

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is made by and between The Regents of the University of California on behalf of the Berkeley campus (OPE ID 00131200) (UC Berkeley or the University), and the United States Department of Education (Department), Federal Student Aid (FSA), acting through the Director of the Administrative Actions and Appeals Service Group, and is effective as of the last date written below (the "Effective Date"). UC Berkeley and the Department are collectively referred to hereinafter as the "Parties," and individually as a "Party."

RECITALS

A. On September 17, 2019, the Department issued a Final Program Review Determination (FPRD) (PRCN 201440328749), stating that UC Berkeley had failed to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act") in §485(f) of the Higher Education Act of 1965, as amended (the "HEA"), and the Department's regulations. The FPRD identified specific violations of the Clery Act by UC Berkeley. Under the HEA, the Department may impose a fine on an institution that violates the Clery Act.

B. Since the issuance of the FPRD, UC Berkeley and the Department have engaged in discussions aimed at resolving issues identified in the FPRD and potential fines that could be imposed by the Department following completion of the review.

C. The Department acknowledges that, prior to the issuance of the FPRD, UC Berkeley had already taken a number of measures to improve its Clery Act compliance and campus safety program, including but not limited to:

1. Hiring two campus Clery experts, a Campus Clery Coordinator and a Clery liaison, to increase expertise and ensure accountability in the University's compliance program;
2. Creating a Clery Act Compliance Committee that meets regularly to review policies and ensure compliance with the Clery Act;
3. Creating and updating Clery-related policies to ensure compliance; and
4. Developing and implementing various improvements to its sexual violence and sexual harassment (SVSH) processes, including increased and improved faculty, staff and student training and enhanced available resources for University staff and survivors.

In furtherance of its commitment to improve its Clery Act compliance and campus safety program, the Parties continue to work together to address additional appropriate enhancements to UC Berkeley's Clery Act related policies and practices, and to identify further steps that the University may undertake to ensure continued compliance in the future.

D. UC Berkeley and the Department have now agreed to resolve the FPRD without any further administrative procedures, other than those outlined in the Appendix to this Agreement.

E. The Parties have reached this Agreement in good faith and in furtherance of the shared belief that time, personnel, and other resource allocations are best served in fulfillment of the requirements set forth in the attached Appendix, all of which are intended to serve the UC Berkeley community, rather than on protracted and costly review and legal procedures.

TERMS AND CONDITIONS

In consideration of the mutual covenants and conditions contained in this Agreement, the sufficiency of which is hereby expressly acknowledged, and intending to be legally bound to the terms hereof, the Parties agree as follows:

1. UC Berkeley agrees that it will pay the Department a fine in the amount of \$2,350,000 (Two Million Three Hundred and Fifty Thousand Dollars and No Cents) (the "Fine") to resolve the matter short of going through the Department's issuance of fines, an appeal, potential hearing and litigation process. UC Berkeley will pay the Fine through FEDWIRE on or before the expiration of three business days following the Effective Date of this Agreement. UC Berkeley should include the billing number AAA00131200 on the FEDWIRE form to ensure proper accounting of the Fine payment.
2. UC Berkeley agrees to requirements of the post-monitoring review specified in the Appendix to this Agreement.
3. The Department agrees not to initiate any administrative action against UC Berkeley based on the findings outlined in the September 17, 2019 FPRD. The agreed upon \$2,350,000 Fine is imposed in settlement of all findings set forth in the FPRD, as well as any other potential noncompliance with the Clery Act and fire safety requirements that may have occurred during the review period of 2009-2016, irrespective of whether such other potential noncompliance was noted in the FPRD or otherwise disclosed to the Department.
4. UC Berkeley acknowledges that by entering into this Agreement it is waiving its right to respond to the FPRD and its opportunity to appeal any potential fine that could be imposed by the Department based on the findings set forth in the FPRD. By entering into this Agreement, both Parties consider this matter resolved and no further action may be taken in regard to the FPRD except with regard to post-review monitoring activity set forth in the Appendix.
5. UC Berkeley affirms its intent to continue to comply with the requirements in the Clery Act, the HEA and the Department's implementing regulations.
6. Nothing in this Agreement constitutes an admission of liability or wrongdoing by UC Berkeley.

7. This Agreement does not waive, compromise, restrict, or settle:
 - a. Any past, present, or future violation of the criminal or civil fraud laws of the United States.
 - b. Any presently pending or future action taken by the United States under the criminal laws or civil fraud laws of the United States.

The Department is not aware of any such actions pending against UC Berkeley based on the issues addressed in the FPRD.

8. This Agreement does not address or resolve any complaints filed with, or any investigations undertaken by, the Department's Office for Civil Rights under any applicable law or regulation. The Parties acknowledge that on April 2, 2020, the Office for Civil Rights (OCR) of the United States Department of Education ended its monitoring of a Resolution Agreement (Agreement) signed on February 20, 2018, to resolve compliance concerns identified in its four-year review of the University's compliance with Title IX. During the monitoring period, OCR confirmed that the University's actions conformed with the requirements of its revised SVSH policy and procedure, including providing notice to both parties and resolving complaints through a reasonably prompt timeframe and OCR closed its case.
9. The persons executing this Agreement on behalf of the Parties hereto warrant that they are fully authorized to do so on behalf of the Party for which they are signing this Agreement and to bind such Party to the terms hereof.
10. This Agreement and any documents referenced herein constitute the entire contract between the Parties with respect to the subject matter hereof.
11. Each Party has cooperated in the drafting of this Agreement, hence, if any construction is to be made of this Agreement, the same shall not be construed against any Party.
12. This Agreement may be executed in two or more duplicate counterparts, each of which shall be treated as an original, but all of which together shall constitute one and the same instrument. The counterparts of this Agreement and any amendments hereto may be executed and delivered by facsimile, .pdf attachment, or other electronic signature by either Party to the other Party, and the receiving Party may rely on the receipt of such document so executed and delivered by facsimile or other electronic method as if the original had been received.

FOR THE UNIVERSITY OF CALIFORNIA AT BERKELEY:

[REDACTED]

CAROL T. CHRIST

CHANCELLOR

The Regents of the University of California
on behalf of the Berkeley campus

Dated: 9/9/20

FOR THE UNITED STATES DEPARTMENT OF EDUCATION:

[REDACTED]

SUSAN D. CRIM

DIRECTOR

Administrative Actions and Appeals Service Group
Federal Student Aid/Partner Enforcement and Consumer Protection

Dated: 9/9/20