



SEP 27 2017

Dr. John MacArthur  
President  
The Master's University and Seminary  
21726 Placerita Canyon Road  
Santa Clarita, CA 91321-1200

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Dear Dr. MacArthur:

This letter is to inform you that the U.S. Department of Education (Department) intends to fine the Master's University and Seminary (TMC; College; University) a total of \$29,000 based on the violations of statutory and regulatory requirements outlined below. This fine action is taken in accordance with the procedures that the Secretary of Education (Secretary) has established for assessing fines against institutions participating in any or all of the programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 *et seq.* (Title IV, HEA programs). As applicable here, under the Department's regulations, the Department may impose a fine of up to \$27,500 for each violation. 34 C.F.R. § 668.84 (2012). As detailed below, this fine action is based on TMC's failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act) in Section 485(f) of the HEA, 20 U.S.C. § 1092(f), as reflected in 34 C.F.R. §§ 668.41 and 668.46,<sup>1</sup> the Drug-Free Schools and Communities Act Amendments of 1989 (DFSCA) as reflected in 34 C.F.R. Part 86, and the fire safety requirements in §485(i) of the HEA, 20 U.S.C. §1092(i) and 34 C.F.R. §668.49.

Under the Clery Act, institutions participating in the Title IV, HEA programs must prepare, publish and distribute an Annual Security Report (ASR) by October 1 of each year. 34 C.F.R. § 668.41(e). The ASR must include a description of the institution's campus security policies in specific areas. 34 C.F.R. § 668.46(b). A complete ASR must include all the policy statements listed in 34 C.F.R. § 668.46(b). In addition, the ASR must report statistics for the three most recent calendar years concerning the occurrence of certain crimes on campus, in or on certain non-campus buildings or property, and on public property. 34 C.F.R. § 668.46(c). An institution must compile and publish crime statistics for each separate campus. 34 C.F.R. § 668.46(d). The crimes that must be reported include: criminal homicide (murder and manslaughter); sex offenses (forcible and non-forcible); robbery; aggravated assault; burglary; motor vehicle theft; arson; and arrests for liquor law violations, drug law violations and illegal weapons possession. The ASR

<sup>1</sup> The Department significantly revised 34 C.F.R. § 668.46 in final regulations published on October 20, 2014. However, the fines proposed in this letter are based on violations of the regulations existing during the period covered by the program review.

**Federal Student Aid**  
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must be distributed to current students and employees and must be made available to applicants for admission and employment to provide them with accurate, complete and timely information about crime and safety on campus. 34 C.F.R. § 668.41(e). Institutions must submit the crime statistics annually to the Department, which makes them publicly available. 34 C.F.R. § 668.41(e)(5).

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

Beginning October 1, 2010, an institution that maintains any on campus student housing facility, must prepare an Annual Fire Safety Report (AFSR). 34 C.F.R. § 668.49(b). An institution that maintains on-campus student housing facilities must maintain a written, easily understood fire log that records, by the date that the fire was reported, any fire that occurred in an on-campus student housing facility. 34 C.F.R. § 668.49(d). The AFSR must be provided to all current students and employees and made available to all prospective students and employees. 34 C.F.R. § 668.41(e).

The Department conducted a program review at TMC from April 7, 2014 to April 11, 2014. The review included a general assessment of TMC's compliance with the statutes and regulations governing the institution's administration of the Title IV programs. The reviewers also examined TMC's compliance with the Clery Act, specifically the accuracy and completeness of campus crime statistics and policy disclosures published in its 2012 ASR, its compliance with the DFSCA and its implementing regulations, and its compliance with the fire safety requirements in HEA.

On June 25, 2014, the Department issued a Program Review Report (PRR) to TMC. The review found that TMC had not complied with the Clery Act, the DFSCA, the fire safety requirements in the HEA and the Department's implementing regulations. TMC responded to the report on October 10, 2014. After reviewing TMC's responses, the Department issued its Final Program Review Determination (FPRD) letter to TMC on July 6, 2015. The FPRD is incorporated by reference into this fine action. (Enclosure 1).

The Department is taking this fine action based on the findings in the FPRD, which concluded that TMC did not publish and properly distribute a complete ASR for calendar year 2012; failed to comply with the drug and alcohol abuse prevention regulations; and failed to publish and distribute a complete AFSR in calendar year 2012.

#### **I. TMC'S CALENDAR YEAR 2012 ASR DID NOT INCLUDE REQUIRED POLICY STATEMENTS**

Institutions participating in the federal student financial aid programs must have an ASR that includes its crime and security policies in a number of specific areas. The ASR must include this information so that students and employees have necessary information about the institution's security policies and procedures, and about their rights. 34 C.F.R. § 668.46(b).

TMC's ASR for calendar year 2012 did not contain complete required statements of policy in the following areas:

1. Information describing procedures that encourage pastoral counselors and professional counselors to inform the persons that they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.
2. A complete statement of policy regarding the institution's campus sexual assault programs, and description of procedures to follow when a sex offense occurs.
3. A description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and non-forcible sex offenses.
4. Procedures for campus disciplinary action in cases of an alleged sex offense, and a clear statement that the accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding.

In its response to the PRR of October 10, 2014, TMC did not challenge the finding and stated that it took corrective action after the program review. The goal of the Clery Act is to allow current students and employees and prospective students and employees to use the ASR to assess an institution's campus safety policies, procedures and environment. The policy statements in the ASR are intended for use by the campus community to understand the institution's campus security policies and procedures. In the absence of the four (4) policy statements listed above, TMC's students and employees were denied important safety information about where to report crime incidents; and certain rights after an alleged sex offense has occurred. TMC's 2012 ASR was, therefore, incomplete and unreliable. Students and employees cannot be expected to benefit from policy procedures that have not been provided to them.

## **II. TMC DID NOT COMPLY WITH THE DRUG AND ALCOHOL ABUSE PREVENTION REQUIREMENTS**

The DFSCA and the Department's regulations require institutions of higher education to adopt and implement a drug prevention program for its students and employees that, at a minimum, includes the annual distribution in writing to each employee, and to each student who is taking one or more classes for any type of academic credit (except continuing education units) standards of conduct that: clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities; describe the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol; describe the health risks associated with the use of illicit drugs and the abuse of alcohol; describe any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and include a clear statement that the institution will impose disciplinary sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions for violation of the standards of conduct. In addition, an institution must conduct a biennial review of its program to determine its effectiveness and implement changes to the

program if they are needed and ensure that the disciplinary sanctions mentioned above are consistently enforced. 34 C.F.R. § 86.100.

TMC did not meet the requirements of the DFSCA. The Department's reviewers found multiple violations of the DFSCA and 34 C.F.R. Part 86. Specifically, TMC failed to properly distribute a complete drug and alcohol abuse prevention program (DAAPP) that contained all of the required elements and disclosures to all employees and students enrolled for academic credit on an annual basis. Moreover, reviewers determined that TMC had failed to conduct a biennial review of the college's DAAPP to evaluate its effectiveness and produce a report of findings.

In its response of October 10, 2014, TMC did not challenge the finding and stated that it had taken corrective actions after the program review. TMC's failure to provide a DAAPP that met statutory requirements is a serious violation of the DFSCA and the Department's regulations, and deprived students and employees of knowledge concerning the institution's drug policies and procedures.

### **III. TMC DID NOT PUBLISH AND PROPERLY DISTRIBUTE A COMPLETE AFSR IN 2012**

The HEA and the Department's regulations require that all institutions that receive Title IV, HEA funds and maintain an on-campus student housing facility must, by October 1 of each year, prepare, publish and distribute to its current students and employees through appropriate publications and mailings, an AFSR that contains, at a minimum, all of the statistical and policy elements described in 34 C.F.R. § 668.49(b). The first AFSR had to be provided to students and employees by October 1, 2010. In the AFSR, institutions must disclose fire statistics for each on-campus student residential facility for the three most-recent calendar years. An institution's statistics must accurately and completely identify the number of on-campus fires and the cause of each fire, the number of persons who sustained fire-related injuries that resulted in treatment at a medical facility (including on-campus health centers), the number of fire-related deaths, and the dollar value of property damage caused by such fires. 34 C.F.R. § 668.49(c).

The AFSR must include several fire safety information disclosures covering topics such as the type(s) of fire safety systems that are used in each student housing facility, the number of fire drills that were conducted during the previous calendar year, any institutional policies, procedures, and programs regarding: 1) the use and/or possession of portable electrical appliances; 2) smoking and the use/presence of open flames in student housing facilities; 3) evacuation procedures to be followed in the case of a fire; 4) fire safety education and training programs; 5) the institutional official(s) and departments to whom students and employees should report the occurrence of fires so that those incidents can be included in the institution's annual fire statistics; and 6) any plans for future improvements to the institution's fire safety program. 34 C.F.R. § 668.49(b).

The AFSR must be published and distributed through appropriate publications and mailings in the same manner as the ASR. The AFSR must be a comprehensive publication in the same

manner as the ASR; however, if an institution chooses to combine the ASR and AFSR and publish them as a single document, then the title of both reports must conspicuously appear on the cover page. 34 C.F.R. § 668.41(e).

TMC did not prepare, publish and distribute a complete AFSR for calendar year 2012. The Department's reviewers determined that TMC's 2012 AFSR did not include its fire statistics by category of fire: (a) unintentional; (b) intentional; or (c) undetermined. The College also failed to disclose in its 2012 AFSR required information about the number of fire safety drills conducted and information about the outcome of each drill conducted during calendar year 2011.

In its response to the PRR of October 10, 2014, TMC did not challenge the conclusion that it did not publish and properly distribute a complete 2012 AFSR but noted that it had taken corrective actions after the review.

However, the publication and distribution of a complete AFSR after the Department alerted the college of its obligations does not excuse its earlier failure to comply with the law. TMC's failure to prepare and properly distribute a complete AFSR to current students and employees within the timeframe established by Federal law deprived the campus community of timely access to important campus fire safety information. TMC's students and employees and prospective students and employees were not provided with complete fire safety information that would have helped them to make informed decisions about their personal safety.

### INITIATED FINES

In determining the amount of a fine, the Department considers both the gravity of the offense and the size of the institution. 34 C.F.R. § 668.92. Pursuant to the Secretary's decision In the Matter of Bnai Arugath Habosem, Docket No. 92-131-ST (August 24, 1993), the size of an institution is based on whether it is above or below the median funding levels for the Title IV, HEA programs in which it participates. The latest year for which complete funding data is available for TMC is 2014-2015 award year. According to the Department records, TMC received approximately \$1,593,881 in Federal Pell Grant (Pell) funds, \$5,198,155 in Federal Direct Loan funds and \$324,883 in Campus-Based funds. The latest information available to the Department indicates that the median funding level for institutions participating in the Federal Pell Grant program is \$1,540,305, for institutions participating in the Federal Direct Loan programs, the median funding level is \$2,108,926, and for institutions participating in the Campus-Based programs, the median funding level is \$271,961. Accordingly, TMC is a large institution because its funding levels for Federal Pell Grants, Federal Direct Loans, and Campus-Based loans are above the median funding levels for those Title IV, HEA programs.

As detailed in this letter, TMC's violations of the Clery Act, the DFSCA, the fire safety requirements in the HEA, and the Department's regulations are very serious and numerous. TMC's students and their families, and the institution's employees must be able to rely on the disclosures of campus crime and fire safety information, policies and statements to understand the extent of crime and fires on campus and the institution's security policies. Congress enacted

the DFSCA to ensure that students and employees had vital information about the DAAPP at their institution. Moreover, a DAAPP that has not been tested in a biennial review is unlikely to be reliable and effective. TMC's students and employees were not given information about the standards and code of conduct expected of them with regard to drug and alcohol use, and the sanctions that could be imposed if the code of conduct is violated.

I.

After considering the gravity of the violations and size of the institution, I have assessed a fine of \$4,000 for TMC's failure to include four (4) required policy statements in its 2012 ASR. This is a serious violation because current students and employees, and prospective students and employees were denied information that would help them make informed decisions about safety and campus crime policies at TMC. The Clery Act requires institutions to provide the various policy statements in one publication so that students and employees don't have to search for policies that may or may not exist elsewhere. Students and employees could not be expected to take advantage of policies and procedures that TMC did not appropriately disclose. TMC's failure to include numerous policy statements in its 2012 ASR rendered the report incomplete and unhelpful to the campus community.

II.

I have assessed a fine of \$10,000 for TMC's failure to publish and properly distribute a complete DAAPP disclosure to all employees and students enrolled for academic credit on an annual basis, and failure to conduct a biennial review to evaluate the effectiveness of its DAAPP and to assess the consistency of sanctions imposed for violations of its disciplinary standards and codes of conduct related to drugs and alcohol. This is a serious violation because students and employees cannot be expected to benefit from a drug and alcohol prevention program that has not been properly distributed to them. Moreover, students and employees cannot be expected to rely on a DAAPP that has not been tested for its effectiveness.

III.

I have assessed a fine of \$15,000 for TMC's failure to publish and properly distribute a complete 2012 AFSR. This is a serious violation because the campus community and the public were deprived of important information to help them make important safety decisions with regard to fire safety at TMC. This violation is similar to the failure to publish an ASR.

The fine of \$29,000 will be imposed on **October 20, 2017**, unless I receive, by that date, a request for a hearing or written material indicating why the fine should not be imposed. TMC may submit both a written request for a hearing and written material indicating why a fine should not be imposed.

Dr. John MacArthur  
The Master's University and Seminary  
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If TMC chooses to request a hearing or submit written material, you must write to me at:

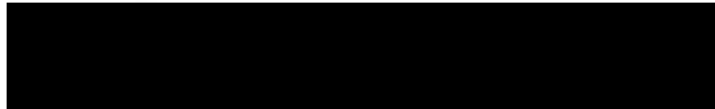
Administrative Actions and Appeals Service Group  
U.S. Department of Education  
Federal Student Aid/Enforcement  
830 First Street, NE – UCP-3, Room 84F2  
Washington, DC 20002-8019

Upon receipt of such a request, the case will be referred to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of the case to a hearing official who will conduct an independent hearing. TMC is entitled to be represented by counsel during the proceedings. If TMC does not request a hearing but submits written material instead, I will consider that material and notify TMC of the amount of fine, if any, that will be imposed.

**ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT TMC SUBMITS  
MUST BE RECEIVED BY OCTOBER 20, 2017; OTHERWISE, THE \$29,000 FINE  
WILL BE EFFECTIVE ON THAT DATE.**

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

Sincerely,



Susan D. Crim, Director  
Administrative Actions and Appeals Service Group  
Federal Student Aid/Enforcement Unit  
U.S. Department of Education

Enclosure

cc: Judy Abbott Executive, Assistant, WASCSR, via [jabot@acswasc.org](mailto:jabot@acswasc.org)  
CA BFPP, Enforcement, via [bppe.enforcement@dca.ca.gov](mailto:bppe.enforcement@dca.ca.gov)