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August 2015

Dr. Dustin Swanger
Members of the Board of Trustees
Fulton-Montgomery Community College
2805 State Highway 67
Johnstown, New York 12905

Report Number: S9-15-25

Dear Dr. Swanger and Members of the Board of Trustees:

The Office of the State Comptroller works to help community college officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support community college operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Board of Trustees' governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of five community colleges throughout New York State. We included the Fulton-Montgomery Community College (College) in this audit. The objective of our audit was to determine if the College was accurately reporting crime statistics and publishing relevant security and safety-related information in accordance with the Clery Act. The audit period was from January 1, 2013 through December 31, 2013. Following is a report of our audit of the College. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This report of examination letter contains our findings and recommendations specific to the College. We discussed the findings and recommendations with College officials and considered their comments, which appear in Appendix A, in preparing this report. College officials agreed with our recommendations and indicated they have taken or plan to take correction action. At the completion of our audit of the five colleges, we prepared a global report that summarizes the significant issues we identified at all of the units audited.

Summary of Findings

The College has taken steps to report crime statistics and publish other relevant security and safety-related information. However, the College could do more to ensure the information is complete, accurately reported, and made available to enrolled students and employees.

We found the College's Annual Security Report (ASR) does not comply with the Clery Act. It has 14 missing or incomplete policy and procedure statements¹ and two missing or incomplete reporting requirements.² We also could not determine if the College distributed the ASR, as required. The College's ASR also contains inaccurate crime statistics, including unreported crimes, a misclassified crime and inaccurate crime location reporting.

We also found that the crime statistics the College reported to the United States Department of Education (DOE) are not consistent with the College's published ASR, when they should agree. In addition, while the College maintains a crime log, College officials do not always document the geographic location of the crime, as required.

Background and Methodology

The College is located in the Town of Johnstown in Fulton County. The College is a part of the State University of New York (SUNY) system, and is governed by a 10-member Board of Trustees (Board) which comprises nine appointed members and a student trustee. The Board is responsible for the general management and control of the College's financial and educational affairs. The President of the College is the College's chief executive officer and, along with other administrative staff, is responsible for the day-to-day management of the College. The College, in the 2014 fall season, had 2,589 enrolled students. The College has 288 beds in its on-campus apartments³ that are available to enrolled students.

Campus security has long been an important issue for students and their families. To address this concern, in 1990, Congress enacted the Crime Awareness and Campus Security Act (Clery Act) requiring colleges to maintain and disclose crime statistics and security policies. The federal statute is named for Jeanne Clery, a 19-year-old Lehigh University freshman who was raped and murdered in her campus residence hall in 1986. As a result of the Clery Act, information about the safety and security of college communities, including both crime and fire data, is readily available to the public to help people make informed decisions when choosing a college for educational or employment purposes.

The Clery Act requires all public and private colleges participating in Federal Title IV student financial aid programs to prepare, publish and distribute an ASR disclosing information about college safety policies, procedures and crime statistics.⁴ The statistics include criminal homicide,

¹ Seven incomplete and seven missing policy and procedure statements

² One incomplete and one missing reporting requirements

³ On-campus housing is managed by the Fulmont College Association, Inc., which is the auxiliary corporation of Fulton-Montgomery Community College.

⁴ For Clery Act-reporting purposes, crime statistics can include certain violations of law that are not routinely considered "crimes" for traditional law enforcement purposes, such as violations for possession of marijuana.

sexual offenses, robbery, aggravated assault, burglary, arson, motor vehicle theft, liquor law and drug violations, illegal weapons possession and hate crimes. Colleges must disclose statistics for reported Clery Act crimes that occur on campus, on public property within or immediately adjacent to the campus, and in or on non-campus buildings or property that the college owns or controls.

Colleges must make the ASR available to current students and employees by October 1 of each year. Colleges must also inform current and prospective students and employees of the availability of the report and provide the ASR upon request. Additionally, colleges must maintain and make publicly available a daily crime log and must submit crime statistics to the DOE annually. The DOE's Handbook for Campus Safety and Security Reporting (Handbook) assists colleges in complying with Clery Act requirements.

SUNY includes 30 community colleges that are located throughout the State.⁵ Each SUNY college is primarily responsible for its compliance with applicable safety and security laws, including the Clery Act. The College's Director of Public Safety and the Department of Public Safety are responsible for responding to, addressing and reporting incidents that occur on campus, as well as incidents that involve enrolled students off campus.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). Such standards require that we plan and conduct our audit to adequately assess College operations within our audit scope. Further, those standards require that we understand the College's management controls and those laws, rules and regulations that are relevant to College operations included in our scope. An audit includes examining, on a test basis, evidence supporting financial activities and applying such other auditing procedures we consider necessary in the circumstances. We believe that our audit provides a reasonable basis for the findings, conclusions and recommendations contained in this report. More information on such standards and the methodology used in performing this audit are included in Appendix B of this report.

Audit Results

Annual Security Report Errors

Incomplete Annual Security Report – The Clery Act requires the College to disclose its policy and procedure statements and reporting requirements in the ASR. The report should be written in language that will be understood by the public and accurately reflect the College's current procedures and practices. The Handbook states the failure to have a required policy or to disclose all of the required policy statements means the College does not comply with the law. The Clery Act requires 62 disclosures in the ASR, which we categorized into 14 policy and procedure statements and five reporting requirements.

We examined the College's most recent ASR to determine whether the required statements had been included and the reporting requirements had been met.⁶ We found a total of 14 missing or

⁵ <http://www.suny.edu/hr/cc/>

⁶ Our audit did not include assessments of the programmatic effectiveness of the security policies and procedures submitted.

incomplete policy and procedure statements⁷ and two missing or incomplete reporting requirements.⁸ For example, the College's ASR does not provide a statement that describes the type and frequency of programs designed to inform students and employees about campus security procedures and practices. As a result, the College has not met the Clery Act's minimum campus safety and security policy requirements and, therefore, has not complied with the law.

College officials also did not maintain adequate records to support they distributed the ASR in accordance with the law. Therefore, we could not determine if they met this reporting requirement. Appendix A details the required policy and procedure statements and reporting requirements and whether the College complied with them.

Inaccurate Crime Reporting – Each year, colleges must review their crime log(s), internal incident reports and crime statistics obtained from local police agencies to identify Clery reportable crimes. The ASR crime statistics should report crimes by crime categories and geographic location. Crime categories may include drug abuse arrests, alcohol disciplinary actions, sex offenses, burglary, etc. The geographic categories may include on-campus, on-campus housing, public property or off – campus location. The College's 2013 ASR included 10 reportable criminal offenses⁹ and 38 reportable disciplinary actions.¹⁰

To determine if the College accurately reported Clery crimes, we reviewed the College's crime log, incident report and local crime statistics and compared them to the College's 2013 ASR. We found the following reporting errors:

- Two liquor law violations were not reported.
- One drug abuse arrest was reported as a liquor law violation arrest.
- One campus drug abuse arrest and two drug abuse disciplinary actions were reported under the wrong geographic location.

College officials attribute inaccurate reporting to human error. Officials said they are updating their reporting system and believe this will prevent similar errors from occurring in the future.

Inconsistent ASR and DOE Crime Statistics

Community colleges are required to publish an ASR containing safety- and security-related policy statements and crime statistics and distribute it to all current students and employees. Although the College is not required to send its ASR to DOE, it must send DOE the crime statistics from the report. DOE posts the data on its public website for use by higher education consumers.

⁷ Seven incomplete and seven missing policy and procedure statements

⁸ One incomplete and one missing reporting requirements

⁹ Two sex offenses, seven drug abuse arrests and one alcohol arrest

¹⁰ Nineteen liquor law violations and 19 drug abuse violations

To confirm the College's 2013 ASR crime statistics were consistent with the crime statistics the College submitted to DOE, we compared the 2013 ASR crime statistics to the statistics DOE published online. We found the statistics do not match. Specifically, we found:

- The 2013 ASR reports one on-campus housing sex offense and one off-campus sex offense. However, DOE statistics report two on-campus housing sex offenses.
- The 2013 ASR reports seven on-campus housing drug abuse arrests. However, DOE statistics report one on-campus and two on-campus housing drug arrests.
- The 2013 ASR reported one on-campus housing liquor law violation arrest. However, the DOE statistics report one on-campus liquor law violation arrest.

When an educational institution provides inaccurate or incomplete information, current and prospective students and employees may not have the information they need to make informed enrollment or employment decisions to ensure their safety. College officials explained these variations were due to human error. They also told us they are updating their reporting system and believe this will prevent similar errors from occurring in the future

Incomplete Crime Log

The Clery Act requires institutions that have a campus police or security department – regardless of whether it is public or private – to have a written log that can be easily understood. This log must be made available to the public. The Clery Act also mandates specific categories of information that must be included, such as the general location of the crime. For example, the location might be recorded as “on the second floor of the administration building” rather than “on-campus.” The log is designed to disclose crime information on a timelier basis than the annual statistical disclosures.

To confirm the College maintained a log in accordance with the Clery Act, we reviewed the College's crime log and all incident reports for the year 2013. We found 18 incidents did not identify the geographic location (i.e., library, parking lot, etc.) where the purported crime occurred. College officials attributed the oversight to human error, as the officers taking the incident are required to document this information and they did not do so.

The Clery Act requires colleges and universities to disclose their security policies, keep a public crime log, publish an annual crime report and provide timely warning to students and campus employees. When an educational institution provides inaccurate or incomplete information, current and prospective students and employees may not have the information they need to make informed enrollment or employment decisions to ensure their safety.

Recommendations

College officials should:

1. Include all required policy and procedure statements and reporting requirements in the College's ASR.
2. Ensure all Clery reportable crimes, appropriate crime categories and geographic locations are included and used when reporting crime statistics in the ASR.
3. Ensure the College's ASR crime statistics are consistent with the crimes reported to DOE.
4. Ensure the crime logs contain all required information, including the geographic location of the crimes.

Good management practices dictate that the Board has the responsibility to initiate corrective action. As such, the Board should prepare a corrective action plan (CAP) that addresses the recommendations in this report and forward the plan to our office. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The Board should make the CAP available for public review in the College's administrative offices.

We thank the officials and staff of the Fulton-Montgomery Community College for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo
Deputy Comptroller

APPENDIX A

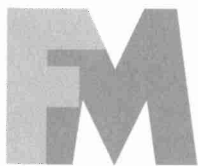
CLERY POLICY AND PROCEDURE STATEMENTS AND REPORTING REQUIREMENTS

Figure 1: Missing or Incomplete Information		
Count	Policy and Procedure Statement	Missing (M) or Incomplete (I)
1	Crime Reporting Policy	I
2	Campus Facility Security Policy	I
3	Campus Law Enforcement/Authority Policy	I
4	Program to Inform of Security Procedures and Practices for Students and Employees	M
5	Program on Crime Prevention	M
6	Monitoring and Recording Criminal Activity at Off-Campus Locations	M
7	Alcohol Policy	I
8	Drug Policy	I
9	Drug or Alcohol Abuse Programs	M
10	Disclosure of Disciplinary Proceeding Results	M
11	Emergency Response and Evacuation Procedures	I
12	Sexual Assault Prevention Programs and Procedures	I
13	Registered Sex Offender	M
14	Missing Student	M
Count	Reporting Requirement	Missing (M) or Incomplete (I)
1	Crime Statistics Reporting	I
2	Crime Location Reporting	
3	Hate Crime Reporting	M
4	Disciplinary Referral Reporting	
5	Annual Security Reporting	Can Not Determine

APPENDIX B

RESPONSE FROM COLLEGE OFFICIALS

The College officials' response to this audit can be found on the following pages.



Fulton-Montgomery
Community College

June 16, 2015

Ann C. Singer, Chief Examiner
State Office Building, Suite 1702
44 Hawley Street
Binghamton, New York 13901-4417

Re: OSC Report Number S9-15-25

Dear Ms. Singer:

The College is in receipt of the above report as issued by The Office of the State Comptroller, and we have enclosed our response. Please consider this response as our "Correction Action Plan."

Should you have any further questions, please do not hesitate to contact my office.

Sincerely,

Dustin Swanger, Ed.D.
President

Cc: David Morrow
Mark Pierce

Fulton Montgomery Community College's (FM) Response and Corrective Action Plan to The Office of State Comptroller's (OSC) Report Number S9-15-25:

OSC Recommendation # 1:

Include all required policy and procedure statements and reporting requirements in the College's ASR.

FM Response:

There were no errors of fact. We agree and accept the recommendation.

Corrective Action Plan:

College staff have received training on the correct policies and procedures to report in its ASR and has amended its ASR to include the required policy and procedure statements.

OSC Recommendation # 2:

Ensure all Clery reportable crimes, appropriate crime categories and geographic locations are included and used when reporting crime statistics in the ASR.

FM Response:

There were no errors of fact. We agree and accept the recommendation.

Correction Action Plan:

College staff have received training on reportable Clery crimes to prevent similar errors from occurring in the future.

OSC Recommendation # 3:

Ensure the College's ASR crime statistics are consistent with the crimes reported to DOE.

FM Response:

There were no errors of fact. We agree and accept the recommendation.

Corrective Action Plan:

College staff have received training on accurate reporting of Clery crimes and the reconciling of the ASR and DOE reports to prevent similar errors from occurring in the future.

OSC Recommendation # 4:

Ensure the crime logs contain all required information, including the geographic location of the crime.

FM Response:

There were no errors of fact. We agree and accept the recommendation.

Corrective Action Plan:

College staff have received training on the accurate completion of the crime log to prevent similar errors from occurring in the future.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

The objective of our audit was to determine if the College was accurately reporting crime statistics and publishing relevant security and safety-related information from January 1, 2013 through December 31, 2013. To complete the audit objective, we:

- Reviewed the Handbook distributed by DOE to assist colleges in complying with Clery Act requirements.
- Interviewed appropriate College officials.
- Reviewed internal reports, crime statistics documentation provided by local law enforcement agencies and crime logs, and reports generated by the local police agencies.
- Reviewed campus policies and procedures.
- Assessed the completeness and accuracy of the College's ASR by comparing the crime statistics listed in the College's 2013 ASR with those listed on DOE's Office of Postsecondary Education website.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.