



SEP - 3 2020

Dr. Thomas Saban
President
Prairie State College
202 South Halsted
Chicago Heights, IL 60411- 8226

Sent: United Parcel Service
Tracking #: 1Z 37X 7Y3 01 9514 6980
OPE-ID: 00164000

Dear Dr. Saban:

This letter is to inform you that the U.S. Department of Education (Department) intends to fine Prairie State College (Prairie State; the College) a total of \$85,000 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 \$58,328 for each violation that occurred after November 2, 2015. 34 C.F.R. § 668.84.¹ As applicable to this fine notice, for fines initiated after October 2, 2012 for violations occurring prior to November 2, 2015, the maximum fine is \$35,000 per occurrence. As detailed below, this fine action is based on Prairie State'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.

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 77 Fed. Reg. 60047 (October 2, 2012); 81 Fed. Reg. 50321 (August 1, 2016); 82 Fed. Reg. 18559 (April 20, 2017); 83 Fed. Reg. 2062 (January 16, 2018); 84 Fed. Reg. 971 (February 1, 2019); and 85 Fed. Reg. 9 (January 14, 2020).

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

The Department conducted a program review at Prairie State from November 2, 2015 through November 6, 2015. On January 29, 2016, the Department issued a Program Review Report (PRR) to Prairie State. With regard to the findings related to the Clery Act, Prairie State responded to the PRR on May 20, 2016. After reviewing Prairie State's responses, the Department issued its Final Program Review Determination (FPRD) letter to Prairie State on September 18, 2018. The FPRD is incorporated by reference into this fine action. (Enclosure 1).²

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

Finding #1: Failure to Compile, Publish and Properly Distribute an Accurate 2015 ASR
Finding #2: Failure to Comply with the DFSCA and 34 C.F.R. Part 86

**I. PRAIRIE STATE DID NOT COMPILE, PUBLISH AND PROPERLY
DISTRIBUTE AN ACCURATE ASR FOR CALENDAR YEAR 2015**

Under the Clery Act and the Department's regulations, institutions participating in the Title IV, HEA programs must distribute an ASR to all enrolled students and current employees through appropriate publications and mailings. 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). Additionally, the ASR must include a description of the institution's campus security policies in specific areas. 34 C.F.R. § 668.46(b). 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 to enrolled students and current employees by posting the disclosure on an Internet website or an Intranet website, the institution must, by

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

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), (e)(2) and (e)(3).

Prairie State did not compile, publish and properly distribute an accurate ASR for calendar year 2015 to its students and employees by October 1, 2015, as required by the Department's regulations. The Department's reviewers determined that the College's 2015 ASR did not include any crime statistics. Therefore, in the absence of any crime statistics in the 2015 ASR, current and prospective students and employees were not provided with an accurate picture of incidents of crime that occurred at Prairie State in calendar years 2012, 2013 and 2014. One of the goals of the Clery Act is to allow current students and employees, and prospective students and employees to use the ASR to assess an institution's campus crime profile.

Additionally, the Department's reviewers determined that Prairie State's 2015 ASR omitted the three (3) required policy statements listed below:

1. In its procedures for how victims of sexual offenses should report those crimes, Prairie State failed to include information about the options about the involvement of law enforcement and campus authorities, including notification of the victim's option to be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses. 34 C.F.R. § 668.46(b)(11)(ii)(C)(2).
2. In its procedures for how victims of sexual offenses should report those crimes, Prairie State failed to include 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).
3. A complete statement of its emergency response and evacuation procedures. In particular, the FPRD found that Prairie State's 2015 ASR did not include the following required information:
 - A description of the process used to confirm the existence of a significant emergency or dangerous situation, the appropriate segment or segments of the campus community to receive a notification, the content of the notification, and finally the initiation of the notification system 34 C.F.R. § 668.46(g)(2);
 - A statement that the College 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 a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency 34 C.F.R. § 668.46(g)(3); and
 - The list of titles of the person or persons or organization or organizations responsible for carrying out the emergency notification and evacuation actions 34 C.F.R. § 668.46(g)(4).

The Department's reviewers also determined that the institution did not properly distribute its 2015 ASR. Specifically, the College did not distribute to all current students and employees a notice that included a statement of the report's availability, the exact electronic address at which the report was 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.

In its May 20, 2016 response to the PRR, Prairie State concurred with the finding and stated that it had taken corrective action to ensure future compliance. However, the revision of the 2015 ASR after the Department alerted the College of its failure to meet its obligations does not excuse its earlier failure to comply with the law. Prairie State's students and employees and potential students and employees should have had access to accurate and complete crime statistics and policy statements and procedures, in order 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 students and employees, 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 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. The required policy statements in the ASR allow the campus community to understand the institution's campus security policies and procedures. In the absence of all the crime incidents that occurred in calendar years 2012, 2013 and 2014, the College's 2015 ASR failed to provide essential information to which current and prospective students and employees were entitled.

Additionally, the omission of numerous required policy statements from the 2015 ASR meant that students and employees were not provided with useful campus safety policies and procedures. Moreover, the College failed to properly distribute the incomplete 2015 ASR. Prairie State did not distribute to all current students and employees a notice that included a statement of the report's availability, the exact electronic address at which the report was posted, a brief description of the report's contents, and a statement that the institution would provide a paper copy of the report upon request.

II. PRAIRIE STATE 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 Prairie State failed to comply with the DFSCA and 34 C.F.R. Part 86. Specifically, Prairie State failed to distribute to its students and employees a comprehensive drug and alcohol abuse prevention program (DAAPP) that addressed all of the required subject areas. The Department's reviewers determined that, at the time of the review, the College did not have in place any distribution plan to properly distribute its DAAPP to its students and employees. In addition, the College 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.

In its response to the PRR, Prairie State agreed with the Department's finding that it did not properly distribute a complete DAAPP at the time of the review. The College stated that it took corrective action after the PRR. However, the revision of the 2015 DAAPP after the Department alerted the College 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 program at their institution. Moreover, a DAAPP that has not been tested in a biennial review is unlikely to be reliable and effective. Prairie State 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 Prairie State is the 2018-2019 award year. According to the Department's records, Prairie State received approximately \$6,771,856 in Federal Pell Grant (Pell) funds, \$4,094,098 in Federal Direct Loan funds and \$245,000 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 \$1,523,678; for institutions participating in the Federal Direct Loan programs, the median funding level is \$2,694,892; and for institutions participating in the Campus-Based programs, the median funding level is \$255,684. Accordingly, Prairie State is a large institution because its funding levels for Federal Pell Grant and Federal Direct Loan exceed the median funding levels for each of those Title IV, HEA programs.

As detailed in this letter, Prairie State's violations of the Clery Act and the Department's regulations are very serious. Prairie State's current and prospective students and employees must be properly provided with accurate disclosures of campus crime and policy statements. Additionally, an institution must meet the requirements of the DFSCA. Furthermore, the Department considers an institution's compliance with the Clery Act requirements to be part of its administrative capability, and Prairie State's failure to comply with those requirements constitutes an inability to properly administer the Title IV programs.

I (A).

I have assessed \$35,000 for Prairie State's failure to include any crime statistics in its 2015 ASR. 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 safety profile. In the absence of all the crime incidents that occurred in calendar years 2012, 2013 and 2014, the College's 2015 ASR was completely misleading and unhelpful to current and prospective students and employees.

I (B).

I have assessed a fine of \$15,000 for Prairie State's failure to include three (3) required policy statements in its 2015 ASR. I have determined a fine amount of \$5,000 for each of the omitted policy statements in the 2015 ASR. 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 could not be expected to take advantage of policies and procedures that the College did not appropriately disclose

I (C).

I have assessed a fine of \$10,000 for Prairie State's failure to distribute to all current students and employees a notice that included a statement of the 2015 ASR's availability, the exact electronic address at which the report was 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. Students and employees cannot make good use of the ASR if it is merely posted on a website without the required notification.

II.

I have assessed a total fine of \$25,000 for Prairie State's failure to comply with the DFSCA and the DAAPP requirements in 2015. Specifically, I have fined \$22,000 for Prairie State's failure to properly distribute a complete DAAPP to students and employees and a \$3,000 fine for its consequent 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 make good use of a DAAPP that has not been provided to them. Moreover, the failure to conduct a biennial review meant that Prairie State's DAAPP was likely outdated and inadequate.

The fine of \$85,000 will be imposed on **September 24, 2020**, unless I receive, by that date, a request for a hearing or written material indicating why the fine should not be imposed. Prairie State may submit both a written request for a hearing and written material indicating why a fine should not be imposed.

If Prairie State 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/Partner Enforcement and Consumer Protection
830 First Street, NE – UCP-3, Room 84F2
Washington, DC 20002-8019

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

ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT PRAIRIE STATE SUBMITS MUST BE RECEIVED BY SEPTEMBER 24, 2020; OTHERWISE, THE \$85,000 FINE WILL BE EFFECTIVE ON THAT DATE.

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

Sincerely,

A large black rectangular box used to redact a signature.

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

Enclosure

cc: Barbara Gellman-Danley, President, HLC, via president@hlcommission.org
Ginger Ostro, Executive Director, IBHE, via info@ibhe.org