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August 2015

Dr. James Klyczek
Members of the Board of Trustees
Niagara County Community College
3111 Saunders Settlement Road
Sanborn, New York 14132

Report Number: S9-15-22

Dear Dr. Klyczek 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 Niagara County 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 six missing or incomplete policy and procedure statements¹ and three incomplete reporting requirements. In addition, the College likely over-reported certain crime statistics. The United States Department of Education (DOE) directs colleges to report offenses that are violations of the law, not violations of school policy. Although the College's policy prohibits on-campus alcohol consumption, if the person consuming the alcohol is at least 21 years of age, it is not a violation of law. However, the College reports all violations of its alcohol consumption policy, even when the person consuming the alcohol is of legal age. In 2013, the College reported 85 alcohol violations. Because the College's crime log and incident reports do not report the violator's date of birth or age, we could not determine which of the 85 alcohol violations were a violation of law and, as such, reportable.

While the College maintains a crime log, as required, the log does not include all on-campus criminal incidents. Until recently, alleged criminal incidents and criminal incidents that occurred in the College's on-campus housing were not recorded in the College's crime log. As a result, these incidents were not properly recorded and shared with students and employees. College officials started recording these incidents after receiving clarification regarding reporting housing violations from the DOE in November 2014.

Background and Methodology

The College is located in Niagara County and operates two campuses: the main campus located in Sanborn and a specialized culinary campus in the City of Niagara Falls. 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 6,494 enrolled students. The College has 428 beds in its on-campus apartments² 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

¹ Two were missing and four were incomplete.

² On-campus housing is managed by Student Housing Village Corporation, which is an affiliated entity of the College. This group manages all auxiliary functions at the College and offers College students various living arrangements.

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.³ The statistics include criminal homicide, 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.⁴ Each SUNY college is primarily responsible for its compliance with applicable safety and security laws, including the Clery Act. The College's Security Director and her security team 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.

³ 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.

⁴ <http://www.suny.edu/hr/cc/>

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.⁵ We found a total of six missing or incomplete policy and procedure statements⁶ and three incomplete reporting requirements. For example, the College’s disclosure of its Crime Reporting Policy does not meet the minimum reporting standards. 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. Appendix A details the required policy and procedure statements and reporting requirements and whether the College complied with them.

Criminal Offense Reported Twice – Each year, colleges must obtain incident reports from local police agencies and determine if crimes committed in close proximity to the college and its affiliated properties must be reported in its ASR. College officials should compare this external information to the information they have already recorded in their daily crime logs to ensure that they do not report crimes twice. In its 2013 ASR, the College reported that, in calendar year 2013, seven reportable criminal offenses and 109 reportable disciplinary actions occurred on or near its two campuses. The seven criminal offenses consisted of four sex offenses, two robberies and one burglary. The 109 disciplinary actions were comprised of 85 liquor law violations, 23 drug abuse violations and one weapons violation.

We compared the College’s ASR to the crime statistics local police agencies provided and the crimes recorded in the College’s crime log to confirm the College properly reported Clery Act crimes.⁷ We found the College erroneously reported a rape twice in its ASR. This occurred because the College had already recorded information about the rape in its crime log, which it then reported in the ASR. However, the College reported this crime again in the ASR after receiving crime statistics from local police.

Violations of School Policy – The DOE directs colleges to report offenses that are violations of the law, not violations of school policy. Although the College’s policy prohibits on-campus alcohol consumption, if the person consuming the alcohol is at least 21 years of age, it is not a violation of

⁵ Our audit did not include assessments of the programmatic effectiveness of the security policies and procedures submitted.

⁶ Two were missing and four were incomplete

⁷ Per the Clery Act Handbook, crimes must be classified in accordance with the Federal Bureau of Investigation’s definitions for Uniform Crime Reporting.

law. However, the College reports all violations of its alcohol consumption policy, even when the person consuming the alcohol is of legal age.

In 2013, the College reported 85 alcohol violations. Because the College's crime log and incident reports do not report the violator's date of birth or age, we could not determine which of the 85 alcohol violations were a violation of law and reportable. Therefore, the College may have over-reported alcohol violations. In contrast to DOE's written direction, College officials told us that DOE verbally directed them to report all violations of law and school policy. College officials also said they believe it is better to over-report because DOE can issue civil fines of up to \$27,500 per violation for a substantial misrepresentation of the number, location or nature of the crimes they are required to report.

Misclassified Housing Crimes – The College also received a report of Clery Act crimes committed in the College's on-campus housing complex from a security company that provides the housing security services. Because Campus Security did not directly manage housing security and the College is unable to own its own student housing, the College reported the weapon, drug and alcohol violations as off-campus crimes. While the College correctly classified and reported the correct number of crimes in its ASR, the College incorrectly reported the housing complex crimes as off-campus housing crimes. College officials should have reported these crimes as on-campus housing crimes. College officials thought that because an independent security company provides the security services for the housing complex and its residents – and the housing complex is managed by a nonprofit organization – for reporting purposes, the College's housing was considered off-campus housing. In November 2014, DOE provided the College with clarification regarding reporting housing crime statistics and instructed it to report crimes occurring in its housing complex as on-campus housing crimes. College officials told us that they will follow DOE's direction when they file their 2014 ASR.

Incomplete Crime Log

Any institution that has a campus police or security department – regardless of whether it is public or private – must create, maintain and make available a daily crime log. The purpose of the daily crime log is to record criminal incidents and alleged criminal incidents.

The College maintained a daily crime log and made it available to the public on the College's website; the Security Office made the physical crime log available to students and employees. However, during the audit period, the log did not include alleged criminal incidents and criminal incidents that occurred at the on-campus student housing complex.

For Clery Act reporting, College officials should have entered incidents reported at the College's housing complex into the College's crime log. However, they did not do so. College officials thought that, because the College did not directly manage the property and the housing complex has an independent security company provide security services, the College's housing complex was considered off-campus housing. As a result, the College did not include alleged criminal crimes and criminal crimes for the housing complex in the College's crime log.

In 2014, the College received direction from DOE that indicated it should report the incidents as on-campus. At the end of 2014, the College's Security Office began tracking the incidents at student housing and recording them in the daily crime log.

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. Include only Clery Act reportable crimes in the College's ASR.
3. Compare external information received from local police agencies to the information they have already reported in their daily crime logs to ensure that they do not over-report crimes in the ASR.
4. Ensure the College's crime log includes all alleged criminal incidents and criminal incidents that DOE requires to be documented.

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 Niagara County 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	M
2	Campus Facility Security Policy	
3	Campus Law Enforcement/Authority Policy	I
4	Program to Inform of Security Procedures and Practices for Students and Employees	
5	Program on Crime Prevention	
6	Monitoring and Recording Criminal Activity at Off Campus Locations	
7	Alcohol Policy	
8	Drug Policy	
9	Drug or Alcohol Abuse Programs	
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	
14	Missing Student	I
Count	Reporting Requirement	Missing (M) or Incomplete (I)
1	Crime Statistics Reporting	I
2	Crime Location Reporting	
3	Hate Crime Reporting	I
4	Disciplinary Referral Reporting	
5	Annual Security Reporting	I

APPENDIX B

RESPONSE FROM COLLEGE OFFICIALS

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



NIAGARA COUNTY COMMUNITY COLLEGE
Office of the President

3111 SAUNDERS SETTLEMENT ROAD, SANBORN NY 14132-9460
PHONE 716-614-5905 • FAX 716-614-6824 • WWW.NIAGARACC.SUNY.EDU

Dr. James P. Klyczek
President

May 13, 2015


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

Dear Ms. Singer:

Per your letter of April 15, 2015, enclosed please find our response to the Clery Audit Draft Report for the 2013 academic year. The four points outlined in "The Corrective Action Plan" cited deficiencies have been correct at this time.

If you have any other questions or concerns, please feel free to contact me at (716) 614-5901.

Sincerely,


Dr. James P. Klyczek
President

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Board of Trustees

James W. Ward, *Chairperson*

Henry F. Wojtaszek, *Vice Chairperson* • Bradley W. Rowles, *Secretary* • Gina I. Virtuoso, *Financial Secretary*
Vincent R. Ginestre • William L. Ross • Kevin C. Schuler • Bonnie R. Sloma • Sheila Smith • Olivia M. Spitzer, *Student Trustee*

**Corrective Action Plan for Clery Audit
from Niagara County Community College
May 7, 2015**

Recommendation number one from the Clery Audit Committee states:

1.) Include all required policy and procedure statements and reporting requirement in the College's ASR.

The Clery audit team suggested the following changes be made to the Annual Security Report (ASR) in order to bring the ASR into full compliance with the Clery handbook.

- **Insert the existing crime reporting policy and procedure into the ASR**
- **Insert a detailed narrative defining security and the campus law enforcement / authority to complete the existing statement.**
- **Insert the existing Disclosure of Disciplinary Proceeding Results into the ASR.**
- **Add a component for the Student Housing Village Corporation building and include this component into the Emergency Response and Evacuation Procedures in the ASR to bring the ASR into compliance.**
- **Add information on a student's opinion to notify appropriate law enforcement authorities, including: on-campus and local police; and a statement that institutional personnel will assist the student in notifying these authorities if the student requests the assistance of these personnel.**
- **Write a policy for missing students that includes nine mandated components per the Clery handbook and insert same into the ASR.**
- **Insert the Crime Statistics Reporting directly into the ASR and not as an attachment at the end of the ASR.**
- **Separate the Hate Crime Reporting from the main crime stats and give Hate Crimes their own title.**
- **Improve upon the ASR Annual Security Reporting by sending a blast email to all students, faculty and staff to include the link to the ASR and the Crime Stats. The college will also add a detailed narrative stating how persons can locate and access the ASR as well as how the ASR will be distributed to all students, faculty and staff annually.**

NCCC corrective action response:

An updated ASR meeting all of the Clery audit team's requirements will be recompleted by NCCC Security by the Clery mandated date of October 1, 2015.

Recommendation number two from the Clery Audit Committee states:

2.) Include only Clery Act reportable crimes in the College's ASR.

The Clery audit team audited the year 2013. For the year 2013, Student Housing Village Corporation was considered "off campus" property. Because of the official Clery status of housing in 2013, a letter was sent to housing requesting all Clery reportable Statistics. The statistics were sent by SHVC and local law enforcement and received by NCCC Security. The number of Clery reportable alcohol statistics were recorded as reported without assessing the age of those involved. All alcohol incidents were counted as violations and recorded per previous Clery trainings. The Audit team feels some of these alcohol incidents may have included offenders that were 21 years old, or older, disqualifying the incident as a Clery reportable statistic.

NCCC corrective action response:

NCCC Security and SHVC have corrected this potential issue for the 2014 Clery report. To ensure the stats are being counted correctly, as of January 1, 2014 NCCC Security created a new incident report form in which a column was added to collect the date of birth data of the offender. In addition, a new Clery cover letter was created that designates potential Clery reportable events.

A final corrective measure is planned using the program "Maxient." Purchased in October of 2014, this program will assist in filtering possible Clery reportable offenses for the DOE Clery report. Maxient will be utilized by numerous departments, including SHVC, to ensure accuracy in counting the Clery reportable incidents.

Recommendation number three from the Clery Audit Committee states:

- 3.) Compare external information received from local police agencies to the information they already reported in their daily crime logs to ensure that they do not over-report crimes in the ASR.

NCCC corrective action response:

NCCC Security has moved to correct this issue. In October of 2014, a software program was purchased (Maxient) which will be implemented in the process of collecting statistics for the DOE Clery report and to ensure accuracy in counting the reportable incidents.

As a second corrective measure, in January of 2015, NCCC Security staff created a cover sheet that records not only a potential Clery reportable incident, but also records if local law enforcement was contacted. This creates a checks and balances system for NCCC Security to double check incidents at the end of each year.

Recommendation number four from the Clery Audit Committee states:

- 4.) Ensure the College's crime log includes all alleged criminal incidents that DOE requires to be documented.

NCCC corrective action response:

The College's crime log had not contained crime incidents from Student Housing Village during the audited year of 2013. This was because the Student Housing Village Corporation was classified as "off-campus" housing during the audited year of 2013. On October 17, 2014 an email was received from the Department of Education advising the college to reclassify Student Housing as "on campus" property. As a result of this email directive, NCCC Security began including Student Housing Clery statistics on our daily crime log as of January 1, 2015. This crime log is posted to the NCCC Security website per Clery mandates.

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.