 \times 2 =$ $\$1000$

Discrepancies in 2016 ASR

Calendar Year	Offense	Geography	ASR	CSSDACT	Difference
2013	Aggravated Assault	On-Campus – Student Housing	2	1	1 Fine $\$58,328 \times 1 =$ $58,328$
2013	Burglary	On-Campus (including Student Housing) ⁴	7	4	3 Fine $\$25,000 \times 3 =$ $\$75,000$
2013	Liquor Law Violations – Arrests	On-Campus	60	69	9 Fine $\$500 \times 9 =$ $\$4,500$
2013	Liquor Law Violations – Arrests	Non-Campus	4	6	2 Fine $\$500 \times 2 =$ $\$1000$

⁴ For purposes of this fine action, the Department is combining the On-Campus and Student Housing entries cited in the FPRD into one On-Campus discrepancy because the statistics for Student Housing are a subset of the total unreported incidents occurring On-Campus.

2013	Drug Abuse Violations – Arrests	On-Campus (including Student Housing)	14	11	3 Fine $\$500 \times 3 =$ $\$1,500$
2013	Liquor Law Violations – Disciplinary Actions	On-Campus – Student Housing	16	9	7 Fine $\$500 \times 7 =$ $\$3,500$
2013	Liquor Law Violations – Disciplinary Actions	Non-Campus	2	0	2 $\$500 \times 2 =$ $\$1,000$
2013	Drug Abuse Violations – Disciplinary Actions	On-Campus (including Student Housing)	6	11	5 Fine $\$500 \times 5 =$ $\$2,500$

Part B
Unreported Crimes in 2015 ASR

Calendar Year	Offense	Geography	ASR	CSSDACT	Clery Team Review	Difference
2012	Forcible Sexual Offense	On-Campus (including Student Housing)	2	2	5	3 Fine $\$35,000 \times$ $3 =$ $105,000$

Discrepancies in 2015 and 2016 ASR

Calendar Year	Offense	Location	2015 ASR	2016 ASR	2016 ASR Updated	Difference
2013	Forcible Sexual Offense	On-Campus	6	7	7	1 Fine \$35,000 x 1 = \$35,000
Total fines for under-reported crime statistics						\$288,328

The data discrepancies listed above are serious. The Clery Act and the Department's regulations require that institutions ensure the accuracy of the crime statistics that they present to students and employees, potential students and employees, and members of the public who use the data to make decisions affecting their personal safety. Students and employees must be able to rely on the institution's reported statistics. An institution's correction of violations after the fact does not diminish the seriousness of failing to report on these incidents accurately at the time they occurred.

III.

I have assessed a total of \$75,000 for Baylor's failure to issue a timely warning after three separate sexual assaults occurred on campus. I have assessed \$25,000 for Baylor's failure to issue a timely warning on November 9, 2015 when a female student was slapped on the buttocks by an unknown male (Incident #15-1083). This is especially serious because Incident #15-1083 is considered a violent crime. This failure exposed students and employees to potential physical harm as they were completely unaware that there was a predator roaming the campus.

I have assessed \$25,000 for Baylor's failure to issue a timely warning when on December 2, 2015 (Incident #15-1186), BUPD was notified by a female student that she had just fled from an unknown man who had accosted her while walking on campus, and forcefully hugged and kissed her before slapping her on the buttocks. This is serious because it was only about a month after the sexual assault that occurred on November 9, 2015, for which Baylor did not issue a timely warning. The University's failure to issue this timely warning approximately a month after the November 9, 2015 sexual assault meant that Baylor's students and employees continued with their daily activities completely unaware of the presence of an assailant on campus.

I have assessed \$25,000 for Baylor's failure to issue a timely warning when on December 2, 2015 (Incident #15-1105), BUPD was notified by a female student that she had been fondled on campus by an unknown male matching a similar description and method of operation as the suspect from the two incident reports listed above -- (Incident #15-1083) and (Incident #15-1186). Even if the suspect was apprehended a short time later, the University was under an

obligation to issue a timely warning and it failed to do so. The cardinal purpose of the Clery Act's timely warning requirement is to help current students and employees to avoid becoming the next victims of crime.

IV.

I have assessed \$40,000 for Baylor's failure to maintain an accurate DCL from 2012 through 2015. This is serious because the University's inaccurate crime log resulted in the omission of numerous crime statistics from the 2015 and 2016 ASRs, and the statistical data submitted to the department for the same years. An inaccurate DCL often leads to inaccurate statistics reported on multiple ASRs and in multiple statistical data to the Department.

The fine of \$461,656 will be imposed on **August 27, 2020**, unless I receive, by that date, a request for a hearing or written material indicating why the fine should not be imposed. Baylor may submit both a written request for a hearing and written material indicating why a fine should not be imposed.

If Baylor chooses to request a hearing or submit written material, you must write to me at:

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

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

ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT BAYLOR SUBMITS MUST BE RECEIVED BY AUGUST 27, 2020; OTHERWISE, THE \$401,656 FINE WILL BE EFFECTIVE ON THAT DATE.

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

Sincerely,

A black rectangular redaction box covering the signature of Susan D. Crim.

Susan D. Crim, Director
Administrative Actions and Appeals Service Group
Federal Student Aid/Partner Enforcement and Consumer Protection
U.S. Department of Education

Enclosure

cc: Dr. Belle S. Wheelan, President, SACS, via bwheelan@sacscoc.org
TX Workforce Commission, via career.schools@twc.state.tx.us