

# Index Sheet

Ope Id No: 02053000

School Name: LIBERTY UNIVERSITY

Subfolder: Program Review/FPRD

Doc Type: FPRD with Attachments

Rec Date:

Org Date: 03/23/2010

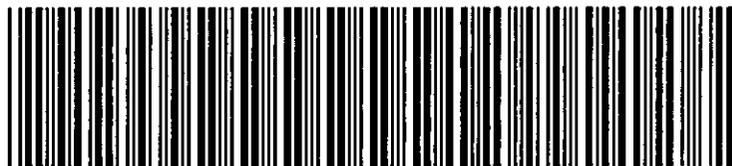
School Year: 2006

ACN:

PRCN:

Box Id: 1024

Unique ID: SC1000000638463





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March 23, 2010

Jerry L. Falwell, Jr., J.D.  
Chancellor  
Liberty University  
1971 University Boulevard  
Lynchburg, VA 24502-2269

**Certified Mail**  
**Return Receipt Requested**  
**7007 0220 0001 9196 5823**

**RE: Final Program Review Determination**  
OPE ID: 02053000  
PRCN: 200630326784

Dear Chancellor Falwell:

As you know, the U.S. Department of Education's Philadelphia School Participation Team conducted a program review regarding Liberty University's (Liberty; the University) administration of programs authorized pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 *et seq.* (Title IV, HEA programs). This program review focused on the University's compliance with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. Liberty official responses were received on June 30, 2006 and on April 9, 2009.

**Purpose:**

Final determinations have been made concerning all of the violations and concerns identified during the program review and are detailed in the attached Final Program Review Determination (FPRD) letter. The purpose of this FPRD is to: 1) advise the University of the Department's final determinations; and 2) to notify Liberty of a possible adverse administrative action. Due to the serious nature of the violations identified during the program review, we have referred this FPRD to the Department's Administrative Actions and Appeals Division (AAAD). Please see page # 14 of the FPRD for more information regarding possible adverse administrative actions and appeal procedures. Upon completion of the "Supplemental Corrective Measures" outlined in Section E of this FPRD, the program review will be closed.

Federal Student Aid - School Participation Team - NE  
The Wanamaker Building  
100 Penn Square East, Suite 511  
Philadelphia, PA 19107-3323  
[www.FederalStudentAid.ed.gov](http://www.FederalStudentAid.ed.gov)

**Record Retention:**

Program records relating to the period covered by this program review must be retained until the later of: resolution of the violations, weakness, and other issues identified during the program review or the end of the retention period applicable to Title IV-related records under 34 C.F.R. § 668.24 (e)(1) and (e)(2).

We would like to express our appreciation for the courtesy, cooperation and patience shown to us throughout the program review process. If you have any questions about this FPRD or the program review process, please contact Mr. James Moore on (215) 656-6495.

Sincerely,



Nancy Paula Gifford  
Area Case Director

Attachment as Stated

cc: Col. Richard D. Hinkley, Chief, Liberty University Police Department  
Robert L. Ritz, Ph.D., Director of Financial Aid, Liberty University  
Belle S. Wheelan, Ph.D., President, Southern Association of Colleges and Schools  
Daniel J. La Vista, Ph.D., Executive Director, State Council of Higher Education  
for Virginia

Prepared for

**Liberty University**



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FEDERAL STUDENT AID

OPE ID 02053000

PRCN 200630326784

Prepared by

**U.S. Department of Education**

**Federal Student Aid**

**School Participation Team – Philadelphia**

## Final Program Review Determination

March 23, 2010

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**A. Institutional Information**

Liberty University  
 1971 University Boulevard  
 Lynchburg, VA 24502-2269

**Type:** Private, Non-Profit

**Highest Level of Offering:** Master's Degree or Doctor's Degree

**Accrediting Agency:** Southern Association of Colleges and Schools

**Current Residential Student Enrollment:** 11,900 (Approx. Fall 2009)

**Current Distance Learning Enrollment:** 36,200 (Approx. Fall 2009)

**% Of Students Receiving Title IV:** 70% (Approx.)

**Title IV Participation:**  
**(Postsecondary Education Participants System):**

	2005-2006	2006-2007	2007-2008
<b>Federal Pell Grant Program</b>	\$ 8,553,165	\$ 10,983,860	\$ 17,250,864
<b>Federal Family Education Loan Program</b>	\$71,762,943	\$103,598,697	\$152,598,407
<b>Federal SEOG</b>	\$ 1,084,414	\$ 1,451,986	\$ 1,409,342
<b>Federal Work Study Program (FWS)</b>	\$ 940,729	\$ 911,404	\$ 807,623
<b>Federal Perkins Loan Program</b>	\$ 0	\$ 0	\$ 0
<b>Total</b>	\$82,341,251	\$116,945,947	\$172,066,236

**Federal Family Education Loan Program Default Rate:**

<u>Cohort Year</u>	<u>Rate</u>
2007	3.9%
2006	2.8%
2005	1.9%

Liberty University, founded in 1971, offers programs of study in more than 100 academic programs. Located in Lynchburg, Virginia, the University is situated on 6,000 acres and includes more than 200 buildings. Liberty maintains its own police department, which provides a 24/7 presence and has concurrent jurisdiction with the Lynchburg Police Department.

## **B. Background**

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires all institutions that receive Title IV funding to provide accurate and complete campus crime information to their students and employees. The Clery Act requires the disclosure of crime statistics and dissemination of information about campus safety policies, procedures, and programs to allow members of the campus community to be well-informed consumers and employees. The Clery Act also requires institutions to notify students and employees of reported crimes and current threats on an ongoing basis by maintaining a crime log and issuing timely warnings. Institutions have an obligation to provide current and prospective members of the campus community with accurate, complete, and timely information about campus safety. Access to such information allows community members to make informed decisions about their educational and employment choices and take an active role in their own personal safety and to protect their personal property.

On March 9, 2006, Security on Campus, Inc. (SOC) filed a complaint alleging that Liberty University (Liberty) violated several provisions of the Clery Act. This complaint was filed on behalf of a few Liberty students, one of whom was reportedly the survivor of a sexual assault at Liberty. Specifically, the complaint alleged that Liberty did not provide accurate or complete crime statistics to students, employees and the Department as a result of improper handling of a reported forcible sex offense that allegedly occurred in April 2005. The complaint also alleged that Liberty had violated the Clery Act's timely warning, crime log, policy disclosure, and annual security report distribution requirements. We received an additional complaint in December 2006 alleging similar violations of the Clery Act. The complainants provided us with supplemental material on numerous occasions throughout the review period.

The U.S. Department of Education (the Department) conducted a program review of Liberty's compliance with the Clery Act

## **C. Scope of Review**

The Department conducted an off-site focused program review of Liberty's compliance with the Clery Act. Liberty was notified of the initiation of the review in a letter dated April 12, 2006. Mr. James L. Moore, III, Senior Institutional Review Specialist, conducted the review. Liberty submitted its initial response on June 30, 2006. Pursuant to a request for additional information, the University submitted a supplemental response on April 9, 2009.

The review focused specifically on the allegations raised by the complainants and their advocates but also addressed other aspects of Liberty's compliance with the Clery Act.

The review included a careful and thorough examination of the materials submitted by Liberty in response to the Department's written requests. The Department also analyzed materials submitted in support of the complaint filed by SOC and by the student

complainants themselves. The Department has completed its analysis and is issuing this Final Program Review Determination Letter. The Final Program Review Determination letter is to advise the University of the Secretary's final disposition of this matter.

**Disclaimer:**

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning Liberty University's specific practices and procedures must not be construed as acceptance, approval, or endorsement of those specific practices and procedures. Furthermore, it does not relieve Liberty of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs.

**D. Findings and Final Determinations**

The purpose of this letter is to: (1) advise Liberty of the Department's final determinations regarding violations of the Clery Act; (2) provide instructions regarding additional corrective actions needed to bring Liberty's operations into compliance with the Clery Act; (3) advise the University of our referral to the Administrative Action and Appeals Division; and, 4) close the program review, subject to our receipt and review of the materials requested in Section E of this FPRD.

This section identifies the findings of the program review and the Department's final determinations. The findings and the final determinations are based on a thorough examination of records gathered during the program review including the University's official responses.

**Finding # 1: Failure to Properly Classify and Disclose Crime Statistics**

**Citation:**

Under the Clery Act and the Department's implementing regulations, participating institutions must compile and publish statistics concerning the occurrence on campus of the following incidents: criminal homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. In addition, the institution is required to disclose arrests and disciplinary actions related to certain violations of Federal or state drug, liquor and weapons laws. *34 C.F.R. § 668.46 (c)(1) and (7)*. The Department's regulations require that, for Clery Act reporting purposes, participating institutions must compile crime statistics using the definitions of crimes in Appendix A to Subpart D of Section 668 of the General Provision Regulations.

**Noncompliance:**

In reporting its campus crime statistics, Liberty University failed to properly categorize all reported incidents in accordance with Clery Act crime definitions. Specifically, Liberty did not include, in its crime statistics for calendar year 2005, an April 2005 Aggravated Assault which was reported to LUPD. The victim/survivor (hereafter referred to as the complainant) subsequently provided facts that should have resulted in the reclassification of the incident as a Forcible Sex Offense. Based on a thorough review of source documents, the review team determined that the failure to reclassify this incident was due in part to a practice sometimes used by LUPD wherein subsequent incidents of crime are carried as supplements to an earlier incident involving the same complainant.

In this case, the complainant initially reported that she was sexually assaulted by the same person on February 12 and 13, 2005. She reported these crimes to the LUPD on February 20, 2005. Liberty included this crime in its crime statistics, reporting it in the "Public Property" category. The LUPD incident report for this case was initially coded as a Sexual Battery but was reclassified as a Rape based on follow-up investigation and interviews.

On April 13, 2005, the complainant was allegedly attacked a by three males as she exited the pedestrian tunnel that connects Liberty's Campus East to the Main Campus. This attack was reported to the LUPD on the same day. On April 18, 2005, the victim gave a written statement to LUPD. In her statement, the complainant stated in part, "The three men came from behind the top of the tunnel alongside the stairs and pulled me by my arms down the dirt road leading to the fields. I began pulling away and the sleeves of my shirt were ripped. I remember turning to run back to the dorms but was stopped by one of them holding a wooden type stick. I was hit on top of the head and fell by the ditch on the left." This incident should have been coded as an Aggravated Assault, as a result of the use of a weapon in the commission of a violent attack.

In May 2005, the complainant again contacted LUPD and stated that she was sexually assaulted. This report is documented in LUPD Lt. Jennifer Jones' supplemental report dated May 20, 2005. LUPD investigated these complaints and the institution's records indicate that there were inquiries by other Liberty officials, requests for the production of evidence including clothing, requests for academic accommodations on behalf of the complainant as well as a search for evidence at the scene of the April 2005 attack near the pedestrian tunnel.

Under the Clery Act, an institution must include in its campus crime statistics any covered crime occurring in any building or on any property covered by the definition of campus that is reported to local police agencies or a campus security authority (CSA). The only exception to the mandatory inclusion of a reported crime in the campus security report (CSR) is if the incident is officially determined to be "unfounded" by a police agency under established procedures. There is no evidence that any police agency determined that the reported crime in this instance was "unfounded."

In its response to us, Liberty stated that the forcible sexual offense reported in February 2005 was included in the CSR's campus crime statistics for 2005. However, the University asserted that the April 2005 incident was not included in the campus crime statistics because, "there was never a report made at all that the complainant was sexually assaulted or raped in April 2005. (Roommate and co-complainant's name deleted) stated in an email on one occasion that her roommate was "sexually assaulted," and on another occasion that she was "assaulted," but provided no details about the incident and admitted in another email that (complainant's name deleted) had not told the truth about the night of April 13, 2005... Under these circumstances, LU did not believe that a forcible sex offense had been reported in April 2005. In sum, LU did not treat the April 2005 incident as a reported forcible sex offense because no forcible sex offense was reported." The University also asserts that because of this no timely warning was ever issued and no crime log entry was made.

Liberty's response is deficient and problematic in several respects and does not provide a legal basis for not including the April 2005 incident in its crime log or campus crime statistics. First, footnote 2 on page 2 of Liberty's response stated, "LUPD treated contact with (the victim/survivor) subsequent to the initial February 20 report as a continuation or supplement of the original report made by (victim's name deleted) on February 20. Each subsequent contact with (victim's name deleted) was handled under the same Complaint number as appeared on the initial February 20 report." There is no basis under the Department's regulations for Liberty to consolidate separate and distinct incidents three months apart into a single incident report for Clery Act reporting purposes. Liberty's actions thus resulted in inaccurate and incomplete campus crime statistics.

The Department does not dictate the format of an institution's incident reports. The Clery Act does not prescribe the precise composition that incident reports must take, as that decision is left to each police agency. However, each institution must have policies and procedures in place to ensure that all reported crimes are identified, categorized, and disclosed in accordance with the Clery Act.

The UCR Handbook which is specifically referenced in 34 C.F.R. § 682.46(c)(7) states in relevant part, "if there is a separation of time and place between the commission of several crimes, the reporting agency must handle each crime as a separate incident and must classify and score each offense individually. Same time and place means that the time interval between the offenses and the distance between the locations where they occurred are insignificant. Normally, the offenses must have occurred during an unbroken time duration and at the same or adjoining location(s)." See "UCR Reporting Handbook", 2004 edition at 12. While it may be appropriate to attach supplemental or investigative reports to an incident report, there is no legal basis to not include in campus crime statistics a subsequent crime, committed months later solely because the victim is the same individual separated by time and space, among other factors, as was done in this case.

The complainant's April 18, 2005 written statement clearly outlines specific crimes that were committed as well as the factors that she believed led to the attacks. She clearly

articulated that three prior sexual assaults were committed by the same perpetrators and that said perpetrators were associated with the alleged assailant in the February 2005 incidents. However, the University claims there was not enough detail to conclude a crime had been committed.

A review of Liberty's own records, however, demonstrates that the student's statement clearly provided sufficient details to conclude that a crime was being reported. The complainant said: "I was threatened," "I feared that worse things would happen" and "I changed my work schedule around to try to avoid being approached in the tunnel." Statements of this type do not evidence that the victim/survivor was a willing participant in any regard. Moreover, the reference in the response to the complainant not telling the truth about the reported incidents is out of context and was taken from a February 2, 2006 e-mail, sent nearly 10 months after the April 13, 2005 incident.

For Clery Act purposes, a crime is reported when it is brought to the attention of a local police agency, a campus security department, and/or any CSA. It is not necessary that victims or witnesses explicitly label what type of crime was committed. The fact that a victim or witness never uses words such as "sexual assault" or "rape" for example does not mean that such a crime was not reported. In fact the student did report that she was sexually assaulted in May 2005. It must be noted that the May 20, 2005 supplement was not mentioned in the response.

On April 13, 2005, the facts were clear that a serious crime had been reported. By April 18, 2005, the institution had sufficient information to classify the incident as an Aggravated Assault, at a minimum. It is clear that the LUPD considered this incident to be a crime. Moreover, given that the alleged offenders were still at large, Liberty should have taken additional steps to protect its students and employees by issuing a timely warning. The April 13 incident also should have been entered on the daily crime log. For these reasons, the Department has determined that Liberty violated the Clery Act when it failed to include the April 2005 incident in the CSR's statistical disclosures and in the crime log.

Failure to classify and disclose incidents of crime reported in an accurate and complete manner deprives the campus community of important security information and effectively negates the intent of the Clery Act.

To ensure adequate corrective actions are taken before the publication of the next CSR due October 1, 2010, Liberty is required to undertake the "Supplemental Corrective Measures" set forth in Section E of this FPRD.

**Finding # 2: Failure to Comply with “Timely Warning” Requirements**

**Citation:**

Under the Clery Act, institutions must issue timely warnings to the campus community of crimes considered to be a threat to students and employees. See § 485 (f)(3) of the HEA. These warnings must be issued to the campus community in any case where an incident of crime listed in 34 C.F.R. § 668.46 (c)(1) or (c)(3) that represents a threat to students or employees is reported to a campus security authority. 34 C.F.R. § 668.46 (e). In addition, institutions are required to include a number of detailed policy statements in the annual campus security report. 34 C.F.R. § 668.46 (b)(2). The policy statements must include the institution’s policy for making timely warnings and clear notice of the procedures that students and other must follow to report crimes and other emergencies that occur on campus. 34 C.F.R. § 668.46 (b)(2)(i).

**Noncompliance:**

Liberty failed to issue a timely warning in response to the Aggravated Assault and Forcible Sex Offenses described in Finding # 1. On April 13, 2005, a serious assault was reported to Liberty’s campus police department. By April 18, 2005, the police had received an additional statement that provided the requisite information to classify the incident as an aggravated assault, at a minimum, under UCR guidelines. Given that Liberty had taken steps to investigate the April 13, 2005 incident and the alleged offenders were still at large and therefore posed a potential threat to other students and employees, Liberty should have considered additional steps such as the issuance of a timely warning.

In its response, Liberty stated that, “LU did not issue a timely warning about the April 2005 incident because no crime was “reported” to LU within the meaning of the statute and regulations.” Similarly, the response also stated, “LU did not enter a reported sexual assault in its public crime log because no sexual assault was ever reported to LU.”

Liberty did not act reasonably in its characterization of the incident reported to its police department on April 13, 2005 or in regard to the issuance of timely warnings. Liberty officials were already aware that the alleged perpetrators in the April 13 incident might pose a threat to members of the campus community. About a month later, the victim did state that she was gang-raped by the same men. She also stated that there were other victims, one of whom she believed to be a Liberty student. At that point, concerns about the lack of a threat to anyone other than the identified victim should have been set aside. On March 28, 2005, Liberty had issued trespassing papers to the perpetrator ordering him to stay off of campus property. This act indicates that Liberty officials were aware and convinced of the threat posed by the alleged assailant. The attack on April 13, 2005 provided additional information that should have resulted in the institution’s issuance of a timely warning.

Liberty's failure to report the April 13, 2005 attack as a separate crime as well as the other factors noted clearly influenced the decision to not issue a timely warning. The Department has determined that this is a violation of the Clery Act.

Failure to issue timely warnings of serious and on-going threats deprives students and employees of vital, time-sensitive information and effectively denied them the opportunity to take adequate steps to provide for their own safety.

To ensure adequate corrective actions are taken before the publication of the next CSR due October 1, 2010, Liberty is required to undertake the "Supplemental Corrective Measures" set forth in Section E of this FPRD.

**Finding #3: Failure to Comply with Daily Crime Log Requirements**

**Citation:**

Institutions with a police or campus security department must maintain "a written, easily understood daily crime log" listing all crimes that occurred 1) on campus including residence halls; 2) in a non-campus buildings or on non-campus property; 3) on public property; or 4) within the campus police or security department's patrol area that it becomes aware of or are reported to it. This reporting requirement applies to all crimes, not merely those crimes listed in 34 C.F.R. § 668.46 (c)(1) and (3). The crime log must record crimes by the date they were reported. The log must include the nature, date, time, general location, and disposition of each offense. The crime log must be kept up to date and be freely accessible to any requestor. 34 C.F.R. § 668.46 (f).

**Noncompliance:**

Liberty failed to record the April 13, 2005 assault in the daily crime log. The assailant used a weapon (a large wooden stick) in the attack which meant that it met the definition of an aggravated assault. Aggravated assaults must be reported under the Clery Act, included in the crime log and evaluated for a timely warning.

The Department determined that Liberty was required to enter the incident on its crime log. All reported incidents that occur with the LUPD must be entered on the daily crime log regardless of the crime classification.

Moreover, the other incidents reported by the complainant should have been entered on the daily crime log as separate reported crimes. These crimes include stalking, harassment, and assault (as a threat). LUPD's choice to document these subsequent crimes as supplements to the initial incident report does not change the fact that each incident was a separate operation of crime.

As noted in Finding # 1, the Department has determined that Liberty did comply with the crime log requirement regarding the February 2005 incident. This incident was classified initially as a Sexual Battery but was reclassified as a Rape and entered on the crime log.

Moreover, we have determined that Liberty did not purposely deny access to the crime log as alleged in the first complaint from SOC. The University acknowledges that a student worker did not know of the log's existence. However, the parties agree that the student worker contacted a supervisor and took action to grant the co-complainant access to the log within a short period of time.

Failure to maintain an accurate and complete daily crime log deprives the campus community of up-to-date information regarding ongoing threats to health and safety. The timely information in the crime log is an important supplement to the longer-term statistical data published in the CSR.

To ensure adequate corrective actions are taken before the publication of the next CSR due October 1, 2010, Liberty is required to undertake the "Supplemental Corrective Measures" set forth in Section E of this FPRD.

**Finding # 4: Omission of Required Policy Statements & Improper Formatting of Campus Security Reports**

**Citation:**

The Department's regulations require institutions to include certain policy statements in their Campus Security Reports. These required disclosures are intended to inform the campus community about the institution's security policies and crime prevention programs and the availability of resources and channels of recourse. In general, these policies include topics such as the law enforcement authority and practices of the campus police and/or security forces, reporting procedures for students and employees, and policies that govern the preparation of the report itself. Alcohol and drug policies and educational programs must be explained as well. Policies pertaining to sexual assault education, prevention and adjudication must also be disclosed. A notification to students must also be included in the report that advises the campus community that victims of sexual assaults may change their academic or living arrangements. *34 C.F.R. § 668.46 (b)(2)*.

**Noncompliance:**

Liberty did not include certain required policy statements in its CSRs during the review period. In other cases, the policy disclosures made were too vague to give actual notice to readers of the report. Additionally, required information fields were not included or were formatted improperly.

In the 2004 and 2005 CSRs Liberty failed to include policies regarding preparation of the annual disclosure of crime statistics and its policy regarding voluntary confidential reporting of crimes by professional and pastoral counselors.

The 2006 CSR does state that, "statistics from these groups are included in the Crime Statistics in this brochure." This apparent reference to the source of crime statistics

appeared under the heading, “Sexual Misconduct” and was placed after a list of internal and external offices and agencies that can assist sexual assault victims.

No statement of Liberty’s policy regarding voluntary confidential reporting was identified in any of its CSR’s through 2008.

Furthermore, other required policy statements such as those regarding the issuance of timely warnings and the description of the type and frequency of programs regarding campus security procedures and crime prevention were not adequate

In its response, Liberty acknowledged the violations. The response claims that, “since the filing of the complaint against LU, LU has undertaken to revise its Clery Act report to include the omitted statements.” As noted above, additional efforts are needed to bring Liberty into compliance with the policy requirement provisions of the Clery Act.

The Clery Act is, first and foremost, a consumer information law intended to provide students, employees, and other stakeholders with important crime-related information. Accurate and complete information on policies, procedures, and programs can help members of the campus community make informed decisions and effectively assist in providing for their own safety. Any failure in this regard deprives the campus community of this information and effectively negates the intent of the Act.

To ensure adequate corrective actions are taken before the publication of the next CSR due October 1, 2010, Liberty is required to undertake the “Supplemental Corrective Measures” set forth in Section E of this FPRD.

**Finding # 5: Failure to Properly Distribute Campus Security Reports**

**Citation:**

The Department’s regulations require institutions to provide the CSR to all current students and employees through certain means. Acceptable means of delivery include regular U.S. Mail, hand delivery, or campus mail distribution to the individual, or posting on the institution’s internet site. If an institution chooses to distribute its report by posting to an internet (or intranet site), the institution must, by October 1 of each year, post the report on its internet site and distribute a notice to all students and employees that includes a statement of the report’s availability, its exact electronic address, and a description of its contents, as well as a statement that a paper copy will be provided upon request. *20 U.S.C. § 1092 (f)(1); 34 C.F.R. § 668.41.*

**Noncompliance:**

Liberty failed to distribute its CSR to all current students and employees by October 1 as required by the Clery Act.

Liberty chose to distribute its CSR by posting it to the University's official website. Specifically, the reports are linked to the LUPD's homepage in the "Resources" section. Liberty had not posted its 2005 CSR to its website at the time the original complaint was filed by SOC on March 9, 2006. The institution eventually posted the CSR at some point between March 9, 2006 and April 7, 2006.

During the course of its review, the Department determined that the 2008 CSR was not posted as of April 3, 2009. At some point between April 3 and April 13, 2009, the 2008 CSR was posted to the LUPD homepage after the Department requested additional information from the University on April 3, 2009.

Neither a student complainant nor a former employee interviewed during the review recall receiving the CSR directly from the University. However, the former employee did acknowledge that copies of the CSR were available around campus.

In its response, Liberty asserted that the allegation in the complaint was untrue. In support of its contention, Liberty claims employees tasked with investigating the matter determined that the file properties for the 2005 CSR show that the document was created on September 4, 2005, well in advance of the deadline for distribution. Liberty also emphasized that the CSR is dated October 1, 2005.

The Department takes note that the report bears the date of October 1, 2005. Furthermore, the Department does not challenge that the file properties printout shows a date of September 5, 2005.

The University's response states that Liberty "is well aware of the Clery Act's requirement that the annual campus security report be *published* no later than October 1 of each year." The response also states that, "the creation of the CSR on September 5, 2005 shows that, "the report was completed in sufficient time for it *to be available* to students and the public by October 1, 2005. (emphasis added)." Neither statement addresses the active distribution requirement explained in the "Citation" section of this finding. It is not adequate to merely prepare the CSR or even to make it generally available by October 1. The CSR must be actively distributed to all current students and employees. For this reason, the Department has determined that Liberty violated the active distribution requirement.

To ensure adequate corrective actions are taken before the publication of the next CSR due October 1, 2010, Liberty is required to undertake the "Supplemental Corrective Measures" set forth in Section E of this FPRD.

#### **E. Supplemental Corrective Measures**

The Department has considered the University's responses and supporting documentation. The response addressed some of the Department's concerns. However, the program review will not be closed until Liberty has addressed all of the violations and weaknesses identified during the program review. Before the review can be closed, Liberty must prepare a status

report that addresses further these violations and weaknesses: The University must conduct a thorough review of its Clery Act compliance program focusing on these violations and weaknesses and report back to the Department. Liberty must appoint an institutional official with sufficient knowledge and authority to gather information and prepare the status report.

The status report will allow the Department to evaluate further the extent of noncompliance during the review period and to ensure that adequate corrective actions are in place. At a minimum, the status report must include the following:

- For Finding # 1: An explanation of what policy and procedural changes were or will be implemented to ensure that all incidents of crime reported to the LUPD or another CSA will be identified, categorized, and disclosed in accordance with Clery Act requirements. Liberty must specifically address how it will ensure that incidents that are only documented in investigative or supplemental reports will be evaluated for inclusion in the CSR statistical disclosures. This explanation also must address the identification and categorization of arrests and disciplinary referrals that must be disclosed in the CSR.

Additionally, the revisions must address the identification and inclusion of arrests, clearances by exceptional means, and disciplinary referrals that are incidental to non-Clery incidents that are reported to the police, campus security, or other CSA. This would include, for example, a process to identify a student who is arrested or referred for a liquor law violation (LLV) incidental to LUPD's response to a non-Clery incident such as disorderly conduct. Because the LLV arrest or referral must be disclosed in the CSR, Liberty must develop and implement a reliable means of identifying such offenses. Please also explain what training and systems changes were or will be implemented to support and reinforce these changes.

- For Finding # 2: A re-examination of the University's timely warning policy. Liberty must review and revise its policies, procedures, and methods for identifying threats to the health and safety of students and employees, composing clear messages, and distributing those messages quickly to the campus community. The new policy must be provided with the status report and be published in the CSR due by October 1, 2010.
- For Finding #3, Liberty must review and revise its policies and procedures regarding the maintenance of an accurate and complete daily crime log. The University also must take steps to ensure that all LUPD personnel including student workers are aware of the log's existence and location and provide immediate access to the log in accordance with Federal regulations.
- For Finding # 4: A comprehensive review of all policy, procedural, and programmatic disclosures required to be published in the CSR. The University must take all necessary action to update and improve its policies

to ensure that each disclosure provides clear and accurate notice to students and employees about each covered topic. Given the fact that both complaints raised concerns about Liberty's handling of sex offenses, the University must treat the provisions at 34 C.F.R. § 668.46 (b)(11), often referred to as the "Campus Sexual Assault Victim's Bill of Rights," as an area of special attention.

- For Finding # 5: A comprehensive review of all policies and procedures for distributing the CSR to all current students and employees. The University must then take all necessary action to refine its CSR distribution process to: 1) ensure that the report is actively distributed to all current students and employees by October 1<sup>st</sup> of each year and 2) ensure that all prospective students and employees are informed of the report's availability. Liberty also must designate an institutional official who will be charged with ensuring that the CSR is distributed in the manner prescribed by the Clery Act.

Please submit your status report within 60 days of the date of this FPRD to:

Mr. James L. Moore, III  
Senior Institutional Review Specialist  
U.S. Department of Education  
The Wanamaker Building  
100 Penn Square East, Suite 511  
Philadelphia, PA 19107

Please provide copies of any documents or records referred to in your status report that were not already provided to the Department. Once the status report is submitted and accepted by the Department, the program review will be closed.

Please be advised that this FPRD is being referred to the Administrative Actions and Appeals Division (AAAD) for consideration of possible adverse administrative action. Such action may include a fine, or the limitation, suspension or termination of the eligibility of the University pursuant to 34 C.F.R. § 668, Subpart G. If AAAD initiates any action, a separate notification will be provided which will include information on the University's appeal rights and procedures to file an appeal.

While the University may not appeal this Final Determination, Liberty will have full appeal rights in the event that AAAD initiates an adverse administrative action as a result of the violations of the Clery Act identified in this FPRD.

This program review was conducted to monitor and enforce the Clery Act and to assist Liberty toward full compliance. The review team will continue to provide technical assistance and recommendations to the University upon request. Technical assistance and recommendations are intended to facilitate ongoing improvement and are only advisory.

*Jerry L. Falwell, Jr. J.D., President  
Liberty University  
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Your continued cooperation throughout the program review process is appreciated. Please direct any questions about this FPRD to Mr. James Moore on (215) 656-6495.