



JUN - 4 2015

Mr. Greg Goode
President
Salina Area Technical College
2562 Centennial Road
Salina, KS 67401-8195

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Dear Mr. Goode:

In a letter dated December 12, 2014, the U.S. Department of Education (Department) notified Salina Area Technical College (SATC) of its intent to fine SATC \$72,500 for its failure to comply with 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 (HEA). The proposed fine was based on the findings in a Final Program Review Determination (FPRD) issued on August 5, 2013. The FPRD found that SATC had failed to comply with the Clery Act and the Drug-Free Schools and Communities Act Amendments of 1989 (DFSCA).

In a letter dated December 22, 2014, you submitted a written response to that fine notice on SATC's behalf and requested that the Department not impose the proposed fine. SATC did not request a hearing on the proposed fine.¹

The Department has considered the arguments and information presented in your letter. This letter provides the Department's final decision on SATC's request that the proposed fine not be imposed.

In the December 12, 2014 fine notice, the Department proposed to fine SATC a total of \$72,500 based on four findings.

1. The Department proposed a fine of \$15,000 for SATC's failure to properly distribute its Annual Security Report (ASR) for calendar year 2010 to students and employees and its failure to notify prospective students and employees about the availability of the 2010 ASR in violation of the Clery Act and 34 C.F.R. §668.41(e) (2010)².

¹ SATC's December 22, 2014 letter to the Department stated, "... we would like to retain the right for a hearing on these matters [*sic*]." However, on December 23, 2014, the Department received an e-mail from Ms. Susan Eberwein, SATC's Vice President of Student Services, stating that SATC did not request a hearing.

² The Department published new regulations for the Clery Act on October 20, 2014. However, the findings on which the proposed fines are based rely on the regulations in place at the time of the violation as reflected in this citation. Unless otherwise noted, all of the regulations cited are dated 2010.

2. SATC failed to include eleven (11) required policy statements in its calendar year 2010 ASR. SATC's 2010 ASR did not include the following required statements:

- A statement of policy regarding the annual disclosure of crime statistics.
- A description of the types and frequency of programs designed to inform students and employees about campus security procedures.
- A description of programs to inform students and employees about crime prevention.
- A statement of policy regarding the institution's campus sexual assault programs to prevent sex offenses, and procedures to follow when a sex offense occurs, including a statement that the accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and a statement that both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense.
- Notification to students of existing on- and off-campus counseling, mental health, or other student services for victims of sex offenses.
- Notification to students that the institution will change a victim's academic and living situations after an alleged sex offense and of the options for those changes, if those changes are requested by the victim and are reasonably available.
- A statement explaining how to access law enforcement information concerning registered sex offenders.
- A statement of policy regarding the monitoring and recording through local police agencies of criminal activity that occurs at off-campus locations that are owned or controlled by recognized student organizations.
- A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of state underage drinking laws.
- A statement of policy regarding the possession, use and sale of illegal drugs and enforcement of Federal and state drug laws.
- A description of drug and/or alcohol abuse education and prevention programs.

The Department proposed a fine of \$27,500 for SATC's failure to include these policy statements in its calendar year 2010 ASR.

3. SATC did not include the area it used at Kansas State University - Salina as part of its campus for Clery Act reporting purposes and did not collect information on any crimes reported in that area for its crime statistics in violation of 34 C.F.R. § 668.46(d). The Department proposed to impose a fine of \$15,000 for this violation.
4. SATC did not comply with the requirements of the DFSCA and 34 C.F.R. Part 86. The Department proposed to impose a fine of \$15,000 for these violations.

The Department's letter notifying SATC of the proposed fine also notified the institution that it could request a hearing or submit written material contesting the proposed fine. SATC did not request a hearing, but presented arguments that a fine should not be imposed. SATC provided arguments against each of the four findings. We address SATC's arguments below.

1. SATC did not properly distribute its 2010 ASR to students and employees.

SATC argued that a fine should not be imposed because in 2010, it provided students with a hard copy of the Students Handbook and College Catalog during campus orientation. SATC stated that "the campus security information was summarized [in the Catalog], but did direct students to the website or Students Services for a copy of the campus security report."

The ASR is a single publication that has to include both crime statistics and the required policy statements. SATC did not present evidence that it provided such a single report to students and employees in 2010. Instead SATC demonstrated that it mentioned some parts of the required report in the student handbook. The FPRD found that SATC did not properly distribute its ASR for calendar year 2010 to students and employees and failed to notify prospective students and employees about the availability of the 2010 ASR as required by 34 C.F.R. §668.41(e). SATC's December 22, 2014 letter does not provide any information to show that its 2010 ASR was properly distributed to students and employees or if prospective students and employees were notified about the 2010 ASR's availability. The Department notes that while SATC described how some campus security information was provided to students in a student handbook, the response is silent on how employees, and prospective students and employees were notified about the availability of the 2010 ASR.

2. SATC'S 2010 ASR omitted required policy statements.

In its response SATC did not address the finding that its 2010 ASR did not include 11 required policy statements. Instead of addressing the 11 omitted required policy statements in the 2010 ASR, SATC's letter only states, "Salina has revised their policies to include the required statements." SATC apparently concedes that it did not provide its students and employees and potential students and employees information it was legally required to provide.

3. SATC failed to properly define its campus and include in its crime statistics any incidents reported for Kansas State University – Salina (KSUS).

SATC argued that it believed that KSUS reported all crimes for that location, including any involving SATC's students. The Department's regulations specifically require an institution to report in its ASR crime statistics for crimes reported in any building or property owned or controlled by the institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls. 34 C.F.R. § 668.46(a)(1). An institution must include in its

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crime statistics in its ASR any crimes reported for each separate campus. 34 C.F.R. § 668.46(d). SATC acknowledges that it had an agreement with KSUS for use of its dorms. SATC should have collected and reported KSUS's crime statistics in its 2010 ASR.

4. SATC did not comply with drug and alcohol abuse prevention requirements.

SATC argues that there had never been drug and alcohol violations in SATC since 2008. SATC claims that "drug and alcohol awareness were covered in the college catalog." The FPRD found that SATC failed to develop and implement a substantive drug and alcohol abuse prevention program (DAAPP) that contained all of the elements required in the Department's regulations and failed to distribute a DAAPP disclosure to all employees and students enrolled for academic credit on an annual basis. SATC also failed to conduct a biennial review of the DAAPP as required by the DFSCA and the regulations. The DFSCA as reflected in 34 C.F.R. Part 86 requires institutions of higher education to adopt and implement a drug prevention program for its students and employees. SATC could not have distributed a complete DAAPP because it did not have one at the time of the review.

Final Decision

For the reasons discussed above, the Department affirms the proposed fines identified in our letter of December 12, 2014 which included: \$15,000 for SATC's failure to properly distribute its 2010 ASR to current students and employees, and its failure to notify prospective students and employees about the availability of the 2010 ASR; \$27,500 for SATC's failure to include adequate policy statements in 11 areas in its calendar year 2010 ASR; \$15,000 for SATC's failure to include the area it used at Kansas State University - Salina as part of its campus and to include any crimes reported in that area in its crime statistics; and \$15,000 for SATC's failure to develop and implement a substantive drug and alcohol abuse prevention program and its failure to distribute a DAAPP disclosure to all employees and students enrolled for academic credit on an annual basis.

Therefore, SATC must pay a total fine of \$72,500.

The \$72,500 fine is due to the Department within 30 days of the date of this letter. Payment must be in the form of a certified or cashier's check, and made payable to the U.S. Department of Education. If payment is not received by the Department within that 30-day time period, interest will accrue in monthly increments until payment is received.

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Please send your fine payment to me **to the attention of Lawrence Mwethuku** at the following address:

Administrative Actions and Appeals Service Group
U.S. Department of Education
Federal Student Aid/Program Compliance
830 First Street, NE – UCP-3, Room 84F2
Washington, DC 20002-8019

Please identify the payment as Bill No. AAA201503025 to ensure proper crediting of your payment account.

If you have any questions about this letter, please contact Lawrence Mwethuku of my staff at 202/377-3684.

Sincerely,

A solid black rectangular box redacting the signature of Robin S. Minor.

Robin S. Minor, Acting Director
Administrative Actions and Appeals Service Group
Federal Student Aid/Program Compliance
U.S. Department of Education

cc: Sunil Ahuja, Vice President for Accreditation Relations, Higher Learning Commission, via sahuja@hlcommission.org
Peggy Hill, Board Secretary, Kansas State Board of Education, via plhill@ksde.org