



SEP 26 2022

Dr. Mark Milioni
President
Baptist Bible College
628 East Kearney
Springfield, MO 65803-3498

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Dear Dr. Milioni:

This letter is to inform you that the U.S. Department of Education (“Department”) intends to fine Baptist Bible College (“BBC”; “the College”) a total of \$56,000 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 \$62,689 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 BBC’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, the fire safety requirements in §485(i) of the HEA, 20 U.S.C. §1092(i) and 34 C.F.R. § 668.49, and the Drug-Free Schools and Communities Act Amendments of 1989 (*DFSCA*), as reflected in 34 C.F.R. Part 86.

On August 22, 2019, the Department issued a Final Audit Determination (“FAD”) (incorporated by reference as Enclosure 1) based on an audit report that Keller & Owens, LLC., Certified Public Accountants (CPA) conducted covering the period January 1, 2017 through June 30, 2018. The auditors found that in 2017, BBC did not prepare, publish and distribute an Annual

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 87 Fed. Reg. 23450 (April 20, 2022).

Federal Student Aid
An OFFICE of the U.S. DEPARTMENT of EDUCATION

Administrative Actions and Appeals Service Group
830 First St., N.E. Washington, D.C. 20002-8019
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Security Report (“ASR”) or an Annual Fire Safety Report (“AFSR”) and that it did not have a drug prevention program as required by the Department’s regulations.

I. BBC DID NOT PREPARE, PUBLISH AND DISTRIBUTE A COMPLETE ASR FOR CALENDAR YEAR 2017

Under the *Clery Act*, institutions participating in the Title IV, HEA programs must prepare, publish and distribute an 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 (rape, fondling, incest, statutory rape); robbery; aggravated assault; burglary; 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).

If an institution chooses to distribute its ASR to enrolled students or current employees by posting the disclosure on an Internet website or an Intranet website, the institution must, by October 1 of each year, distribute to all current students and employees a notice that includes a statement of the report’s availability, the exact electronic address at which the report is posted, a brief description of the report’s contents, and a statement that the institution will provide a paper copy of the report upon request. 34 C.F.R. §§ 668.41(c)(2); 668.41(e)(2) and (e)(3).

The auditors found that BBC did not prepare, publish and distribute a complete 2017 ASR to its students and employees because the report omitted nearly all the required policy statements. While the audit report indicated that BBC’s 2017 ASR omitted numerous required policy statements, the College stated that its 2017 ASR omitted all required policy statements. In its Corrective Action plan (“CAP”) in response to the report, BBC acknowledged that its 2017 ASR did not include any required policy statements. BBC stated that it took corrective actions after the audit. However, corrective actions taken after the Department alerted the College of its failure to meet its obligations do not excuse its earlier failure to comply with the law.

One of the goals of the *Clery Act* is to allow current and prospective students and employees to use the ASR to assess an institution’s campus crime profile, policies and procedures, and general campus environment for their personal security. The required policy statements in the ASR allow the campus community to understand the institution’s campus security policies and procedures.

The omission of all required policy statements from BBC's 2017 ASR meant that students and employees were not provided with useful campus safety policies and procedures. As a result, BBC's 2017 ASR was incomplete and unreliable. Students and employees cannot benefit from crime policies and procedures that have not been provided to them.

II. BBC DID NOT PREPARE, PUBLISH AND DISTRIBUTE ITS 2017 AFSR

The HEA and the Department's regulations require that all institutions that participate in the Title IV, HEA programs and maintain an on-campus student housing facility to prepare, publish and distribute to current students and employees through appropriate publications and mailings, an AFSR that contains, at a minimum, all of the statistical and policy elements described in 34 C.F.R. § 668.49(b). The report must be provided to the community by October 1 of each year, beginning on October 1, 2010. In the AFSR, institutions must disclose fire statistics for each on-campus student residential facility for the three most-recent calendar years. An institution's statistics must accurately and completely identify the number of on-campus fires and the cause of each fire, the number of persons who sustained fire-related injuries that resulted in treatment at a medical facility (including on-campus health centers), the number of fire-related deaths, and the dollar value of property damage caused by such fires. 34 C.F.R. § 668.49(c).

The AFSR must include several fire safety information disclosures covering topics such as the type(s) of fire safety systems that are used in each student housing facility, the number of fire drills that were conducted during the previous calendar year, and any institutional policies, procedures, and programs regarding: 1) the use and/or possession of portable electrical appliances; 2) smoking and the use or presence of open flames in student housing facilities; 3) evacuation procedures to be followed in the case of a fire; 4) fire safety education and training programs; 5) the institutional official(s) and departments to whom students and employees should report the occurrence of fires so that those incidents can be included in the institution's annual fire statistics; and 6) any plans for future improvements to the institution's fire safety program. 34 C.F.R. § 668.49(b).

The AFSR must be published and distributed through appropriate publications and mailings in the same manner as the ASR. The AFSR must be a comprehensive publication in the same manner as the ASR; however, if an institution chooses to combine the ASR and AFSR and publish them as a single document, then the title of both reports must conspicuously appear on the cover page. 34 C.F.R. § 668.41(e).

According to the audit report and the FAD, BBC did not prepare, publish and distribute its 2017 AFSR as required by the Department's regulations. In its CAP, BBC stated that it took corrective actions after the audit. However, corrective actions taken after the Department alerted the College of its failure to meet its obligations do not excuse its earlier failure to comply with the law.

The HEA and the Department's regulations require institutions to properly provide the AFSR by October 1 each year. The date and methods are intended to ensure that all students and employees have the necessary fire safety information on a timely basis so that they can make informed decisions about their personal safety. Students and employees cannot be expected to know about the contents of an AFSR that has not been provided to them. BBC failed to meet its legal obligation to properly and timely provide campus fire safety information to its students and employees.

III. BBC DID NOT COMPLY WITH THE DRUG AND ALCOHOL ABUSE PREVENTION REQUIREMENTS

The *DFSCA* and the Department's regulations require institutions to adopt and implement a drug and alcohol prevention program for its students and employees. At a minimum, the program must include the annual distribution in writing to each employee, and to each student who is taking one or more classes for any type of academic credit (except continuing education units) certain standards of conduct. The standards must clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities; describe the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol; describe the health risks associated with the use of illicit drugs and the abuse of alcohol; describe any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and include a clear statement that the institution will impose disciplinary sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions for violation of the standards of conduct. In addition, an institution must conduct a biennial review of its program to determine its effectiveness and implement changes to the program if they are needed and ensure that the disciplinary sanctions mentioned above are consistently enforced. 34 C.F.R. § 86.100.

The audit and FAD concluded that BBC failed to comply with the *DFSCA* and 34 C.F.R. Part 86 because BBC did not have a drug and alcohol abuse prevention program ("DAAPP") that addressed all of the required subject areas. In its CAP and its July 3, 2019 response to the Department, BBC stated that it did not have any information or evidence to demonstrate that it published and distributed a complete DAAPP in 2017. For its DAAPP, the College merely relied on its doctrinal policy that BBC's students and employees should refrain from the use of illegal drugs and alcohol. In addition, the College failed to conduct a biennial review of the DAAPP's effectiveness and produce a report of findings, as required by law and the regulations.

In its CAP, BBC stated that it took corrective actions after the audit. However, corrective actions taken after the Department alerted the College of its failure to meet its obligations do not excuse its earlier failure to comply with the law. Congress enacted the *DFSCA* to ensure that students and employees have vital information about drug and alcohol prevention program at their institution. Moreover, a DAAPP that has not been tested in a biennial review is unlikely to be reliable and effective. BBC failed to properly provide its students and employees with important

drug and alcohol program information that would have helped them to understand the standards and code of conduct expected of them and the sanctions to be imposed if the code of conduct was violated.

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 BBC is the 2020-2021 award year. According to the Department's records, BBC received approximately \$604,929 in Federal Pell Grant funds, \$1,091,750 in Federal Direct Loan funds and \$99,516 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 \$1,582,746; for institutions participating in the Federal Direct Loan programs, the median funding level is \$2,294,028; and for institutions participating in the Campus-Based programs, the median funding level is \$255,810. Accordingly, BBC is a small institution because its funding levels for Federal Pell Grant, Federal Direct Loan funds and Campus-Based funds are below the median funding levels for those Title IV, HEA programs.

As detailed in this letter, BBC's violations of the HEA, the *Clery Act* and the Department's regulations are very serious. BBC's current and prospective students and employees must be properly provided with accurate disclosures of campus crime and policy statements. BBC's omission of all required policy statements from its 2017 ASR means that the College's students and employees relied on a deficient ASR. Students and employees cannot accurately report crime on campus and understand their rights when important policy statements are not provided in the ASR. In addition, BBC failed to prepare, publish and distribute its 2017 AFSR; failed to publish and properly distribute a complete DAAPP; and failed to conduct a biennial review of the DAAPP's effectiveness. Thus, current and prospective students and employees were denied required crime and fire safety information, and drug and alcohol awareness information.

Based on the findings described herein, I have assessed a total fine of \$56,000 as follows: 1) \$20,000 for BBC's failure to prepare, publish and distribute the 2017 ASR; 2) \$20,000 for BBC's failure to prepare, publish and distribute the 2017 AFSR; and 3) \$16,000 for BBC's failure to comply with the *DFSCA* and the DAAPP requirements (\$15,000 for BBC's failure to publish and distribute a DAAPP and \$1,000 for the College's consequent failure to conduct a biennial review to evaluate the effectiveness of its DAAPP).

The fine of \$56,000 will be imposed on October 17, 2022, unless I receive, by that date, one of the following: 1) a request for a hearing to be conducted by the Office of Hearings and Appeals; or 2) a request for reconsideration of the fine by submitting written material indicating why the fine should not be imposed.

Dr. Mark Milioni
Baptist Bible College
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If BBC chooses to request a hearing or submit written material, you must write to me at:

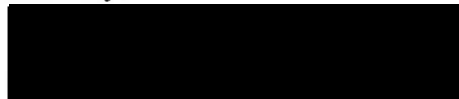
Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid
830 First Street, NE – UCP-3, Room 84F2
Washington, DC 20002-8019

If BBC 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 BBC's case to a hearing official who will conduct an independent hearing. BBC is entitled to be represented by counsel during the proceedings. If BBC does not request a hearing but submits written material instead, I will consider that material and notify BBC of the amount of fine, if any, that will be imposed.

ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT BBC SUBMITS MUST BE RECEIVED BY OCTOBER 17, 2022; OTHERWISE, THE \$56,000 FINE WILL BE EFFECTIVE ON THAT DATE.

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

Sincerely,



Susan D. Crim, Director
Administrative Actions and Appeals Service Group
U.S. Department of Education

Enclosure

cc: Barbara Gellman-Danley, President, HLC, via president@hlcommission.org
Leroy Wade, Interim Commissioner, MO State Board of Education, via
info@dhewd.mo.gov