



Dr. Makola M. Abdullah
President
Virginia State University
1 Hayden Drive
Petersburg, VA 23806-0001

JUN 13 2017

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Dear Dr. Abdullah:

This letter is to inform you that the U.S. Department of Education (Department) intends to fine Virginia State University (VSU) a total of \$35,000 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 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 \$35,000 for each violation. 34 C.F.R. § 668.84. As detailed below, this fine action is based on VSU's failure to comply with the requirements of the Drug-Free Schools and Communities Act Amendments of 1989 (DFSCA) as reflected in 34 C.F.R. Part 86.

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 VSU from November 18, 2013 to November 22, 2013. The review included a general assessment of VSU's compliance with the statutes and regulations pertaining to the institution's participation in the Title IV, HEA programs. The reviewers also examined VSU's compliance with the DFSCA and the Department's implementing regulations.

On January 24, 2014, the Department issued a Program Review Report (PRR) to VSU. The review found that VSU had not complied with the DFSCA and the Department's implementing regulations. VSU responded to the report on March 24, 2014. After reviewing VSU's responses, the Department issued its Final Program Review Determination (FPRD) letter to VSU on February 26, 2015. The FPRD is incorporated by reference into this fine action. (Enclosure 1).¹

¹ The PRR and FPRD also included findings relating to VSU'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.

The Department is taking this fine action based on the findings in the FPRD relating to VSU's compliance with the DFSCA, which concluded that VSU failed to comply with all the requirements in the drug and alcohol abuse prevention regulations, as reflected in 34 C.F.R. Part 86.

VSU 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.

The Department found that VSU failed to comply with the DFSCA and 34 C.F.R. Part 86. Specifically, at the time of the review, VSU did not have in place a comprehensive drug and alcohol abuse prevention program (DAAPP) that included all the required components. In particular, VSU's policy did not contain the following required elements:

- 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 any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to students and employees; and
- A statement that the institution will impose disciplinary sanctions on employees for violations of the institution's codes of conduct and a description of such sanctions. The current DAAPP does list disciplinary sanctions for students but does not include disciplinary sanctions applicable to employees.

In its March 24, 2014 response to the PRR, VSU acknowledged that it did not publish and distribute a complete DAAPP to its students and employees. The institution stated that it had taken corrective actions after the review.

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 VSU is 2014-2015 award year. According to the Department records, VSU received approximately \$14,292,075 in Federal Pell Grant (Pell) funds, \$40,744,539 in Federal Direct Loan funds, and 1,237,211 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, VSU is a large institution because its funding levels for Federal Pell Grants, Federal Direct Loans, and Campus-Based funds are above the median funding levels for those Title IV, HEA programs.

As detailed in this letter, VSU's violation of the DFSCA and the implementing regulations are very serious. Congress enacted the DFSCA to ensure that students and employees had vital information about drugs and alcohol prevention program at their institution. A DAAPP that has not been tested in a biennial review may be unreliable and unhelpful to students and employees. Moreover, the Department considers an institution's compliance with the DFSCA requirements to be part of its administrative capability, and VSU'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 \$35,000 for VSU's failure to publish and distribute its complete DAAPP to its students and employees; 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. Students and employees cannot be expected to make good use of a DAAPP that is not complete, properly distributed, and tested for its effectiveness. A maximum fine is appropriate in this case.

The fine of \$35,000 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. VSU may submit both a written request for a hearing and written material indicating why a fine should not be imposed.

If VSU 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

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

ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT VSU SUBMITS MUST BE RECEIVED BY JULY 3, 2017; OTHERWISE, THE \$35,000 FINE WILL BE EFFECTIVE ON THAT DATE.

If you have any questions or desire any additional explanation of VSU'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: Dr. Belle S. Wheelan, President, Southern Association of Colleges and Schools
Commission on Colleges, via bwheelan@sacscoc.org
Peter Blake, Director, State Council of Higher Education for Virginia, via
Peterblake@schev.edu