



December 5, 2016

Valerie R. Roberson, Ph.D.  
President  
Roxbury Community College  
1234 Columbus Avenue  
Roxbury Crossing, MA 02120

**UPS Tracking #**  
**1Z37X7Y30296605104**

**Re: Program Review Report**  
**OPE ID: 01193000**  
**PRCN: 201220327921**

Dear President Roberson:

On February 27, 2012, the Department of Education (the Department) formally initiated an on-site program review to evaluate Roxbury Community College's (Roxbury; the College) compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*) and the Drug-Free Schools and Communities Act (*DFSCA*). The findings of that review are presented in the enclosed report.

Findings of noncompliance are referenced to the applicable statutes and regulations and specify the actions required to comply with those statutes and regulations going forward. Please review the report carefully and prepare a substantive response. Roxbury's response should include a narrative that begins with a clear statement of the College's position on each finding. The narrative should clearly indicate if the institution concurs with the finding, disagrees with the finding, or concurs in part and disagrees in part. The response also must describe any remedial action(s) that were taken to address the findings of violation and provide reasonable assurance that such exceptions will not recur. Copies of all documents and information reference in the "Required Action" section of each finding must be submitted as part of the official response. The College must also provide copies of all documents and information that support its position and assertions on the findings and/or substantiate its remedial action claims.

Please submit your response within 60 calendar days of receipt of this Program Review Report to:

Mr. Donald Tantum  
Clery Act Compliance Team  
U.S. Department of Education  
The Wannamaker Building  
100 Penn Square East  
Philadelphia, Pa 19107

Please note that pursuant to HEA Section 498A (b), the Department is required to:

**Federal Student Aid**  
An OFFICE of the U.S. DEPARTMENT of EDUCATION

StudentAid.gov

1. Provide to the institution an adequate opportunity to review and respond to any preliminary Program Review Report<sup>1</sup> and relevant materials related to the report before any Final Determination is issued; and,
2. Review and take into consideration an institution's response in any Final Determination, and include in the Final Determination:
  - a. A written statement addressing the institution's response;
  - b. A written statement of the basis for such report or determination; and
  - c. A copy of the institution's response.

The Department considers the institution's response to be the written narrative (to include e-mail communication). Any supporting documentation submitted with the College's written response will not be attached to the Final Program Review Determination (FPRD) letter. However, it will be retained and available for inspection by Roxbury upon request. Copies of the Program Review Report, the College's response, and any supporting documentation may be subject to release under the Freedom of Information Act (FOIA) and also may be provided to other oversight entities after the FPRD is issued.

Please be sure that your response conforms to the Department's standards for the protection of Personally Identifiable Information (PII). PII is any information about an individual which can be used to distinguish or trace an individual's identity (some examples are name, social security number, date, and place of birth). Please review the enclosure entitled "Protection of Personally Identifiable Information" for further guidance.

Records relating to the period covered by this program review must be retained until the latter of the resolution of the violations identified during the review or the end of the regular record retention period applicable to all Title IV records including *Clery Act*-related documents under 34 C.F.R. §668.24 (e).

We would like to express our appreciation for the courtesy extended during the review process thus far. Please include the Program Review Control Number (PRCN) noted above in all correspondence relating to this report. If you have any questions concerning this report or the program review process, please contact Mr. Donald Tantum on 215-656-6467 or at [Donald.Tantum@ed.gov](mailto:Donald.Tantum@ed.gov).

Sincerely,



James L. Moore, III  
Senior Advisor  
Clery Act Compliance Team

Cc: Mr. Oscar Walker, Director of Public Safety  
Mr. Kevin Hepner, Vice President of Administration and Finance

---

<sup>1</sup> A "preliminary" Program Review Report is the Program Review Report. The Department's Final Program Review Report is the Final Program Review Determination (FPRD).

## **PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION**

Personally Identifiable Information (PII) being submitted to the Department must be protected. PII is any information about an individual which can be used to distinguish or trace an individual's identity (some examples are name, social security number, date and place of birth).

PII being submitted electronically, or on media, must be encrypted. The data must be submitted in a .zip file encrypted with Advanced Encryption Standard (AES) encryption (256-bit is preferred). The Department uses WinZip. However, files created with other encryption software are also acceptable, provided that they are compatible with WinZip and are encrypted with AES encryption.

The Department must receive an access password to view the encrypted information. The password must be e-mailed separately from the encrypted data. The password must be 12 characters in length and use three of the following: upper case letter, lower case letter, number, special character. A manifest must be included with the e-mail that lists the types of files being sent (a copy of the manifest must be retained by the sender).

Hard copy files and media containing PII must be:

- sent via a shipping method that can be tracked with signature required upon delivery
- double packaged in packaging that is approved by the shipping agent (FedEx, DHL, UPS, USPS)
- labeled with both the "To" and "From" addresses on both the inner and outer packages
- identified by a manifest included in the inner package that lists the types of files in the shipment (a copy of the manifest must be retained by the sender).

PII data cannot be sent via fax.

Prepared for:

**Roxbury Community College**

---

**OPE ID: 011930 00**

**PRCN: 201220327921**

Prepared by:

**U.S. Department of Education**

**Federal Student Aid**

**Clery Act Compliance Team**

**Program Review Report**  
**December 5, 2016**

## Table of Contents

<b>A. The Clery Act and DFSCA.....</b>	<b>2</b>
<b>B. Institutional Information.....</b>	<b>4</b>
<b>C. Background and Scope of Review .....</b>	<b>5</b>
<b>D. Findings.....</b>	<b>10</b>
Finding #1: Lack of Administrative Capability.....	10
Finding #2: Failure to Compile and Disclose Crime Statistics.....	13
Finding #3: Failure to Establish an Adequate System for Collecting Crime Statistics From All Required Sources .....	15
Finding #4: Timely Warning Issuance and Policy Violations.....	17
Finding #5: Failure to Maintain an Accurate and Complete Daily Crime Log.....	19
Finding #6: Failure to Publish and Distribute an Annual Security Report in Accordance with Federal Regulations .....	20
Finding #7: Drug and Alcohol Abuse Prevention Program Requirements Not Met.....	22
<b>Appendix A - Supplemental Document Production .....</b>	<b>26</b>

## A. The Clery Act and DFSCA

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*), in §485(f) of the Higher Education Act of 1965, as amended, (HEA), 20 U.S.C. §1092(f), is a Federal consumer protection statute that provides students, parents, employees, prospective students and employees, and the public with important information about public safety issues on America's college campuses. Each domestic institution that participates in the Federal student financial aid programs under Title IV of the HEA must comply with the *Clery Act*. The institution must certify that it will comply with the *Clery Act* as part of its Program Participation Agreement (PPA) to participate in the Title IV, Federal student financial aid programs.

The *Clery Act* requires institutions to produce and distribute an Annual Security Report (ASR) containing its campus crime statistics. Statistics must be included for the most serious crimes against persons and property that occur in buildings or on grounds that are owned or controlled by the institution or recognized student organizations as well as on adjacent and accessible public property. These crimes are deemed to have been reported anytime such an offense is brought to the attention of an institution's campus police or security department, a local or state law enforcement agency of jurisdiction, or another campus security authority (CSA). A CSA is any institutional official who is 1) designated to receive reports of crime and/or student or employee disciplinary infractions, such as Human Resources and Alternative Dispute Resolution professionals and/or 2) an official that has significant responsibilities for student life or activities such as residential life staff, student advocacy and programming offices as well as athletic department officials and coaches.

The ASR also must include several statements of policy, procedures, and programmatic information regarding issues of student safety and crime prevention. The *Clery Act* also requires institutions to maintain a daily crime log that is available for public inspection and to issue timely warnings and emergency notifications to provide up-to-date information about ongoing threats to the health and safety of the campus community. In addition, the *Clery Act* requires institutions to develop emergency response and evacuation plans. Institutions that maintain student residential facilities must develop missing student notification procedures and produce and distribute an Annual Fire Safety Report (AFSR) containing fire statistics and important policy information about safety procedures, fire safety and suppression equipment, and what to do in the case of a fire. Finally, the *Clery Act* amendments that were included in Section 304 of the Violence Against Women Reauthorization Act of 2013 went into effect on July 1, 2015. These provisions are aimed at preventing campus sexual assaults and improving the response to these crimes when they do occur.

The *Clery Act* is based on the premise that students and employees are entitled to accurate and honest information about the realities of crime and other threats to their personal safety and the security of their property. Armed with this knowledge, members of the campus community can make informed decisions about their educational and employment choices and can take an active role in their own personal safety and to secure and protect their personal property. For that reason, the office of Federal Student Aid (FSA) must ensure that the information disclosed in each ASR and AFSR is accurate and complete. FSA uses a multi-faceted approach to ensure that

institutions comply with the *Clery Act*, which includes providing technical assistance and training programs and materials as well as monitoring and enforcement through program reviews.

FSA may initiate a campus crime program review as a result of a complaint or on public reports about crimes and crime reporting and prevention at a particular institution. FSA also conducts Quality Assurance Reviews in cooperation with the FBI's Criminal Justice Information Service (CJIS) Audit Unit. Program reviews entail an analysis of campus police and security records and interviews with institutional officials, crime victims, and witnesses. During a program review, an institution's policies and procedures related to campus security matters are also examined to determine if they are accurate and meet the needs of the campus community.

Because more than 90% of campus crimes are alcohol and drug-related, the Secretary of Education has delegated oversight and enforcement responsibilities for the Drug-Free Schools and Communities Act (*DFSCA*), in §120 of the HEA, 20 U.S.C. §1011(i) to FSA. The *DFSCA* requires all institutions of higher education that receive Federal funding to develop and implement a comprehensive drug and alcohol abuse prevention program (DAAPP) and certify to the Secretary that the program is in place. The program must be designed to prevent the unlawful possession, use, and distribution of drugs and alcohol on campus and at recognized events and activities.

On an annual basis, each institution must provide a DAAPP disclosure to all current students (including all students enrolled for any type of academic credit except for continuing education units) and all current employees that explains the educational, disciplinary, health, and legal consequences of illegal drug use and alcohol abuse as well as information about available counseling, treatment, and rehabilitations programs, including those that may permit former students or employees to return following expulsion or firing. The distribution plan must make provisions for providing the DAAPP disclosure annually to students who enroll after the initial distribution and for employees who are hired at different points throughout the year.

Finally, the *DFSCA* requires institutions to conduct a biennial review to determine the effectiveness of its DAAPP to identify areas requiring improvement or modification and to assess the consistency of enforcement actions imposed on students and employees that are found to be in violation of applicable Federal, state, and local drug and alcohol-related statutes or ordinances and/or institutional policies and codes of conduct.

Proper implementation of the *DFSCA* provides students and employees with important information about the detrimental consequences of illicit drug use and alcohol abuse. The conduct of a meaningful biennial review provides the institution with quality information about the effectiveness of its drug and alcohol programs. Any failure to implement these requirements may contribute to increased drug and alcohol abuse on-campus as well as an increase in drug and alcohol-related violent crime. The *DFSCA* is monitored and enforced by the U.S. Department of Education (the Department).

## B. Institutional Information

Roxbury Community College  
1234 Columbus Avenue  
Roxbury Crossing, MA 02120-3400

**Institution Type:** 2-Year, Public

**Highest Level of Offering:** Associates Degree

**Academic Calendar:** Semester Hours

**Accreditation Agency:** New England Assoc. of Schools and Colleges -  
Commission on Institutions of Higher Education

**Current Student Enrollment:** 2,264 (Approx. Fall 2015)

**Percentage of Students Receiving Title IV Funds:** 80% (Approx. Fall 2015)

**Title IV Participation:** (Per U.S. Department of Education Database)

### 2014-2015 Award Year

Federal Pell Grant Program	\$ 6,343,559
Federal Supplemental Educational Opportunity Grant Program	\$ 189,738
Federal Work Study Program	\$ 132,199
<b>Total</b>	<b><u>\$ 6,665,496</u></b>

### **The Institution**

Roxbury Community College (RCC; the College) is a public, two-year coeducational institution founded in 1973. The College offers programs in liberal arts, business administration, health sciences, human services, and the technologies. RCC is a comprehensive urban community college situated along three and half city blocks in the Roxbury Crossing neighborhood of Boston, Massachusetts. RCC grants associate degrees and certificates.

The campus of RCC is comprised of four buildings supporting student, academic, and administrative services. RCC's campus includes an indoor track and basketball facility. The Reggie Lewis Track and Athletic Center (RLTAC) is governed by RCC and primarily serves RCC students athletes, local high school students, and college and club teams. In addition, the RLTAC can be rented for public or private events.

At the time of the site visit, the RCC campus security operation was staffed by a Director of Facilities Management and Public Safety, who is responsible for facility planning, maintenance,



development and management, and campus safety. Currently, the College employs an Interim Director of Security. The head of security reports directly to the Vice President of Administration and Finance. In addition, RCC contracts with a private company to provide security services. The campus safety office is comprised of non-sworn security officers who are responsible for patrolling the campus and responding to safety-related complaints, completing incident reports, and maintaining activity logs. At times, the RLTAAC has contracted security services separate from the RCC main campus. The day-to-day operations of the RLTAAC security services may or may not fall under the oversight of the Director of Facilities Management & Public Safety; however the collection of incident reports and crime statistics would. The Director of Facilities Management & Public Safety is RCC's primary campus security authority and is responsible for collecting all campus crime statistics. RCC primarily relies on the Boston Police Department for law enforcement assistance.

### **C. Background and Scope of Review**

The Department conducted an on-site campus crime program review at RCC from February 27, 2012 to March 2, 2012, and returned to campus on May 14, 2012 to May 17, 2012. The site visit was conducted jointly by the New York School/Boston School Participation Division (NYBSPD) and the Clery Act Compliance Team (CACT) and was led by Don Tantum. The review was initiated when the Department received a complaint from two RCC employees, Mr. Raymond O'Rourke, Director of Financial Aid and Mr. Thomas Galvin, Director of Facilities and Public Safety, alleging violations of the *Clery Act* and other Title IV requirements. Specifically, the complaint claimed that RCC underreported sexual assaults and other violent crimes and also failed to produce ASRs, issue timely warnings, and maintain a crime log, among other allegations. In addition, the complaint alleged RCC made ineligible disbursements of Title IV, Federal Student Aid funds and also made false statements to Department officials that conducted an earlier program review at the institution. After receiving the complaint, the CACT conducted preliminary research and determined that a campus security program review was necessary. The allegations associated with the improper disbursement of Title IV funds were referred to the NYBSPD for appropriate action.

The objective of this review was to evaluate RCC's compliance with the *Clery Act* and the *DFSCA*. The review has included a careful examination of RCC's publications, written agreements, security incident reports, investigative reports, arrest records, and disciplinary files as well as the College's policies, practices, procedures, and programs related to the *Clery Act*. In addition, the Department reviewed the campus crime statistics submitted by RCC to the Department and those provided to students and employees in the College's ASRs. The Department's initial review focused on the year covered by the ASRs for calendar years 2006-2012; however, as a result of additional complaints received and information acquired during the review the scope was expanded. The review team interviewed several current and former institutional officials with *Clery Act* responsibilities as well as current and former students. The review team also examined RCC's drug and alcohol abuse prevention information.

The Department started its on-site review on February 27, 2012 and returned to campus on May 14 2012. The on-site activity focused on interviewing RCC staff and students and gathering

documents concerning *Clery Act* operations. In addition, the roles of campus staff regarding campus safety, communications, reporting structures, compliance and accountability, and operational management were assessed. During the first site visit, RCC staff were not able to produce most of the requested documentation and few officials made themselves available for interviews. The Department found it necessary to return on May 14, 2012 to continue its fieldwork. RCC officials stated that they were willing to produce requested records related to *Clery*-reportable crimes; however, the review team was advised that most of them could not be located or that they were otherwise not available. Some records were found and eventually produced several months later.

The Department must note that the allegations against RCC resulted in multiple audits and investigations going on at about the same time. State auditors were attempting to conduct A-133 Single Audit Act review while a separate accounting firm and a law firm were retained to conduct an internal audit and investigation of the allegations raised by various complainants.

Prior to the on-site review by the Department, the Board of Trustees of RCC entered into a letter of engagement with O'Connor & Drew P.C. (OD) to investigate the numerous allegations concerning *Clery Act* compliance, academic advising, fiscal mismanagement, and improper employment contracts. This engagement was initiated approximately three months prior to the Department's site visit. OD released its report in the spring of 2012. OD's investigation results, noted in a report titled *RCC Agreed-Upon Procedures Report*, specifically addressed a "Failure to report a crime as required under the *Clery Act* and compliance with other requirements of the Act." OD found that the alleged sexual assaults dating back to 2003 met the reporting requirements of the *Clery Act*; however, RCC failed to disclose these criminal incidents. Furthermore, RCC's handling of another case that precipitated the dismissal of a faculty member also violated the *Clery Act's* reporting requirements. OD's review of the crime statistics submitted to the Department's website for 2001 through 2010 revealed that the college reported zero "forcible sexual offenses - on campus" in 2003, the year in which the incident was first alleged, and in 2006, the year that the faculty member was dismissed in connection with a separate sexual assault. The incidents were again reported in 2008 and 2010 to various RCC officials and the incidents still were not disclosed to the campus community or to the Department. OD also noted several other deficiencies, including an inadequate crime log, an incomplete list of CSAs, incomplete crime statistics for prior years, and a failure to produce an ASR, that are very similar to the violations documented in this report.

Public concern about RCC's management of several core administrative functions, *Clery Act* compliance among them, have been well-documented by the Boston news media in recent years. Local media outlets consistently reported on these concerns and as a result, RCC's President resigned under pressure on June 19, 2012. Then, in September of 2012, the Governor appointed six new board members. During this administrative change, the RCC Board of Trustees determined that an investigation into allegations that had been brought to the Board's attention concerning the conduct of RCC employees working within the College as well as RCC's Reggie Lewis Track and Athletic Center (RLTC) was necessary and initiated a second review of the allegations previously examined by OD. The allegations claimed that RCC administrators failed to account for and disclose accurate sexual assault crime statistics in the ASR. Complainants

also alleged that: 1) RCC provided a student with scholarship funds in exchange for their silence concerning a sexual assault; 2) that officials failed to intervene to stop an illegal sexual interaction with a minor; and, 3) that officials did not take appropriate action to stop a RLTC employee who allegedly committed multiple sexual assaults on female athletes.

On August 21, 2012, the Executive Committee of the RCC Board of Trustees engaged Goodwin Procter, LLP to conduct an independent investigation of RCC, in addition to engaging the law firm to investigate the allegations concerning board-level issues such as governance, organizational, and compliance related matters, the firm also investigated certain allegations of sexual assault. Goodwin Procter LLP (Independent Counsel) conducted this investigation and issued a report on March 4, 2013.

In relevant part, the Goodwin Procter report stated that RCC failed to comply with its obligation under the *Clery Act* to disclose sexual assaults to the Department. In addition, Goodwin Procter stated the following concerning RCC:

“There were serious deficiencies in RCC’s controls, policies, training and organization that left the College ill-equipped to properly respond to incidents of crime – including allegations of sexual assault – on campus. For instance, the Board historically has been lacking in certain key areas of competency, has not had any formal committee responsible for compliance and audit and has not updated its by-laws to reflect changes it has adopted over time. RCC struggled with hiring and retaining senior administrators with the appropriate experience and competencies for an academic institution. Many administrators lack knowledge of their obligations under the *Clery Act* and Title IX to investigate, report and take corrective action in response to alleged incidents of sexual assault. These weaknesses, in addition to gaps in the College’s policies and procedures, limited resources and inadequate training, played a significant role in RCC’s failures.”

### **Special Note Regarding Claims of Retaliation:**

As mentioned in the “Background and Scope of Review” section of this report, the Department received a complaint from Mr. O’Rourke and Mr. Galvin. The complaint alleged serious violations of the *Clery Act* by RCC. After reviewing the complaint, the Department conducted its own preliminary research and determined that an on-site campus crime program review was warranted. The decision to conduct this program review was specifically informed by the complaint.

The *Clery Act* is first and foremost a public safety and consumer protection law based on the premise that students, employees, parents, and other stakeholders are entitled to accurate and complete campus safety and crime prevention information. To achieve the Act’s goal of making campuses safer, everyone must play a part. Members of each campus community must be vigilant and responsible to help ensure their own safety and that of others. The Department depends on concerned members of the campus community, other stakeholders, and the media to

inform the Department about dangerous conditions or when they have good reason to question an institution's compliance with the *Clery Act*. To help ensure that complainants are not subjected to retaliation or other abuse, the Department's regulations specifically prohibit any act by an institution or any person acting on behalf of an institution to "retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual" for acting in accordance with the *Clery Act* or in response to a person's efforts to see that the *Clery Act* is effectively enforced." See §485(f)(17) of the HEA, 20 U.S.C. 1092(a)(17). During the site visit, Department officials specifically advised RCC officials to make every effort to prevent any acts of retaliation against complainants by College personnel or persons acting on their behalf.

Unfortunately, complainants provided the Department with information that indicated that RCC officials initiated actions that may constitute retaliation against RCC employees who cooperated with the Department's review. Mr. Galvin and Mr. O'Rourke, the former RCC employees who filed the initial complaint stated that once their actions became known, they were referred to derisively as "the whistleblowers" by RCC officials. Other persons who provided information to the review team also claimed that they were retaliated against or otherwise treated unfairly, primarily by management at the RLTC.

Per the complainants, RCC's actions against these employees increased in severity after the Department intensified its oversight activities. During the course of this review, RCC administrators allegedly directed other staff members to "not talk with them [Galvin and O'Rourke] as they are trouble." RCC officials referred to and identified Mr. O'Rourke and Mr. Galvin as "the whistleblowers," while advising others to "stay away" from them. Some of these statements were allegedly made by senior RCC administrators, some of whom were themselves CSAs for *Clery Act* purposes.

As Director of Financial Aid, Mr. O'Rourke claimed that he repeatedly attempted to improve RCC's compliance with Title IV financial aid regulations. He further represented that after those efforts failed, he attempted to bring attention to the most serious areas of noncompliance with Title IV and *Clery Act* requirements, both internally and externally. He also claimed that his well-intentioned efforts resulted in further retaliatory actions and marginalization by senior RCC administrators. In this context, Mr. O'Rourke alleged that RCC employees were repeatedly told to stay away from him, identifying him as a "troublemaker." He further states that College officials referred to him and Mr. Galvin in pejorative terms, including calling them "white devils." These actions by RCC administrators reportedly caused Mr. O'Rourke to be in fear of serious retribution and other negative consequences.<sup>1</sup>

Mr. Galvin served as RCC's Director of Facilities Management & Public Safety from April 2007 to August 13, 2012, when he was terminated. In a prepared statement made by RCC's then President, Mr. Galvin stated that he was referred to as "the individual who had the responsibility

---

<sup>1</sup> The Department notes that the records in its possession indicate that Mr. O'Rourke was not formally terminated from his employment until June 2014. Rather, Mr. O'Rourke alleged that he was constructively terminated earlier as a result of actions taken by RCC management, including but not limited to manipulation of his medical leave. Mr. O'Rourke further alleged that many of his serious health problems were the result of mistreatment at the hands of senior College officials.

to report *Clery Act* violations” and insinuated that compliance would improve because he was “no longer employed by the College.” Mr. Galvin alleged that that he repeatedly attempted to reform RCC’s campus safety and *Clery Act* compliance program; however, senior management undermined his efforts. Like Mr. O’Rourke, he also claimed that he made his concerns known to his superiors and only reported violations to the Department when he believed that he had no other option. Also like Mr. O’Rourke, Mr. Galvin further alleged that he was mistreated by superiors as well as colleagues after he was singled out as a “whistleblower” and a problem employee by senior management. Both men claim that the resultant treatment caused them to suffer health problems, exacerbate existing health issues, and to experience serious emotional distress.

Under the PPA, the institution is responsible for complying with all regulations governing participation in the Title IV, Federal Student Aid programs, including the *Clery Act*. 34 C.F.R. §668.14(c)(2). Under the *Clery Act*, the institution is responsible for producing and distributing accurate and complete ASRs, submitting crime statistics to the Department, issuing timely warnings and emergency notifications to the campus community, maintaining an accessible daily crime log, among other requirements. In this context, the Department reminds that *Clery Act* compliance is an institutional obligation that cannot typically be accomplished fully by one person. There is no question that appropriate remedial action in the face of such serious violations may rightly include the termination of responsible staff. However, given the facts of the case, the treatment of these individuals during their term of employment and their eventual termination raise some serious concerns. For example, the available record does indicate that both gentlemen brought their concerns about problems in their areas of responsibility to the attention of senior management as early as 2010. In both cases, the complainants further alleged that their efforts to remediate were undermined by superiors. At the same time, management did not take any specific action to address their concerns nor did they take any particular punitive actions against either former employee for incompetency or dereliction of duty at that time. Instead, the complainants pointed out that no specific action was taken until they brought their concerns to the attention of the Department. This point seems to support the complainants’ retaliation claims. The complainants pointed out that they felt that they had no other choice but to file a complaint with the Department, an act that would specifically call attention to myriad violations that occurred during their tenure. For these reasons, both men stated that they believed that the alleged acts of retaliation were a direct result of their willingness to report serious concerns to the Department and to cooperate with this investigation.

As noted above, the Department relies on members of all campus communities to come forward with concerns about *Clery Act* compliance. A guiding principle of the *Clery Act* is that students, employees, parents, other stakeholders and the public are entitled to accurate, complete, and transparent information about campus safety and crime prevention matters. For the *Clery Act* to be effective, students and employees must be assured that they can come forward with concerns about campus safety issues without fear of retaliation or other negative outcomes. Any perceived detrimental impact to a person affiliated with RCC as the result of submitting a good-faith complaint to the Department triggers a special regulatory concern and may have a chilling effect on the willingness of others to come forward.

For all of these reasons, the Department makes an initial finding that the alleged actions taken against these former employees constituted a violation of §485(f)(17) of the HEA, 20 U.S.C. §1092(a)(17). This statutory provision is specifically intended to prohibit the types of actions that are alleged to have been taken against these individuals. The information further indicates that the various actions and eventual termination of these individuals was the result, at least in significant part, of their attempts to ensure that the *Clery Act* was followed by the College and enforced by the Department. Therefore, RCC is required to address these allegations of retaliation and mistreatment with specificity in its official response to this Program Review Report. All representations made and positions taken in the response must be substantiated with credible supporting documentation. Finally, the College is required to provide a full accounting of any steps taken to remediate the retaliatory acts alleged by the complainants and provide an update on the current status of any claims by the former employees.

#### **Disclaimer:**

Although the review was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning RCC'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 RCC of its obligation to comply with all of the statutory or regulatory provisions governing the Title IV, HEA programs including the *Clery Act* and *DFSCA*.

#### **D. Findings**

This report includes information about the Department's initial findings. These findings are not final. The Department will issue its final conclusions in a subsequent Final Program Review Determination (FPRD) letter.

During the review, several areas of noncompliance were noted. Findings of noncompliance are referenced to the applicable statutes and regulations and specify the actions that must be taken by RCC to bring operations into compliance with Federal laws and regulations.

#### **Finding #1: Lack of Administrative Capability**

##### **Citation:**

To begin and to continue to participate in any program authorized under Title IV of the HEA, an institution must demonstrate that it is capable of adequately administering the program under the standards established by the Secretary. Among other requirements, the Secretary considers an institution to have administrative capability if it administers the Title IV, HEA programs in accordance with all statutory provisions of, or applicable to, Title IV of the HEA, and all applicable regulatory provisions prescribed under that statutory authority. 34 C.F.R. §668.16(a). The Secretary's standards of administrative capability also require that an institution employ "an adequate number of qualified persons" as well as ensure that program activities are undertaken with appropriate "checks and balances in its system of internal controls." C.F.R. §668.16(b)(2);

34 C.F.R. §668(c)(1). An administratively capable institution also “has written procedures for or written information indicating the responsibilities of the various offices with respect to . . . the preparation and submission of reports to the Secretary.” 34 C.F.R. §668.16(b)(4). These standards apply to all aspects of the Title IV Program regulations including the *Clery Act* and *DFSCA*.

### **Noncompliance:**

RCC has substantially failed to develop and implement an adequate *Clery Act* compliance program since the Act’s inception. The violations are interrelated and show that RCC failed to adequately report required crime statistics, develop and implement required policies, and meet its responsibility to provide important security information to the campus community. Accordingly, the Department finds that the College lacked the ability and/or willingness to properly implement and to administer *Clery Act* and *DFSCA* requirements. RCC demonstrated a lack of institutional governance, training, coordination, oversight, and supervision of the College’s campus security operations.

The regulations that govern the Title IV, Federal student financial aid programs establish certain standards that all participating institutions must maintain to be considered administratively capable. The findings detailed in this Program Review Report indicate that RCC lacked an adequate system of internal controls and did not exercise or maintain compliance with the *Clery Act* during the initial review period. The evidence reviewed by the Department shows that RCC: 1) failed to adequately report required crime statistics; 2) failed to identify employees meeting the definition of CSAs and require them to provide crime statistics for inclusion in the ASR; 3) failed to develop and adequately implement certain required crime reporting and security policies and procedures; and, 4) otherwise failed to meet its responsibility to provide vital and timely security information to the campus community and the Department. The evidence also demonstrates that RCC personnel were unaware of the requirements of *Clery Act* compliance and that the College failed to exercise sufficient oversight, governance, or coordination of those College officials and departments that were responsible for policing, student and employee conduct, and the delivery of other safety-related services. The result of these breakdowns was a general failure to keep students, employees, other stakeholders, and the larger campus community fully informed of crime and other threats to their safety and security as they would have been had the College developed and implemented a comprehensive and fully-compliant *Clery Act* program.

Compliance with the *Clery Act*, the *DFSCA* and the Department’s regulations are specifically required by the terms and conditions of RCC’s PPA. The College’s current PPA was executed on May 8, 2015. RCC was granted provisional certification through March 31, 2018. The PPA requirements can be found at 34 C.F.R. §668.14(c). The Department will consider all available information, including the determinations made during this review, in its evaluation of the College’s next application for recertification.

In this context, the Department notes its concern about the pattern of noncompliance observed during the site visit and subsequent fieldwork. These violations call RCC’s ability and

willingness to properly administer the Title IV, Federal student aid programs into serious question. Compliance with the *Clery Act* and the *DFSCA* are essential to demonstrating the stewardship expected of a Federal fiduciary and are an important indicator of the College's commitment to its students, employees, the wider campus community, and the Department.

In addition to the specific findings of noncompliance noted in this report, the Department's program review team identified numerous and substantive weaknesses that contributed to the occurrences of these violations, as follows:

- 1) RCC failed to designate an individual with sufficient authority and training to oversee *Clery Act* compliance;
- 2) RCC failed to provide or arrange for *Clery Act* training for public safety staff and other institutional officials with significant *Clery Act*-related responsibilities;
- 3) RCC failed to implement a system of policies and procedures for RCC and Public Safety staff to effectively carry out their responsibilities to comply with the *Clery Act*;
- 4) RCC failed to establish clear paths of communication and systems of coordination to ensure the effective compilation and disclosure of crime statistics and information;
- 5) RCC failed to establish a system that ensured standardization, custody, and control of important records needed to comply and document compliance with the *Clery Act*;
- 6) RCC failed to maintain appropriate administrative oversight and control over the RLTAAC and other campus buildings and properties; and,
- 7) RCC violated multiple requirements of the *DFSCA*; RCC failed to develop and implement a comprehensive DAAPP.

Impaired administrative capability increases the likelihood that the statutes and regulations that govern the Title IV Programs will not be followed. With regard to the *Clery Act* and *DFSCA*, such impairment may result in an institution's systemic failure to provide students and employees with important campus crime information and services that are essential to their safety and security. Impaired administrative capability and weak internal controls are an indication that an institution lacks the ability or willingness to comply with Federal regulations.

#### **Required Action:**

As a result of these violations, RCC is required to take all necessary corrective actions to cure the violations identified in this Program Review Report and to adequately address the numerous organizational weaknesses that contributed to the violations. In addition, the College must develop and implement a system of policies and procedure improvements to ensure that these findings do not recur. As part of that process, the College will be required to develop and implement a comprehensive corrective action plan.



Based on the evaluation of all available information, including RCC's response, the Department will determine appropriate additional actions and advise the College accordingly of these in the FPRD.

## **Finding #2: Failure to Compile and Disclose Crime Statistics**

### **Citation:**

The *Clery Act* and the Department's regulations require institutions participating in the Federal student financial aid programs under Title IV of the HEA, to compile and publish statistics concerning the occurrence on campus of the following incidents: homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. In addition, institutions are required to disclose arrests and disciplinary actions related to the violations of certain Federal or state drug, liquor and weapons laws.  
*34 C.F.R. §668.46(c)(1).*

The Department's regulations require that, for *Clery Act* reporting purposes, participating institutions must compile crime statistics using the definitions of crimes provided in 34 C.F.R. Part 668, Appendix A to Subpart D and the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Hate Crime Data Collection Guidelines and Training Guide for Hate Crime Data Collection. *34 C.F.R. §668.46(c)(7).* Additionally, institutions must provide a geographic breakdown of the reported crime statistics according to the following categories: (i) on campus; (ii) of the crimes reported on campus, the number of crimes that took place in dormitories or other residential facilities for students on campus; (iii) in or on a non-campus building or property; (iv) accessible and adjacent public property. *34 C.F.R. §668.46(c)(4).* Finally, each institution must also submit its crime statistics to the Department for inclusion in the Department's "Campus Safety and Security Data Analysis Cutting Tool" and the College Navigator. *34 C.F.R. §668.41(e)(5).*

### **Noncompliance:**

RCC failed to compile and publish accurate and complete crime statistics for calendar years 2003 through and including 2011. The review team determined that RCC had no written policies or procedures for compiling and reporting crime statistics. In addition, based on interviews and available documentation (or lack thereof), the review team determined that RCC did not publish or distribute an ASR prior to 2012. The Department's initial review focused on ASRs for the years of 2006 through 2012; however, based on documentation, complaints, and sexual assault allegations the review team expanded its review to include the years of 2001 to 2012.

RCC does not have an adequate structure of governance, control, policies or procedures to adequately compile and disclose statistics. RCC has (1) no written procedures for maintaining reports; (2) an incomplete list of designated CSAs; (3) persistent recordkeeping weaknesses; and, (4) systemic *Clery Act* and compliance failures such as failure to publish and distribute an ASR.

As noted throughout this report, the College substantially failed to implement a minimally adequate *Clery Act* compliance program. Untrained campus security officials were assigned primary *Clery Act* duties for the College. This is evidenced by the College's failure to disclose forcible sex offenses (FSOs). The RCC and RLTAAC administrators had knowledge of multiple sexual assault allegations and failed to disclose the statistics in the College's ASR. One RCC adjunct professor had multiple complaints of inappropriate sexual contact reported to RCC administrators by both employees and students. Eventually this employee was terminated. The sexual assault allegations were reportable offenses under the *Clery Act*, yet RCC failed to report any FSO statistics to the Department or to the community.

The failure to investigate and report incidents of sexual assault is an ongoing problem at RCC and across all administrative lines. Multiple CSAs have documented sexual assaults that have gone unreported for years. The RLTAAC has documented sexual assaults between coaches/administrators and students, yet the incidents were never reported. College administrators and RLTAAC administrators have continually failed to report sexual assaults. The human resource department has terminated employees due to sexual assault allegations, yet nothing was reported to the Department or ever published and distributed. The student disciplinary process has documented incidents that require disclosure for *Clery*-reportable statistics, yet no statistics are reported.

RCC has no policies or procedures to collect, compile, preserve, and disclose statistics to the Department. The College has failed to provide evidence of a published ASR and the distribution of such a document for all years prior to 2012. RCC's systemic failure to comply with disclosing statistics triggers a special regulatory concern for the Department and may indicate a general failure to properly implement the *Clery Act* and calls into question the College's ability and willingness to properly administer the Title IV, Federal student financial aid programs.

### **Required Action:**

As a result of these violations, RCC is required to take all necessary corrective actions to rectify this violation and all others identified in this Program Review Report. In addition, as discussed below, the College must conduct a full file review of records relating to crime statistics for calendar years 2012 to the present. We note that our review demonstrated that there were serious flaws in the College's campus security statistics for the full review period. The College also must develop and implement a comprehensive system of policies and procedure improvements to ensure that this violation does not recur.

To address the deficiencies identified above, RCC must:

- Conduct a full file review to identify and correct all errors in its crime statistics for calendar years 2012-2015. This requirement applies to all of the violations identified above and all others identified by RCC during the conduct of the institutional self-study and in the preparation of its response. RCC must re-examine all campus safety and other institutional records regarding incidents of crime reported to campus safety and other security-related officials and offices, any office that students and employees are directed

to report matters of crime or conduct and disciplinary matters, such as the Office of Human Resources, as well as any CSAs. Similarly, the College must contact all local law enforcement agencies to request all necessary records to ensure that all incidents of Clery-reportable crimes were identified and classified correctly and that any and all reporting errors have been corrected. RCC also must ensure that crimes evidencing that a victim was targeted for crime on the basis of actual or perceived membership in a covered class are disclosed as hate crimes. This requirement applies to all crime statistics as published in RCC's ASRs and all submissions to the Department's online campus crime database. As part of its response, RCC must also verify that the crime statistics for all Clery-reportable incidents were categorized and disclosed in accordance with the geographical classifications defined in *34 C.F.R. §668.46(c)(4)*.

- Review and improve its policies, procedures, internal controls, and training programs to ensure that all incidents of crime reported to campus safety, security entities, CSAs, and local law enforcement agencies are properly classified in accordance with the definitions in Appendix A to Subpart D of *34 C.F.R. Part 668* and are included in its ASR statistical disclosures.
- Develop appropriate policies and internal controls to ensure that the official charged with compiling the required crime statistics requests information from all CSAs and local law enforcement agencies and that the College provides and publishes complete and accurate crime statistics. In addition, the College must develop and implement procedures to ensure that CSAs receive appropriate regular training. Finally, the College must design and deploy an effective crime statistics data request and collection mechanism for CSAs to use.

Based on the evaluation of all available information, including RCC's response, the Department will determine appropriate additional actions and advise the College accordingly of these in the FPRD.

**Finding #3: Failure to Establish an Adequate System for Collecting Crime Statistics From All Required Sources**

**Citation:**

The *Clery Act* and the Department's regulations require institutions to compile and publish accurate and complete statistics concerning the reported occurrence of the following crimes on campus: homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assaults, burglary, motor vehicle theft, and arson. Institutions must also publish statistics providing the numbers of arrests and disciplinary actions related to violations of Federal, state or local drug, liquor, and weapons laws. *34 C.F.R. §668.46(c)(1)(B)*. To comply with these requirements, institutions must develop a system that allows for the collection of incidents of crime reported to any CSA. *34 C.F.R. §668.46(c)(2)*. Federal regulations define a CSA as a campus police department or campus security department of an institution as well as any

individuals who have significant responsibility for student and campus activities including but not limited to athletics, student housing, student conduct, and programming offices.  
34 C.F.R. §668.46(a).

### **Noncompliance:**

RCC substantially failed to gather statistics for incidents of crime reported to CSAs as well as failing to include them in its campus crime statistics. This very serious, systemic, and persistent condition contributed significantly to RCC's ongoing failure to disclose accurate and complete campus crime statistics in its ASRs throughout the review period.

Since the inception of the *Clery Act*, the campus safety office has been charged by the College with compiling crime statistics and preparing the ASR. The day-to-day *Clery Act* compliance functions were assigned solely to the Director of Public Safety. The Director of Public Safety was not provided any training on the *Clery Act* nor was he or she trained or experienced in setting up a compliance program.

During interviews with the review team, RCC officials reported that none of the employees charged with implementing the *Clery Act* were aware of the requirement to include statistics of crime reported to CSAs in the ASR until at least 2012. RCC has substantially failed to implement the *Clery Act* in several material respects. In particular, it was at this time that public safety officials realized that the *Clery Act* required the inclusion of statistics for incidents of crime reported to CSAs.

The review team determined that RCC had no written policies or procedures for compiling and reporting crime statistics. In addition, the College could not produce documents evidencing that RCC ever published and distributed an ASR prior to 2012. RCC officials were ill-equipped to develop and implement a means to fix it. The RCC Public Safety Office did not have the requisite expertise, inclination, or resources to identify all CSAs. The RCC Public Safety Office also lacked the authority to compel CSAs at the College and the RLTAAC to perform the basic crime reporting functions and other obligations conferred upon CSAs under the *Clery Act*. The Public Safety Office also did not have the technical expertise to develop and deliver training for CSAs nor did it have sufficient influence or support from RCC top administrators to persuade CSAs to participate in training. The RCC failed to govern and engage staff at RCC to address day-to-day *Clery Act* compliance. The College completely failed to implement the *Clery Act* requirements to such a degree that information reported internally to the RCC community and externally to visitors and external guests was deemed inadequate. Specifically, prior to 2012 the College did not publish or distribute an ASR. Internal controls and governance over use of RLTAAC facilities, security contracts, contracts for leasing RLTAAC space, and other campus property lacked administrative oversight, control, policies, and procedures.

Although the effect of RCC's systemic failure to collect crime reports from CSAs cannot be reliably quantified, it is abundantly clear that it caused RCC's crime statistics to be substantially and systemically under-reported. This failure resulted in an ongoing material misrepresentation of the occurrence of *Clery*-reportable crimes on all RCC campus property during the entirety of

the review period. Indeed, the Department's review clearly suggests that this condition existed since 1992, the first year that institutions were required to comply with the *Clery Act*. Failure to coordinate information from all relevant sources and to compile, publish, and distribute accurate and complete crime data deprives the campus community of important security information.

#### **Required Action:**

As a result of these violations, RCC must establish policies and procedures for identifying all CSAs and for requesting and compiling statistics of all Clery-reportable incidents of crime that are reported to any CSA or other official or office that may receive such reports. These policies and procedures must address access, communication, and coordination of campus crime statistics and information by and among institutional officials. In addition, the College must develop a formal system for requesting, receiving, and compiling crime reports from CSAs so that an accurate number of reported crimes can be included in its official campus security statistics. Finally, RCC must develop and deliver an annual training program to educate CSAs about the *Clery Act* and inform them about the reporting obligations that are conferred upon them by the law

The Department will require RCC to make a diligent search for relevant source documents and other information that are in the possession of certain current or former CSAs in an attempt to gather as much information as possible about the extent of this serious and ongoing violation into calendar years 2012-2015, with the full acknowledgement that it will not be possible for RCC to identify all incidents that were reported to CSAs during this time. The College should be able to provide documentation regarding many of the Clery-reportable crimes that were reported to various College officials. RCC must take all necessary action to identify all CSAs and other designated reporting entities by job title and provide a list of the actual number of such positions identified so far. This information will be used to estimate the effect of this violation. As such, corrective actions in this area will focus primarily on corrective measures that will allow the College to comply going forward. A copy of all new and revised policies and procedures as well as the CSA list must be submitted with the College's official response to this Program Review Report. In addition, RCC must provide a list of all CSAs who have been trained as well as a detailed plan as to how all future CSAs will be identified and trained.

Based on an evaluation of all available information, including RCC's response, the Department will determine appropriate additional actions and advise the College accordingly of these in the FPRD.

#### **Finding #4: Timely Warning Issuance and Policy Violations**

##### **Citation:**

Under the *Clery Act*, an institution must issue timely warnings to the campus community to inform affected persons of crimes considered to be a threat to students and employees. See §485(f)(3) of 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) may pose a serious or ongoing

threat to students or employees and is reported to a campus security authority. 34 C.F.R. §668.46(e). An institution's ASR must include detailed information about the issuance of timely warnings. 34 C.F.R. §668.46(b)(2)(i).

### **Noncompliance:**

RCC failed to comply with the timely warning provisions of the *Clery Act* due to the absence of any and all required policies and procedures for the issuance of timely warnings. A timely warning policy is required to provide a clear understanding about the procedures the institution will follow to create and transmit timely warning notices. Timely warning notices must be disseminated to give clear and timely notice of ongoing threats to the safety of the campus community in a manner that would aid in the prevention of similar Clery-reportable crimes.

Specifically, RCC failed to issue any timely warnings for the entirety of this program review period, despite several known incidents of Clery-reportable crimes that did in fact pose a serious or ongoing threat to students, employees, and the broader campus community. As noted previously, the College did not produce and distribute ASRs throughout the review period and as a result, also failed to develop, implement, and disclose a time warning policy.

### **Required Action:**

As a result of these violations, RCC must review and revise its current timely warning policy. In accordance with 34 C.F.R. §668.46(e), RCC must develop and implement policies and procedures to facilitate the timely issuance of warnings for *all* Clery-reportable crimes that may pose a serious or an ongoing threat to the campus community. RCC must include in its policy statement for the making of timely warnings all of the required Clery geography that is prescribed by the *Clery Act*.

As part of this process, RCC must consider the range of factors that will influence its process for determining if a warning will be issued, the timing of the notice, the means/media by which it will be disseminated, and then incorporate this information into its policies and procedures. In its response, the College also must explain how the emergency alert system functions within RCC's overall emergency management system and response protocols and its crime prevention and mitigation strategies. The response also must address the College's assessment of the system's effectiveness and outline how effectiveness is tested. Finally, RCC must implement specific procedures to ensure the operative facts of an incident, such as dates, times, and geographic locations, are recorded accurately in its incident reports and daily crime logs to ensure that the information in timely warnings and emergency notifications provide useful and reliable information. Finally, RCC must provide copies of all new and revised internal and public policies and procedures as part of its response to this Program Review Report.

Based on an evaluation of all available information, including RCC's response, the Department will determine appropriate additional actions and advise the College accordingly in the FPRD.

## **Finding #5: Failure to Maintain an Accurate and Complete Daily Crime Log**

### **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 within the campus or immediately adjacent to and accessible from the campus; or 4) within the boundaries of the campus police or security department’s patrol jurisdiction. This reporting requirement applies to all crimes, not merely those crimes listed in 34 C.F.R. §668.46(c)(1) and (3) of the *Clery Act*.

The crime log must record crimes by the date they were reported to the campus police or security department. It must include the nature, date, time, general location, and disposition of each offense. An entry, an addition to an entry, or a change in the disposition of a complaint must be recorded within two business days of the report of the information to the campus police or the campus security department. The crime log must be kept up to date and be accessible to any requestor during normal business hours. 34 C.F.R. §668.46(f).

### **Noncompliance:**

RCC failed to maintain accurate and complete daily crime logs throughout the review period. The review team inspected the available log information and found that very few incidents were entered on the activity log and the entries that were there did not include the most basic information required by the Department’s regulations, including the offense type, the date and time of the incident, the general location, and the disposition. Information on the disposition of reported offenses were rarely entered and were never updated, as required. In addition, RCC failed to enter any information on the log for incidents that occurred at the RLTAC. Finally, it was observed that the security office had no internal procedures regarding the maintenance of the log nor did it provide any public information about how to report incidents of crimes or other safety concerns or how interested parties might access the log’s contents.

The *Clery Act* is intended to ensure that students, employees, and other community stakeholders have timely access to information about criminal offenses on campus and in the near-campus community. The crime log provides information to assist the community in making decisions regarding individual safety and security. Apt crime logs supplement statistical disclosures in the ASR. Failure to comply with the daily crime log requirement deprives the campus community of vital safety and security information and violates the *Clery Act*.

### **Required Action:**

As a result of these violations, RCC is required to take all necessary corrective actions to rectify this violation and all others identified in this Program Review Report. In addition, the College must develop and implement a system of policies and procedure improvements.

In addition, RCC must review and revise its policies, procedures, and internal controls to ensure that all incidents of crime reported as within campus and public safety's patrol map are entered on the daily crime log, as required. These policy and procedure revisions must provide for the designation of a capable official who will ensure that all incidents of crime reported are entered onto the log in an accurate and complete manner and that all fields of the crime log are updated within two business days as new information becomes available for at least the first 60 days that the incident is recorded, unless such disclosure is specifically prohibited by law or would substantially jeopardize the confidentiality of a victim or ongoing investigation. The crime log must take into account the incidents occurring at the RLTAAC. At times the presentation from RCC officials would lead one to view the RLTAAC as a separate entity; however, for *Clery Act* purposes the RLTAAC is a part of the RCC campus. Additionally, RCC must ensure that the log is made readily available for review by members of the campus community as well as the general public. A copy of the revised policies and procedures must be submitted with the College's response to this Program Review Report.

Based on an evaluation of all available information, including the institution's response, the team will determine appropriate additional actions and advise the College accordingly in the FPRD.

**Finding #6: Failure to Publish and Distribute an Annual Security Report in Accordance with Federal Regulations**

**Citation:**

The *Clery Act* and the Department's regulations require that all institutions that receives Title IV, HEA funds must, by October 1 of each year, publish and distribute to its current students and employees through appropriate publications and mailing, a comprehensive ASR that contains, at a minimum, all of the statistical and policy elements enumerated in *34 C.F.R. §668.46(b)*.

The ASR must be prepared and actively distributed as a single document. Acceptable means of distribution include regular U.S. Mail, campus mail, hand delivery, or by posting the ASR on the institution's website. 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, distribute a notice to all students and employees that includes a statement of the report's availability and a link to its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. *34 C.F.R. §668.41(e)(1)*. These regulations also require institutions to provide a notice containing this information to all prospective students and employees. This notice must also inform interested parties about how to obtain a paper copy of the ASR. *34 C.F.R. §668.41(e)(4)*.

An institution's ASR must include statistics for incidents of crimes reported during the three most recent calendar years. The covered categories include criminal homicide (murder and non-negligent manslaughter), forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. Statistics for certain hates crimes as well as arrest and disciplinary referral statistics for violations of certain laws pertaining to illegal drugs, illegal usage of controlled substances, liquor, and weapons also must be disclosed in the ASR. These



crime statistics must be published for the following geographical categories: 1) on campus; 2) on-campus student residential facilities (as a subset of category # 1); 3) certain non-campus buildings and property; and, 4) certain adjacent and accessible public property.  
*34 C.F.R. §668.46(c)(1).*

The ASR also must include several mandated policy statements. These disclosures are intended to inform the campus community about the institution's security policies, procedures, and the availability of crime prevention programs and resources as well as channels for victims of crime to seek recourse. In general, these policies include topics such as the law enforcement authority and practices of campus police and security forces, incident reporting procedures for students and employees, and policies that govern the preparation of the ASR itself. Institutions are also required to disclose alcohol and drug policies and educational programs. Policies pertaining to sexual assault education, prevention, and adjudication must also be disclosed. Institutions also must provide detailed policies of the issuance of timely warnings, emergency notifications, and evacuation procedures. As noted above, the ASR must be published as a single comprehensive document. With the exception of certain drug and alcohol program information, cross referencing to other publications is not sufficient to meet the publication and distribution requirements. *§485(f) of the HEA; 34 C.F.R. §668.46(b).*

Finally, each institution must also submit its crime statistics to the Department for inclusion in the Office of Postsecondary Education's "Campus Safety and Security Data Analysis Cutting Tool." This data must be submitted in the manner designated by the Secretary and in accordance with the timelines published in the Federal Register. *34 C.F.R. §668.41(e)(5).*

### **Noncompliance:**

For all years prior to 2012, RCC failed to produce and to distribute an ASR to all of its current students and employees by October 1 of each year. In fact, it was discovered that no ASRs had ever been produced until the Department initiated its review. While on-site, the review team interviewed several CSAs and RCC administrators, President, Vice President of Administration & Finance, Vice President of Academic Affairs, Vice President of Enrollment Management & Student Affairs, Dean of Student Success, and Director of RLTAC, and all respondents provided no assurances or documented proof that an ASR was ever created and/or distributed. When asked to provide a copy of the ASRs and proof of distribution RCC failed to produce the documents requested or knowledge of how such a task or activity would be achieved. Effectively, this review clearly suggest that RCC has never produced nor distributed an ASR and that this condition existed since 1992, the first year that institutions were required to comply with the *Clery Act*.

RCC failed to prepare, publish, and distribute an accurate and complete ASR in accordance with Federal regulations. RCC is required to prepare and publish an accurate and complete ASR that includes all statistical and policy statements enumerated in *34 C.F.R. §668.46(b)* and to actively distribute it to current students and employees and notify prospective students and employees in accordance with *34 C.F.R. §668.41*.

Failure to prepare an accurate and complete ASR, to actively distribute it to current students and employees, and to notify prospective students and employees in accordance with Federal regulations deprives the campus community of important security information and is an indication of a serious and persistent administrative impairment.

**Required Action:**

As a result of these violations, RCC is required to take all necessary actions to address this violation and all others identified in this Program Review Report to provide reasonable assurance that these deficiencies will not recur. Specifically, RCC is required to review and revise its current policies and procedures that govern the production of the ASR and the active distribution of the report to enrolled students and current employees in the required manner. The College's new and revised internal guidance must specifically state how prospective students and employees will be actively notified about the ASR, its contents, and how to obtain a copy of the report. Moreover, the distribution procedures must provide for full documentation of the College's efforts to comply with the requirements of 34 C.F.R. §668.41(e).

Furthermore, RCC is also required to conduct an internal review of its 2015 and 2016 ASRs to identify any omitted and inadequate disclosures, with a special focus on the VAWA provisions. If deficiencies are identified, the College must produce a revised 2016 ASR and then actively distribute the report to all current students and employees no later than January 15, 2017. RCC must submit a copy of the original 2016 ASR and any revised versions of the report along with credible evidence showing that each report was actively distributed to mandatory recipients as part of its response. Appendix A includes additional information about information that must be included in the response.

Based on an evaluation of all available information, including RCC's response, the Department will determine if additional actions will be required and will advise the College accordingly in the FPRD.

**Finding #7: Drug and Alcohol Abuse Prevention Program Requirements Not Met**

**Citation:**

The *DFSCA* and the Department's Part 86 regulations require each participating institution of higher education (IHE) that receives Federal education funding to certify that it has developed and implemented a drug and alcohol abuse education and prevention program. The program must be designed to prevent the unlawful possession, use, and distribution of drugs and alcohol on campus and at recognized events and activities.

On an annual basis, the IHE must distribute written information about its DAAPP to all students, faculty, and staff. The distribution plan must make provisions for providing the material to students who enroll at a date after the initial distribution, and for employees who are hired at different times throughout the year. The information must include:

- A written statement about the IHE's standards of conduct that prohibits the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees;
- 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 the health risks associated with the use of illicit drugs and alcohol abuse;
- A description of any drug or alcohol counseling, treatment, rehabilitation, or re-entry programs that are available to students and employees; and,
- A statement that the IHE will impose disciplinary sanctions on students and employees for violations of the institution's codes of conduct and a description of such sanctions.

In addition, each IHE must conduct a biennial review in order to measure the effectiveness of its drug prevention program, and to ensure consistent treatment in its enforcement of its disciplinary sanctions. The IHE must prepare a report of findings and maintain its biennial review report and supporting materials and make them available to the Department upon request.

34 C.F.R. §§86.3 and 86.100.

#### **Noncompliance:**

RCC violated multiple provisions of the *DFSCA* and the Department's Part 86 regulations. A review of RCC's consumer information, student handbooks, and other pertinent publications disclosed no indication that a DAAPP is or has ever been in place for RCC students. RCC never developed nor implemented a DAAPP during its participation in the Title IV, FSA programs.

As a logical extension of this exception, the College did not produce an annual DAAPP disclosure that summarizes the program and also was not able to distribute required program materials to enrolled students and current employees.

Moreover, the failure to develop and implement a DAAPP also caused a persistent failure to conduct biennial reviews to assess the effectiveness of the DAAPP and the consistency of sanctions imposed for violations of its disciplinary standards and codes of conduct. Once again, the available evidence indicates that this violation dates back to RCC's initial approval to participate in the Title IV, FSA programs.

Failure to comply with the *DFSCA*'s DAAPP requirements deprives students and employees of important information regarding the educational, disciplinary, health, and legal consequences of illegal drug use and alcohol abuse. Failure to comply with the biennial review requirements also deprives the institution of important information about the effectiveness of its own drug and alcohol programs. Such failures may contribute to increased drug and alcohol abuse as well as an increase in drug and alcohol-related violent crime.

#### **Required Action:**

As a result of these violations, RCC is required to take all necessary corrective actions to rectify this violation and all others identified in this Program Review Report. To address the specific deficiencies identified in this finding, RCC must:

- Develop and implement procedures for ensuring that the required *DFSCA* materials are distributed to every current student who is enrolled for academic credit as well as every employee. RCC must make provisions for providing a copy of the drug and alcohol prevention program to students who enroll after the initial distribution and for employees who are hired at different times throughout the year. RCC must provide documentation evidencing the distribution as well as a statement of certification attesting to the fact that the materials were distributed in accordance with the *DFSCA*. In addition, if RCC believes that it has met the distribution requirement sufficient to negate any of the violations noted in this finding, it should submit this documentation in response to this finding. The documentation should contain proof that the materials were distributed along with a narrative as to how it believes it has met the applicable statutory and regulatory requirements;
- Include a written description of legal sanctions imposed under Federal, state, and local laws and ordinances related to the unlawful possession or distribution of illicit drug and alcohol in all future DAAPP materials;
- Describe the health risks associated with the use of illicit drugs and alcohol abuse; and,
- Conduct a biennial review to measure the effectiveness of its DAAPP. RCC must describe the research methods and data analysis tools that will be used to determine the effectiveness of the program as well as the responsible official or office that will conduct the review. The biennial report must address how RCC will ensure consistency of its enforcement of its disciplinary sanctions and will be made available to the public upon request. A copy of RCC's biennial review report must be submitted to the Department as part of the College's response to this report.

Based on an evaluation of all available information including RCC's response, the Department will determine if additional actions will be required and will advise the institution accordingly in the FPRD.

Our objective in conducting this and all campus crime program reviews is to improve the safety of America's college campuses. The development and implementation of a substantive corrective action plan is the first step to moving RCC toward full compliance with the *Clery Act* and the *DFSCA* as soon as possible.

In closing, the Department must note that the findings documented in this report constitute serious violations of the *Clery Act* and the *DFSCA* that by their nature cannot be cured. There is no way to truly "correct" a violation of these important campus safety and substance abuse prevention laws once they occur. The College will be given an opportunity to conduct a meaningful review of its current policy and procedures and to develop and implement new policies and procedures, as needed. Copies of all new and revised internal guidance must accompany the College's response to this Program Review Report. Notwithstanding any remedial efforts undertaken pursuant to this finding, RCC is nevertheless advised that such remedial measures cannot and do not diminish the seriousness of these violations nor do they

eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective measures as a result.

Given the consequences of a serious compliance failure, the Department also strongly recommends that RCC officials re-examine its campus security, drug and alcohol, and general Title IV policies and procedures on an annual basis to ensure that they continue to reflect current institutional practices and are compliant with Federal requirements. To that end, College officials are encouraged to consult the Department's "Handbook for Campus Safety and Security Reporting" (2016) as a reference guide on *Clery Act* compliance. The Handbook is online at: [www2.ed.gov/admins/lead/safety/handbook.pdf](http://www2.ed.gov/admins/lead/safety/handbook.pdf). The Department also provides a number of other *Clery Act* training resources. RCC officials can access these materials at: [www2.ed.gov/admins/lead/safety/campus.html](http://www2.ed.gov/admins/lead/safety/campus.html). The Department's regulations governing the *Clery Act* can be found at 34 C.F.R. §§668.14, 668.41, 668.46, and 668.49. The DFSCA regulations can be found at 34 C.F.R. Part 86.

Finally, RCC management is reminded that Section 304 of the Violence Against Women Reauthorization Act of 2013 (VAWA) amended the *Clery Act* to require institutions to compile and disclose statistics for incidents of domestic violence, dating violence, sexual assault, and stalking. VAWA also requires institutions to include new policy, procedural, and programmatic disclosures regarding sexual assault prevention and response in their ASRs. All institutions are already obligated to make a documented good-faith effort to comply with the statutory requirements of VAWA and were required to include all new required content in the 2014 ASR. Because the Department issued Final Rules on the VAWA amendments on October 20, 2014, these regulations went into effect on July 1, 2015, per the Department's Master Calendar. College officials may access the text of the Final Rule at: <http://ifap.ed.gov/fregisters/attachments/FR102014FinalRuleViolenceAgainstWomenAct.pdf>.

## Appendix A - Supplemental Document Production

As part of its official response, RCC also must submit the following information to the Department<sup>2</sup>:

- 1) Copies of RCC's original ASRs produced for 2012-2016 and any revised reports along with credible evidence of active distribution of each document to mandatory recipients. Suitable evidence of distribution may include copies of email messages used to transmit the report or other similar documentation.
- 2) A copy of any progress or status reports or other information that has been developed since the site visit regarding RCC's efforts to improve its campus safety and *Clery Act* compliance programs, especially with regard to the ASR production, crime classification, issuance of timely warnings and emergency notifications, and maintenance of an accurate and complete daily crime log since the initial time period covered by the program review.<sup>3</sup>
- 3) A corrective action plan that provides for the production, custody, control, and retention of *Clery Act*, *DFSCA*, and other required Title IV-related records.<sup>4</sup>
- 4) A statement and any supporting documentation regarding RCC's efforts to implement the requirements of Section 304 of the Violence Against Women Reauthorization Act of 2013.
- 5) A copy of RCC's current DAAPP program materials, the College's two most-recent annual DAAPP disclosures with credible evidence of active distribution, and the two most-recent biennial review reports.

These materials must be submitted as part of RCC's official response to this Program Review Report.

RCC's submission must reference the Program Review Control Number (PRCN) noted on the cover letter to this report. If any of the requested records were not produced or do not exist, RCC officials must clearly communicate that fact in the response. In this context, RCC officials are advised that no new documents are to be created at this time for the purpose of attempting to

---

<sup>2</sup> This information will be used to evaluate RCC's compliance since the site visit. Information about deficiencies that are identified in the Department's review of this material will be cited in the FPRD.

<sup>3</sup> This statement must address with specificity the steps that have or that will be taken to address mismanagement and safety issues at the RLTAC. In addition, the plan must identify the officials that will be charged with leading reforms and other improvements in each area of operation. Our investigation indicates that the Interim Safety Director and the current Controller may be good candidates to lead the development and execution of an adequate remedial action plan.

<sup>4</sup> Our investigation indicates that many required records were not maintained by RCC at all while others may be stored in an unorganized and insecure manner in the attic of the main administration building.

demonstrate compliance with any *Clery Act* or *DFSCA* requirement for past periods unless expressly instructed to do so by Department officials. Finally, the College is further advised that any failure to respond to this supplemental request for document production may result in a referral for the imposition of an adverse administrative action in addition to any such sanctions that may be recommended for identified violations that are ultimately sustained in the FPRD.