



November 9, 2011

R. Barbara Gitenstein, Ph.D.
President
The College of New Jersey
2000 Pennington Road
Ewing, NJ 08628

Certified Mail
Return Receipt Requested
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RE: Expedited Program Review Determination
OPE ID: 00264200
PRCN: 201040227304

Dear President Gitenstein:

From September 22, 2010 through September 24, 2010, Ms. Nancy P. Gifford, Ms. Cynthia Floyd-Davis, Mr. Stephen Podeszwa, and Mr. James L. Moore, III of the U.S. Department of Education (the Department) conducted a focused program review of The College of New Jersey's (TCNJ; the College) administration of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) included in Section 485(f) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. § 1092(f) and the Department's implementing regulations at 34 C.F.R. §§668.41-668.46. The College's compliance with the requirements of the Drug-Free Schools and Communities Act and Part 86 of the Department's General Administrative Regulations was also examined during the program review.

TCNJ was selected for review from a list of all institutions of higher education in the state of New Jersey with sworn police departments and was not the result of any specific complaint or allegation of non-compliance. The review consisted of an examination of TCNJ's campus crime and security publications, written agreements, police incident reports, arrest records, and disciplinary files as well as policies, practices, procedures, and programs related to the *Clery Act*. The review also included a comparison of the campus crime statistics submitted by TCNJ to the Department and those provided to students and employees in the Annual Security Report (ASR). The review team also interviewed several institutional officials with *Clery Act* responsibilities.

The Department's program review coincided with the Quality Assurance Review (QAR) that the Federal Bureau of Investigation's Criminal Justice Information Service (CJIS) Audit Unit conducted at TCNJ. The U.S. Department of Education is partnering with the CJIS Audit Unit (CAU) to ensure accurate crime reporting on America's college campuses.

School Participation Team – New York
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The CAU reviews the crime reporting practices of selected law enforcement agencies and audits crime statistics that are reported by the states through their participation in the Uniform Crime Reporting program. The results of the QAR are shared with the Department and are used to conduct comparative analyses of the annual crime statistics submitted to the Department by participating postsecondary institutions. The CAU reviewed a total of 25 Part I Offenses and 25 Part II Offenses that were reported from January – December 2009. During the CAU review, no instances of non-compliance were identified. As such, no specific actions pursuant to this program review are required as a result of the QAR. A copy of CJIS's report is attached as Appendix A.

The Department reviewed a sample of 105 TCNJ police incident reports, arrest records, and student conduct files regarding incidents of crime reported to law enforcement or campus security authorities during calendar year 2008. These records pertained to reports of Part I offenses as well as Part II offenses that resulted in an arrest or disciplinary referral for violation of certain laws involving illegal drugs, illegal usage of controlled substances, liquor, and weapons. Both random and judgmental sampling techniques were used to select reports for this review. Approximately 30 incident reports from the initial sample were cross-checked against the daily crime log to ensure that crimes occurring within the patrol jurisdiction were entered properly on the log.

The purpose of this Final Program Review Determination letter is to advise the College of the sole finding of the review and to close the program review.

Disclaimer:

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

Findings and Final Determinations:

The following area of noncompliance was identified during the program review. This finding of non-compliance is referenced to the applicable statutes and regulations and specifies the actions required to come TCNJ into compliance with the statutes and regulations. The Department has made a Final Determination regarding this violation. The following is an explanation of the violation and its resolution.

Finding # 1: Failure to Properly Disclose Hate Crime, Arrest, and Disciplinary Referral Statistics in the ASR and the Department's Online Campus Crime Statistics Database

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 reported offenses: criminal 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 violations of certain Federal or State drug, liquor and weapons laws. These crime statistics must be disclosed in the annual security report for the three most recent calendar years and be broken down by geographical categories. Moreover, the *Clery Act* requires institutions to separate its arrest statistics from its statistics for referrals for campus disciplinary actions. *34 C.F.R. § 668.46 (c)(1)*.

Participating institutions also must separately disclose all Part I offenses and all other offenses resulting in bodily harm that manifest evidence that a victim was intentionally selected due in some part to the perpetrator's bias must be classified as a hate crime. The six covered categories of bias are: race, gender, religion, sexual orientation, ethnicity or National origin, and disability. *34 C.F.R. § 668.46 (c)(3)*. The Higher Education Opportunity Act requires expanded reporting of hate crimes.

Each participating institution must also submit its crime statistics to the Department for inclusion in the Department's online campus crime statistics database. *34 C.F.R. § 668.41 (e)(5)*.

Non-compliance:

The College of New Jersey failed to accurately disclose its crime statistics in its 2008 and 2009 ASRs and in its electronic submissions to the Department's online campus crime statistics database. Specifically, TCNJ did not disclose its hate crime statistics by category of bias during the calendar years covered by the 2008 and 2009 ASRs. Additionally, TCNJ combined its arrest and disciplinary referral statistics for liquor law, drug law, and weapons law violations for the same period.

Failure to disclose hate crime, arrest, and disciplinary referral statistics in an accurate and consistent manner violates the HEA and the Department's regulations. Such a failure may confuse users of the ASR and the Department's campus crime statistics database.

Required Action:

In response to this finding, TCNJ was required to re-examine and make all necessary corrections to its crime statistics as published in the 2008 and 2009 ASRs and those submitted to the Department's online campus crime statistics database. This requirement applied to the exceptions noted during the site visit and all others identified during the re-examination. As part

of the re-examination, TCNJ was specifically required to ensure that all hate crime, arrest, and disciplinary referral statistics were accurate and were presented in the required format in its next ASR and its next submission to the Department's campus crime statistics database. Moreover, TCNJ was required to identify and correct statistical errors or discrepancies in the supporting documents provided to the review team.

Finally, TCNJ was required to review and improve its policies, procedures, internal controls, and training programs to ensure that all incidents of crime reported to the police or non-law enforcement campus security authorities are properly classified and to further ensure that all crime statistics are accurately disclosed in the required format going forward.

Resolution:

During the site visit, the review team explained the required format for disclosing crime statistics in the ASR. TCNJ officials explained that they misunderstood the formatting requirement but were able to substantiate the accuracy of the crime statistics in question. Based on TCNJ's re-examination of its crime statistics and a review of source documents, the Department has determined that the College's crime statistics were in fact accurate and complete. Therefore, the only remaining issue was the formatting of the statistical disclosures. Over an extended period, the review team worked with TCNJ officials to ensure that the 2010 ASR would be published and distributed in full compliance with the Clery Act requirements.

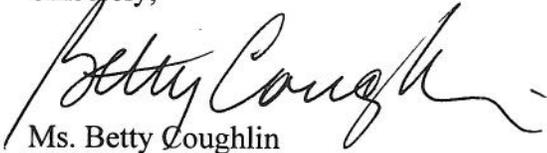
The Department officials also worked with TCNJ police and student conduct officials to improve the usability and technical and regulatory sufficiency of the College's ASR. The last of these meetings took place on October 18, 2011 where the format and contents of the most recent ASR were discussed. Because the crime statistics in question proved to be accurate, the review team did not find that a substantial misrepresentation occurred as a result of the non-compliance identified above. Corrective action was initiated immediately and additional improvements were incorporated into the next ASR. TCNJ officials and the review team have discussed policy and procedural changes that, if implemented, should improve campus policing operations and ensure full compliance with the Clery Act going forward.

Record Retention:

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

We express our appreciation for the courtesy and ongoing cooperation extended during the review. Please refer to the above Program Review Control Number (PRCN) in all correspondence relating to this FPRD. If you have any questions concerning this document or the program review process, please contact Mr. James L. Moore, III on (215) 656-6495 or at james.moore@ed.gov.

Sincerely,



Ms. Betty Coughlin
Area Case Director
School Participation Team-New York/Boston

Enclosure: CJIS Quality Assurance Review Report

cc: Mr. John M. Collins, Chief of Police/Director of Campus Safety, TCNJ
Mr. Timothy T. Grant, Captain/Associate Director of Campus Safety, TCNJ
Mr. Wilbert Casaine, Director of Financial Aid, TCNJ
Dr. Elizabeth H. Sibolski, President, Middle States Association - CHE
Hon. Rochelle Hendricks, Acting Secretary of Higher Education, State of New Jersey