



Ms. Julie K. Ha
President
Mayfield College
35-325 Date Palm Drive
Suite 101
Cathedral City, CA 92234-7014

SEP 26 2022

Sent: United Parcel Service
Tracking #: 1Z 37X 7Y3 01 0293 9459

OPE-ID: 04115600

Dear Ms. Ha:

This letter is to inform you that the U.S. Department of Education (“Department”) intends to fine Mayfield College (“MC”; “the College”) a total of \$130,000 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 MC’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. §

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
StudentAid.gov

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).

The Department reviewed two single audit reports of MC prepared by Almich & Associates, P.C., Certified Public Accountants (CPA). The reports were prepared in accordance with the Department's Guide for Audits of Proprietary Schools and For Compliance Attestation Engagements of Third-Party Servicers Administering Title IV Programs servicers, covering the period January 1, 2017 through December 31, 2017 and January 1, 2018 through December 31, 2018. The two audits also included a review of MC's compliance with applicable laws and regulations, including the *Clery Act* and the HEA. The audit covering the period January 1, 2017 through December 31, 2017 included findings that MC's ASR for calendar year 2017 omitted numerous required policy statements. The audit covering the period January 1, 2018 through December 31, 2018 included findings that MC's ASR for calendar year 2018 omitted numerous required policy statements and that the statistical data in the 2018 ASR did not match the data the College submitted to the Department. The audit reports also included MC's responses acknowledging the findings.

The Department reviewed the audit reports and issued its Final Audit Determination (FAD) letters to MC on January 25, 2019 and December 12, 2019, respectively. The FADs are incorporated by reference into this fine action. (Enclosure 1 – report covering January 1, 2017 through December 31, 2017, and Enclosure 2 - report covering January 1, 2018 through December 31, 2018).²

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

- Failure to Include Required Policy Statements in the 2017 and 2018 ASRs; and
- Failure to Report Accurate Crime Statistics in the ASR and to the Department

² The FADs also included findings relating to MC's failure to comply with Title IV financial aid requirements. As discussed in the FADs, those violations have been addressed separately and will not be discussed further in this letter.

I. MC'S 2017 AND 2018 ASRS DID NOT INCLUDE REQUIRED POLICY STATEMENTS

Institutions participating in the Title IV, HEA programs must have an ASR that includes its crime and security policies in a number of specific areas. The ASR must include this information so that students and employees have necessary information about the institution's security policies and procedures. 34 C.F.R. § 668.46(b). MC's 2017 ASR omitted the following required policy statements:

1. A statement of current policies concerning security of and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities. 34 C.F.R. § 668.46(b)(3).
2. A statement of current policies concerning campus law enforcement that –

Describes procedures, if any, that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics. 34 C.F.R. § 668.46(b)(4)(iv).
3. A statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws. 34 C.F.R. § 668.46(b)(9).
- 4a. Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred, including written information about the importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or in obtaining a protection order;
- 4b. A statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. 34 C.F.R. § 668.46(b)(11)(v).
5. A statement of policy regarding emergency response and evacuation procedures. The statement must include the institution's procedures to test the emergency response and evacuation procedures on at least an annual basis, including tests that may be announced or unannounced; publicizing its emergency response and evacuation procedures in conjunction with at least one test per calendar year; and documenting, for each test, a description of the exercise, the date, time, and whether it was announced or unannounced. 34 C.F.R. § 668.46(g).

6. Programs to prevent dating violence, domestic violence, sexual assault, and stalking. As required by paragraph (b)(11) of this section, an institution must include in its annual security report a statement of policy that addresses the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking. 34 C.F.R. § 668.46(j).
7. A statement of policy that addresses procedures for institutional disciplinary action in cases of an alleged dating violence, domestic violence, sexual assault or stalking. 34 C.F.R. § 668.46(k)(1).

MC's 2018 ASR omitted the following required policy statements:

1. Policies for making timely warning reports to members of the campus community regarding the occurrence of crimes. 34 C.F.R. § 668.46 (b)(2)(i).
2. Statement of current policies concerning campus law enforcement that – encourages accurate and prompt reporting of all crimes to the campus police (if any) and the appropriate police agencies, when the victim of such crimes elects or is unable to make such a report. 34 C.F.R. § 668.46(b)(4)(iii).
3. A statement of policy concerning the monitoring and recording through local police agencies of criminal activity by students at noncampus locations of student organizations officially recognized by the institution, including student organizations with noncampus housing facilities. 34 C.F.R. § 668.46(b)(7).
4. A statement of policy regarding the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking, and of procedures that the institution will follow once an incident of domestic violence, dating violence, sexual assault or stalking has been reported, including:
 - 4a. Where applicable, the rights of victims and the institution's responsibilities for orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the institution. 34 C.F.R. § 668.46(b)(11)(ii).
5. Information about how the institution will protect the confidentiality of victims and other necessary parties, including how the institution will maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures. 34 C.F.R. § 668.46(b)(11)(iii).
6. A statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. 34 C.F.R. § 668.46(b)(11)(v).

7. A statement that, when a student or employee reports to the institution that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee with a written explanation of the student's or employee's rights and options. 34 C.F.R. § 668.46(b)(11) (vii).
8. A statement of policy regarding emergency response and evacuation procedures. The statement must include –
 - a. The procedures the institution will use to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus;
 - b. A description of the process the institution will use to confirm that there is a significant emergency or dangerous situation; determine the appropriate segments of the campus community to receive notification; determine the content of the notification, and initiate the notification system;
 - c. A statement that the institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing the notification system will, in the professional judgment of the responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency;
 - d. A list of the titles of the person or persons or organization or organizations responsible for carrying out the actions;
 - e. The institution's procedures for disseminating emergency information to the larger community; and
 - f. The institutions procedures to test the emergency response and evacuation procedures on at least an annual basis, including tests that may be announced or unannounced; publicizing its emergency response and evacuation procedures in conjunction with at least one test per calendar year; and documenting, for each test, a description of the exercise, the date, time, and whether it was announced or unannounced. 34 C.F.R. § 668.46(g).

In its Corrective Action Plan ("CAP"), MC concurred that its 2017 and 2018 ASRs omitted the numerous required policy statements listed above. The College also stated that it had taken corrective action following the audit. However, correcting the 2017 and 2018 ASRs after the Department alerted the College of its failure to meet its obligations does not excuse its earlier failure to comply with the law. MC's students and employees, as well as potential students and employees, should have had access to the legally required and complete policy statements and procedures, which would have helped them to make important personal safety decisions and to understand their rights and obligations.

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, as far as personal security is concerned. The required policy statements in the ASR allow the campus community to understand the institution's campus security policies and procedures. With the absence of eight (8) required policy statements from the 2017 ASR and 14 policy statements from the 2018 ASR, MC's students and employees were denied important safety information about their rights. As a result, MC's 2017 and 2018 ASRs were incomplete and unreliable. Students and employees cannot benefit from policies and procedures that have not been provided to them.

II. THE CRIME STATISTICS IN MC'S ASR FOR CALENDAR YEAR 2018 DID NOT MATCH THE CRIME STATISTICS IT SUBMITTED TO THE DEPARTMENT FOR CALENDAR YEARS 2015 AND 2016

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).

The auditors determined that the crime statistics for calendar years 2015 and 2016 included in MC's 2018 ASR did not match the crime statistics the College submitted to the Department for those years. Specifically, MC's 2018 ASR included one (1) incident of stalking for calendar year 2016 but the data that the College submitted to the Department indicated zero incidents of stalking in that year. Additionally, in its 2018 ASR, MC reported one (1) burglary for calendar year 2015 and one (1) burglary for calendar year 2016. However, the statistical data MC submitted to the Department indicated zero burglaries for those years.

In its CAP, MC concurred that crime statistics in the College's 2018 ASR did not match those submitted to the Department for calendar years 2015 and 2016. The College stated that it had taken corrective action to ensure future compliance. However, the corrective action taken after the Department alerted MC 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 2018 ASR that matched the statistical data submitted to the Department for calendar years 2015 and 2016 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 College. The College also stated that it had taken corrective action following the audit. However, MC's students and employees, as well as potential students and employees, should have had access to

accurate and complete crime statistics. which would have helped them to make important personal safety decisions.

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 MC is the 2020-2021 award year. According to the Department's records, MC received approximately \$1,211,025 in Federal Pell Grant funds, \$1,587,004 in Federal Direct Loan funds and \$44,544 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, MC 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, MC's violations of the HEA, the *Clery Act* and the Department's regulations are very serious. MC's current and prospective students and employees must be properly provided with accurate disclosures of campus crime and policy statements. MC's omission of 8 required policy statements from the 2017 and 14 policy statements from the 2018 ASR resulted in the ASRs being incomplete and unable to properly assist students and employees. Students and employees cannot accurately report crime on campus and understand their rights when important policy statements are not provided in the ASR. Additionally, the College's 2018 ASR included crime statistics that did not match the statistical data the College submitted to the Department for calendar years 2015 and 2016. Thus, current and prospective students and employees were denied required crime statistics and policy statements.

I.

I have assessed a fine of \$32,500 for MC's failure to include eight (8) required policy statements in its 2017 ASR. I have determined a fine amount of \$4,500 each for omitted policy statements 1, 4a, 4b, 5, and 7 above; \$3,500 each for omitted policy statements 3 and 6 above; and \$ 3,000 for omitted policy statement 2 above. The *Clery Act* requires institutions to provide the various policy statements in one publication so that students and employees may readily access information to which they are entitled. Students and employees cannot be expected to take advantage of policies and procedures that the College does not appropriately disclose. Further, students and employees cannot accurately report crime on campus and understand their rights when important policy statements are not provided in the ASR. The omission of eight policy statements from the 2017 ASR rendered the report unhelpful to MC's students and employees.

II.

I have assessed a fine of \$83,000 for MC's failure to include 14 required policy statements in its 2018 ASR. I have determined a fine amount of \$35,000 for omitted policy statement 1 above. As indicated above in policy statement 1, MC's 2018 ASR did not include policies for making timely warning reports to members of the campus community regarding the occurrence of crimes. This is a serious violation because the failure means that the College did not communicate its timely warning policy on when and how to report to its students and employees, the occurrence on campus of serious and violent crimes, including, murder and rape, among other violent crimes. An institution cannot be expected to follow and execute a policy that is not provided in the ASR. A fine in the amount of \$35,000 is appropriate in this case, given the seriousness of the offense. I have determined a fine amount of \$4,500 each for omitted policy statements 5, 6, 7, 8a, and 8b above; \$4,000 for omitted policy statement 8f above; \$3,500 each for omitted policy statements 2 and 8c above; \$3,000 each for omitted policy statements 4, 4a, 8d, and 8e above; and \$2,500 for omitted policy statement 3 above. The *Clery Act* requires institutions to provide the various policy statements in one publication so that students and employees may readily access information to which they are entitled. Students and employees cannot be expected to take advantage of policies and procedures that the College does not appropriately disclose. Further, students and employees cannot accurately report crime on campus and understand their rights when important policy statements are not provided in the ASR. The omission of 14 policy statements from the 2018 ASR rendered the report unhelpful to MC's students and employees.

III.

I have assessed a fine of \$8,500 for the One (1) stalking incident MC did not report to the Department for calendar year 2016 and \$3,000 each for the two (2) burglaries MC did not report to the Department for calendar years 2015 and 2016. The College acknowledged that it had reported inaccurate and discrepant data in its 2018 ASR for calendar years 2015 and 2016 that did not match the statistical data submitted to the Department for 2015 and 2016. Because these crime incidents were reported in the 2018 ASR and the College did not provide any explanation about the discrepancies, students and employees were provided with confusing and unreliable crime statistics. 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 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.

Ms. Julie K. Ha
Mayfield College
Page 9

The fine of \$130,000 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 MC chooses to request a hearing or submit written material, you must write to me at:

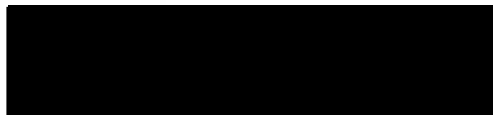
Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid
830 First Street, NE – UCP-3, Room 84F2
Washington, DC 20002-8019

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

ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT MC SUBMITS MUST BE RECEIVED BY OCTOBER 17, 2022; OTHERWISE, THE \$130,000 FINE WILL BE EFFECTIVE ON THAT DATE.

If you have any questions or desire any additional explanation of MC'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: Gary Puckett, President, COE, via gary.puckett@council.org
Kimberly Kirchmeyer, Director, CA Bureau for Private Postsecondary Education, via
bppe.compliance@dca.ca.gov