



JUN 13 2017

Dr. Marlene Sprouse
President
Indian Hills Community College
525 Grandview Drive
Ottumwa, IA 52501-1398

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Dear Dr. Sprouse:

This letter is to inform you that the U.S. Department of Education (Department) intends to fine Indian Hills Community College (IHCC) a total of \$65,000 based on the violations of statutory and regulatory requirements outlined below. This fine action is taken in accordance with the procedures that the Secretary of Education (Secretary) has established for assessing fines against institutions participating in any or all 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 fine of up to \$27,500 for each violation. 34 C.F.R. § 668.84. As detailed below, this fine action is based on IHCC'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 (2011)¹, the fire safety requirements in Section 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.

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). A complete ASR must include all the policy statements listed in 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; 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

¹ The Department significantly revised 34 C.F.R. § 668.46 in final regulations published on October 20, 2014. However, the fines proposed in this letter are based on violations of the regulations existing during the period covered by the program review.

Federal Student Aid
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Administrative Actions and Appeals Service Group
830 First St., N.E. Washington, D.C. 20002-8019
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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).

Beginning October 1, 2010, an institution that maintains any on-campus student housing facility, must prepare an Annual Fire Safety Report (AFSR). 34 C.F.R. § 668.49(b). An institution that maintains on-campus student housing facilities must maintain a written, easily understood fire log that records, by the date that the fire was reported, any fire that occurred in an on-campus student housing facility. 34 C.F.R. § 668.49(d).

The DFSCA and the Department's regulations require an institution of higher education to adopt and implement a drug prevention program for its students. 34 C.F.R. § 86.100.

The Department conducted a program review at IHCC from September 16, 2013 to September 19, 2013. The review included a general assessment of IHCC's compliance with the statutes and regulations governing the institution's administration of the Title IV programs. The reviewers also examined IHCC's compliance with the Clery Act, specifically the accuracy and completeness of campus crime statistics and policy disclosures published in its 2012 ASR, its compliance with the fire safety requirements, and its compliance with the DFSCA and its implementing regulations.

On January 16, 2014, the Department issued a Program Review Report (PRR) to IHCC. The review found that IHCC had not complied with the Clery Act, the DFSCA and the Department's implementing regulations. IHCC responded to the report on April 30, 2014. After reviewing IHCC's responses, the Department issued its Final Program Review Determination (FPRD) letter to IHCC on February 20, 2015. The FPRD is incorporated by reference into this fine action. (Enclosure 1).²

The Department is taking this fine action based on the findings in the FPRD, which concluded that IHCC did not include all the required policy statements in its 2012 ASR; failed to publish and distribute a complete AFSR in calendar year 2012; and failed to comply with the drug and alcohol abuse prevention regulations.

IHCC DID NOT INCLUDE REQUIRED POLICY STATEMENTS IN ITS 2012 ASR

Institutions participating in the federal student financial aid 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, and about their rights. The ASR must contain, among other

² The PRR and FPRD also included findings relating to IHCC's violations of the laws and regulations relating to the institution's administration of the Title IV financial aid programs. As discussed in the FPRD, those violations have been addressed separately and will not be discussed further in this letter.

things, a description of any drug or alcohol-abuse education programs, as required under sections 120(a) through (d) of the HEA. For the purpose of meeting this requirement, an institution may cross-reference the materials the institution uses to comply with Part 86 requirements; and a description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex. 34 C.F.R. § 668.46(b).

IHCC's 2012 ASR did not satisfy these legal requirements because it did not include all of the required policy statements. IHCC's 2012 ASR did not include a description of any drug or alcohol-abuse education programs, as required under sections 120(a) through (d) of the HEA and did not include a description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses. Therefore, IHCC did not produce, publish and distribute a complete ASR for calendar year 2012.

In its response to the PRR of April 30, 2014, IHCC did not challenge the finding; however, the institution claimed that its 2012 ASR reflected its "best understanding" of the legal requirements and that the statements missing from the ASR were in other publications. IHCC also stated that it had taken corrective actions after the review.

However, IHCC did not provide any explanation or support for its claim that its decision not to include the two policy statements in the ASR reflected a reasonable best understanding of the long-standing legal requirements. Moreover, the compilation, publication and distribution of an accurate and complete ASR after the Department alerted the college of its obligations does not excuse its earlier failure to comply with the law. IHCC's students and employees and prospective students and employees were not provided with accurate and complete information on the institution's policies that would have helped them to make informed decisions about their personal safety.

IHCC DID NOT PUBLISH AND PROPERLY DISTRIBUTE A COMPLETE AFSR IN 2012

The HEA and the Department's regulations require that all institutions that receive Title IV, HEA funds and maintain an on-campus student housing facility must, by October 1 of each year, prepare, publish and distribute to its 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 first AFSR had to be provided to students and employees by 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, any institutional policies, procedures, and programs regarding: 1) the use and/or possession of portable electrical appliances; 2) smoking and the use/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).

IHCC did not prepare, publish and distribute a complete AFSR for calendar year 2012. IHCC's 2012 AFSR did not include the institution's policies or rules on portable electrical appliances, smoking, and open flames in a student housing facility; procedures for student housing evacuation; policies for fire safety education and training programs for students, faculty, and staff; and a list of the titles of each person or organization to which individuals should report that a fire has occurred.

In its response to the PRR of April 30, 2014, IHCC did not address this finding directly but claimed that it had taken corrective actions after the review.

IHCC did not challenge the Department's determination that its 2012 AFSR did not comply with the law, but points to its steps to comply after the review. However, the compilation, publication and distribution of an AFSR after the Department alerted the college of its obligations does not excuse its earlier failure to comply with the law. IHCC's failure to prepare and properly distribute an accurate and complete AFSR to current students and employees within the timeframe established by Federal law deprived the campus community of timely access to important campus fire safety information. IHCC's students and employees and prospective students and employees were not provided with accurate fire safety disclosures and procedures that would have helped them to make informed decisions about their personal safety. IHCC's failure to publish and distribute a complete AFSR in 2012 was a serious violation of the HEA and the Department's regulations.

IHCC DID NOT COMPLY WITH THE DRUG AND ALCOHOL ABUSE PREVENTION REQUIREMENTS

The DFSCA and the Department's regulations require institutions of higher education to adopt and implement a drug prevention program for its students and employees that, at a minimum, includes 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) standards

of conduct that: 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.

IHCC did not comply with the DFSCA. The Department found multiple violations of the DFSCA and 34 C.F.R. Part 86. Specifically, IHCC failed to develop and implement a substantive drug and alcohol abuse prevention program (DAAPP) that contained all of the required elements, and also failed to distribute a DAAPP disclosure to all employees and students enrolled for academic credit on an annual basis. At the time of the review, the institution's DAAPP did not include the required written description of legal sanctions imposed under local, state, or federal law for unlawful possession or distribution of illicit drug and alcohol; and a description of health risks associated with the use of illicit drugs and the abuse of alcohol. The institution did not also distribute its DAAPP to its students and employees. Moreover, reviewers determined that IHCC had persistently failed to conduct a biennial review of the college's DAAPP to evaluate its effectiveness and produce a report of findings.

In its response to the program review report, IHCC concurred with the finding and stated that it had taken corrective actions after the review. IHCC's failure to provide a DAAPP that met statutory requirements is a serious violation of the DFSCA and the Department's regulations.

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 IHCC is 2014-2015 award year. According to the Department records, IHCC received approximately \$7,679,115 in Federal Pell Grant (Pell) funds, \$9,204,960 in Federal Direct Loan funds and \$215,004 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 \$1,540,305, for institutions participating in the Federal Direct Loan programs, the median funding level is \$2,108,926, and for institutions participating in the Campus-Based programs, the median funding level is \$271,961. Accordingly, IHCC is a large institution because its funding levels for Federal Pell Grants, and Federal Direct Loans exceed the median funding levels for those Title IV, HEA programs.

As detailed in this letter, IHCC's violations of the HEA, the Clery Act, the DFSCA, and the Department's regulations are very serious and numerous. IHCC's students and their families, and the institution's employees must be able to rely on the disclosures of campus crime and fire safety statistics, policies and statements to understand the extent of crime and fire on campus and the institution's campus security and safety policies. Congress enacted the DFSCA to ensure that students and employees had vital information about the DAAPP at their institution. Moreover, a DAAPP that has not been tested in a biennial review is unlikely to be reliable and effective. IHCC's students and employees were not given information about the standards and code of conduct expected of them with regard to drugs and alcohol use, and the sanctions that could be imposed if the code of conduct is violated. Moreover, the Department considers an institution's compliance with the requirements of the Clery Act, the HEA and the DFSCA to be part of its administrative capability, and IHCC's failure to comply with those requirements constitutes an inability to properly administer the Title IV programs.

After considering the gravity of the violations and size of the institution, I have assessed a fine of \$10,000 for IHCC's failure to include two (2) required policy statements in its 2012 ASR. This is a serious violation because current students and employees, and prospective students and employees were denied information that would help them make informed decisions about safety and campus crime policies at IHCC. The Clery Act requires institutions to provide the various policy statements in one publication so that students and employees don't have to search for policies that may or may not exist elsewhere. Students and employees could not be expected to take advantage of policies and procedures that IHCC did not appropriately disclose. IHCC's failure to include two policy statements in its 2012 ASR rendered the report incomplete. I am imposing a fine of \$5,000 for each missing policy statement. In this case, IHCC failed to include 2 policy statements, so I have assessed \$10,000.

I have assessed a fine of \$27,500 for IHCC's failure to publish and properly distribute a complete 2012 AFSR. IHCC's 2012 AFSR did not provide its students and employees with vital information about fire safety policies on campus. This is a serious violation because the campus community and the public were deprived of important information to help them make important safety decisions with regard to fire safety at IHCC. This violation is similar to the failure to publish and distribute a complete ASR and, therefore, the maximum penalty is appropriate.

I have assessed a fine of \$27,500 for IHCC's failure to develop and implement a substantive DAAPP; failure to properly distribute a DAAPP disclosure to all employees and students enrolled for academic credit on an annual basis; and failure to conduct a biennial review to evaluate the effectiveness of its DAAPP and to assess the consistency of sanctions imposed for violations of its disciplinary standards and codes of conduct related to drugs and alcohol. This is a serious violation because students and employees cannot be expected to benefit from a drug and alcohol prevention program that is deficient and has not been properly distributed to them. Moreover, students and employees cannot be expected to rely on a DAAPP that has not been tested for its effectiveness.

Dr. Marlene Sprouse
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The fine of \$65,000 will be imposed on **July 3, 2017**, unless I receive, by that date, a request for a hearing or written material indicating why the fine should not be imposed. IHCC may submit both a written request for a hearing and written material indicating why a fine should not be imposed.

If IHCC 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/Enforcement
830 First Street, NE – UCP-3, Room 84F2
Washington, DC 20002-8019

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

ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT IHCC SUBMITS MUST BE RECEIVED BY JULY 3, 2017; OTHERWISE, THE \$65,000 FINE WILL BE EFFECTIVE ON THAT DATE.

If you have any questions or desire any additional explanation of IHCC'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
Federal Student Aid/Enforcement Unit
U.S. Department of Education

Enclosure

cc: Sunil Ahuja, Vice President for Accreditation Relations, the HLC, via
info@hlcommission.org
Iowa Department of ED, via barbara.burrows@iowa.gov