



SEP 26 2022

Ms. Seungje J. Cho
President
Bethesda University
730 North Euclid Street
Anaheim, CA, 92801-4132

Sent: United Parcel Service
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Dear Ms. Cho:

This letter is to inform you that the U.S. Department of Education (“Department”) intends to fine Bethesda University (“BU”; “the University”) a total of \$37,000 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 BU’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, and the Drug-Free Schools and Communities Act Amendments of 1989 (*DFSCA*), as reflected in 34 C.F.R. Part 86.

On September 24, 2019, the Department issued a Final Program Review Determination (“FPRD”) letter (incorporated by reference as Enclosure 1) based on a program review that it conducted at BU from September 10, 2018 through September 14, 2018. Among other findings, the program reviewers found that, in 2017, BU failed to comply with the *Clery Act* because it did

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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not publish and distribute a complete Annual Security Report (“ASR”) and it did not publish and distribute a comprehensive drug and alcohol abuse prevention program (“DAAPP”).

I. BU DID NOT 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). The distribution must occur by October 1 of each year and must include direct mailing to each individual through the U.S. Postal Service, campus mail, or electronic mail; a publication or publications provided directly to each individual; or posting on an Internet website or an Intranet website. 34 C.F.R. § 668.41(e).

If an institution chooses to distribute its ASR 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).

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).

BU did not publish and distribute a complete 2017 ASR to its students and employees by October 1, 2017, as required by the Department’s regulations. During the review, the Department’s reviewers requested a copy of BU’s 2017 ASR, which BU was required to have published by October 1, 2017. In response, on September 4, 2018, school officials provided the Department’s reviewers with a copy of the institution’s “Campus Safety and Security Survey Completion Certificate,” which evidenced BU’s submission of crime statistics to the Department via the Campus Safety and Security Data Analysis Cutting Tool (“CSSDACT”) submitted on

September 8, 2017, and a copy of the crime statistics report that was generated by the CSSDACT. When the reviewers requested clarification as to whether BU had published an ASR containing required crime statistics along with the disclosures required under 34 C.F.R. § 668.46(b), BU stated, in a subsequent e-mail dated September 4, 2018, that the institution did not produce and distribute a 2017 ASR that included crime statistics and required policy statements. Additionally, during the review, BU officials suggested that BU's 2017-18 Student Handbook may have contained some of the required 2017 ASR information. However, when the Department's reviewers reviewed the 2017-18 Student Handbook, they determined that it did not contain any crime statistics. Instead, the Student Handbook only contained information relevant to the policy statements required by 34 C.F.R. § 668.46(b)(11)(vi) and (k). Therefore, the Department's reviewers concluded that BU did not publish and distribute to its students and employees a complete ASR for calendar year 2017.

On February 15, 2019, BU responded to this finding by stating that it took corrective actions after the program review. However, the correction of the failure after the Department alerted the University of its obligations does not excuse its earlier failure to comply with the requirements of the *Clery Act*. 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 to assess personal security. The required policy statements in the ASR allow the campus community to understand the institution's campus security policies and procedures. The failure to publish and distribute a complete 2017 ASR meant that students and employees were not provided with sufficient information to enable them make personal safety decisions and understand how to report crime incidents.

II. BU 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 Department found that BU failed to comply with the DFSCA and 34 C.F.R. Part 86. Specifically, BU failed to publish and properly distribute to its students and employees a comprehensive drug and alcohol abuse prevention program (“DAAPP”) that addressed all required subject areas. In a September 4, 2018 e-mail, the Department’s reviewers requested evidence that BU distributed complete DAAPP disclosures to all current employees and students during calendar year 2017. In response, BU stated that it distributed the DAAPP information to employees in 2017 by including it in the institution’s “Administration and Personnel Manual 2017-2018.” Additionally, BU provided copies of these distribution e-mails, which were dated November 7, 2017 and December 5, 2017. Upon review of the Administration and Personnel Manual 2017-2018, the Department’s reviewers determined that, although BU distributed some DAAPP-related information to students and employees in 2017, the distribution was inadequate because it did not include all of the necessary information. Specifically, the information in the Manual was missing:

- A written description of legal sanctions imposed under federal, state, and local laws for unlawful possession or distribution of illicit drugs and alcohol;
- A description of the health risks associated with the use of illicit drugs and the abuse of alcohol; and
- A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to students and employees.

In an email to the Department’s reviewers, dated September 4, 2018, BU stated that it distributed its DAAPP to students by including it in its 2017-2018 Student Handbook, which it makes available to students online. Upon a review of the Student Handbook, the Department’s reviewers found that the following required DAAPP information was missing:

- A written description of the health risks associated with the use of illicit drugs and the abuse of alcohol;
- A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to students and employees; and
- A clear statement that the institution will impose disciplinary sanctions on students (consistent with federal, state, and local laws and ordinances) and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct.

Additionally, BU could not provide the reviewers any evidence that it had distributed the Student Handbook to its students. Thus, based on the limited information in the Administration and Personnel Manual 2017-2018 and Student Handbook, and the lack of evidence that BU properly distributed a DAAPP to its students and employees, the Department’s reviewers concluded that BU failed to publish and properly distribute a complete DAAPP to its students and employees in 2017.

Further, the Department's reviewers determined that BU also failed to conduct a biennial review of the DAAPP's effectiveness and produce a report of findings, as required by law and the regulations.

On February 15, 2019, BU responded that took corrective actions after the program review. However, the preparation of the 2017 DAAPP materials after the Department alerted the University of its failure to meet its obligations does not excuse its earlier failure to comply with the law.

Congress enacted the DFSCA to ensure that students and employees had vital information about drug and alcohol prevention programs at their institution. Moreover, a DAAPP that has not been tested in a biennial review is unlikely to be reliable and effective. BU failed to 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 BU is the 2020-2021 award year. According to the Department's records, BU received approximately \$384,745 in Federal Pell Grant funds, \$658,986 in Federal Direct Loan funds and \$8,851 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, BU is a small institution because its funding levels for Federal Pell Grant, Federal Direct Loan and Campus-Based funds are below the median funding levels for each of those Title IV, HEA programs.

As detailed in this letter, BU's violations of the HEA, the *Clery Act* and the Department's regulations are very serious. BU's current and prospective students and employees must be provided accurate disclosures of campus crime and policy statements. BU's failure to distribute a complete and accurate 2017 ASR meant that BU's students and employees were not properly and timely provided with required policy statements and crime statistics. Additionally, BU failed to properly distribute a complete DAAPP to its students and employees, and to conduct a biennial review of the DAAPP's effectiveness and produce a report of findings. Thus, current and prospective students and employees were denied required crime statistics and policy statements, and drug and alcohol awareness information.

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Based on the findings described above, I have assessed a fine of \$20,000 for BU's failure to publish and distribute the 2017 ASR to its students and employees by October 1, 2017. I have assessed a fine of \$17,000 for BU's failure to comply with the *DFSCA* and the DAAPP requirements in 2017 (\$15,000 for BU's failure to prepare and distribute a comprehensive DAAPP) and \$2,000 for failure to conduct a biennial review

The fine of \$37,000 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.

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

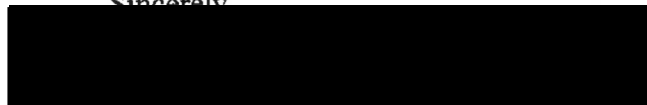
Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid
830 First Street, NE – UCP-3, Room 84F2
Washington, DC 20002-8019

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

ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT BU SUBMITS MUST BE RECEIVED BY OCTOBER 17, 2022; OTHERWISE, THE \$37,000 FINE WILL BE EFFECTIVE ON THAT DATE.

If you have any questions or desire any additional explanation of BU'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: Dr. Timothy Eaton, President, Transnational Association of Christian Colleges and Schools,

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Bethesda University
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via president@tracs.org
CA Bureau for Private Postsecondary Education, via bppe.enforcement@dca.ca.gov