Summary of the U.S. Department of Education’s Federal Student Aid Office Clery Non-Compliance Review of Michigan State University

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The U.S. Department of Education’s Federal Student Aid (FSA) office, which oversees Clery Act compliance, has completed its preliminary program review into Michigan State University’s handling of reports of sexual violence by Dr. Larry Nassar, as well as a broad program review of MSU’s compliance with the Clery Act overall. In its preliminary Program Review Report, after an investigation spanning several months, FSA details significant systemic failure to comply with the Clery Act. The report does not mince words – FSA uncovered systemic problems that likely contributed to the proliferation of Nassar’s criminal conduct, as well as other crimes on campus during the review period, which spanned from 2011-2017, the maximum review period FSA can invoke when fraud is suspected. The specific findings of non-compliance included:

**Finding #1: Failure to Properly Classify Reported Incidents and Disclose Crime Statistics in the Annual Security Report (ASR)**

FSA cited multiple examples where reports of Nassar’s sex crimes, even those made to a Campus Security Authority (CSA), were not reported properly, nor disclosed in the ASR.

In each case, Nassar’s victims reported incidents or patterns of abuse to various coaches, trainers, or other employees at MSU. In all the cases cited, a timely report should have been classified as an incident of Forcible Sex Offense or Fondling and should have been included in the campus crime statistics. In a particularly egregious dereliction of a duty, a coach who had just received CSA training – and therefore knew how to properly report – did not do so when a former MSU athlete reported that Nassar had touched her inappropriately. The coach admitted that he ignored the CSA training and official reporting channels.

**Finding #2: Failure to Issue Timely Warnings in Accordance with Clery Regulations**

FSA found that MSU had substantial deficiencies in failing to issue Timely Warnings as required under Clery, both with respect to Nassar’s pattern of abuse, as well as with other reports of criminal conduct on campus.

The Nassar crimes “unquestionably posed a serious, ongoing threat to campus community members, and most specifically, to female patients of MSU Sports Medicine.” None of those reports – and FSA cited many made to CSAs over the period of years – ever resulted in Timely Warnings to the MSU community. Furthermore, in its broader data review FSA determined that MSU failed to issue Timely Warnings following 21 specific criminal events that posed a serious ongoing threat to the campus. For example, the report details several robberies, in which victims were able to provide identifying information regarding their assailants; yet no Timely Warnings were issued. Similarly, the report outlines many incidents of burglaries – including a string of burglaries that appeared to target students of a particular ethnic background – with no Timely Warnings issued.
This pattern of dereliction by MSU seemed to create conditions by which “scores of Michigan State students were repeatedly victimized, in a similar manner, by similarly described suspects. Yet Michigan State allowed [the crimes] . . . to continue unabated.”

Finding #3: Failure to Identify and Notify Campus Security Authorities and to Establish an Adequate System for Collecting Crime Statistics from all Required Sources

The report uncovered that MSU substantially failed to identify and train campus officials who were CSAs.

The review uncovered a history of Clery Coordinators who were all “self-taught” and did not have sufficient background knowledge, training, and understanding of the Clery Act and its regulations. As a result, there was virtually no system-wide effort to regularly identify and notify CSAs of their responsibilities – until 2015, MSU had identified and designated 50 CSAs for a campus of over 50,000 students. FSA estimates that an institution of MSU’s size and scope would typically have more than 1,500 CSAs.

Over a series of interviews with the individuals designated as Clery Coordinator over the past several years, FSA discovered little to no effort to properly identify CSAs across campus, scant training offered to CSAs, and no oversight to ensure that CSAs were actually reading the training materials and fulfilling their responsibilities.

The report further highlighted additional deficiencies with specific key offices that were not fulfilling CSA responsibilities as required: the Sexual Assault Prevention program, Human Resources, Greek Life, and Athletics.

Although impossible to accurately quantify, FSA found that the systemic failure to collect crime statistics from CSAs caused MSU’s statistics to be “substantially and systemically under-reported.”

Finding #4: Lack of Administrative Capacity

FSA found that MSU substantially failed to develop and implement an adequate Clery compliance program – an utter dereliction of its duties under the Clery Act and in direct contradiction of its responsibilities as a recipient of federal Title IV funds.

FSA emphasizes that MSU’s mishandling of the Nassar-related reports was sufficient to support this finding. “The University’s persistent failure to take swift and decisive action to detect and stop Nassar’s two-decade long predatory and abusive behavior indicates a lack of institutional control, especially in light of the credible information reported to institutional officials at several points over many years.” That the University failed to establish even “minimally-adequate controls,” coupled with deficiencies in communication and coordination with the various entities where Nassar was authorized to practice medicine, contributed directly to his ongoing criminal activity.

Yet the systemic failures in crime statistic reporting, inadequate oversight over CSAs, and other compliance issues contributed to this finding, too. FSA cites failed leadership and coordination for almost the entire duration of the review period. FSA noted that despite some incremental compliance improvements at various recent points, the weaknesses in the structure overall clearly contributed to the Clery Act violations and the conditions that allowed Nassar’s crimes to persist, without any institutional response, for two decades.

Lastly, although not a compliance issue per se, FSA suggests that the location of the Clery Coordinator in the Office of General Counsel did not serve MSU and created “serious structural challenges” that allowed the problems to proliferate. FSA suggests – but does not require – that an institution of this size and
complexity should have a dedicated Clery Coordinator who is better positioned to improve communication and coordination across the institution.

**Next Steps and Initial Required Actions**

Next, MSU must prepare a substantive response to FSA’s review, including planned steps to address the findings and prevent their recurrence in the future. We can expect that FSA’s subsequent Final Program Review Determination letter will include further administrative action, including fines.

Additionally, the four noncompliance findings resulted in specific required actions, which are summarized here. MSU must:

- Develop detailed policies and procedures for the accurate compilation and classification of crime statistics, including proper supervisory review.
- Develop and implement policies and procedures to identify all CSAs, to train them accurately, and develop a system for requesting, receiving, and compiling crime reports from CSAs on an ongoing basis.
- Conduct its own audit of all Clery-reportable offenses from 2011-2017 to determine whether Timely Warnings or Emergency Notifications were required and, in fact, issued. Where warnings/notices were not issued, MSU must explain its reasoning and provide documentation to support it.
- Review and revise its Timely Warning and Emergency Notification policies, procedures, and training, and implement a series of internal controls.
- Conduct a full review and audit of all MSU Police Department reports from 2011-present as well as all other relevant documents to determine all reports made by CSAs during the time period. MSU must recompile all crime statistics for the reporting period and correct all ASRs, including proper classification and reporting of hate crimes.
- Review and improve policies, procedures, and internal controls regarding CSA reports, as well as gathering crime statistics from local law enforcement, as required.
- Develop and implement a comprehensive action plan for Clery compliance moving forward and conduct an institutional self-study to address the problems and weaknesses identified by the review.