



August 11, 2017

Jonathan Veitch, Ph.D.
President
Occidental College
1600 Campus Road
Los Angeles, CA 90041-3314

Re: Campus Crime Final Program Review Determination
OPE ID: 00124900
PRCN: 201340328581

Dear President Veitch:

On September 14, 2016, the U.S. Department of Education (the Department) issued a Program Review Report regarding Occidental College's (Occidental; the College) failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*) and the Drug-Free Schools and Communities Act (*DFSCA*). The original text of that report is incorporated into this Final Program Review Determination (FPRD). The College submitted an acceptable response to the Department's initial report on January 18, 2017. Occidental's response and the supporting documentation submitted with the response are being retained by the Department and are available for inspection by the College upon request. Please be advised that this FPRD may be subject to release under the Freedom of Information Act and may be provided to other oversight entities now that it has been issued to the College.

Purpose:

Final determinations have been made concerning the findings identified during the program review. The purpose of this letter is to advise Occidental of the Department's final determinations and to close the review. Please note that this FPRD contains several findings regarding Occidental's failure to comply with the *Clery Act* and the *DFSCA*. Because these findings do not result in financial liabilities, they may not be appealed.

Due to the serious nature of these findings, this FPRD will be referred to the Administrative Actions and Appeals Service Group (AAASG) for consideration of a formal fine pursuant to 34 C.F.R. Part 668, Subpart G. If a fine action is initiated by AAASG, detailed information about the action and Occidental's appeal rights will be provided under separate cover.

Record Retention:

Records relating to the period covered by this program review must be retained until the resolution of the violations identified during the review or the end of the regular record retention period applicable to all Title IV records, including *Clery Act* and *DFSCA*-related documents as set forth in 34 C.F.R. §668.24(e).

We would like to express our appreciation for the courtesy extended by the officials at Occidental during the program review process. If you have any questions concerning this FPRD or the program review process, please contact Mr. Keith Ninemire on 816-268.0418 or at Keith.Ninemire@ed.gov.

Sincerely,

Signature Redacted

Candace R. McLaren, Esq.
Director
Clery Act Compliance Division

cc: Ms. Rachel S. Cronin, Interim General Counsel, **Email Address Redacted**
Mr. Joseph Novak, Interim Chief of Campus Safety, **Email Address Redacted**
Ms. Veronika Barseguyan, Clery Administrator, **Email Address Redacted**
Ms. Gina Becerril, Director of Financial Aid, **Email Address Redacted**
Mr. James Moore, Senior Advisor, Clery Act Compliance Division

Enclosure:

Final Program Review Determination

Prepared for:
Occidental College

OPEID: 00124900
PRCN: 201340328581

Prepared by:
U.S. Department of Education
Federal Student Aid
Clery Act Compliance Division

Final Program Review Determination
August 11, 2017

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A. The Clery Act and DFSCA

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (*Clery Act*), in §485(f) of the Higher Education Act of 1965, as amended, (HEA), 20 U.S.C. §1092(f), is a Federal consumer protection statute that provides students, parents, employees, prospective students and employees, and the public with important information about public safety issues on America's college campuses. Each domestic institution that participates in the Federal student financial aid programs under Title IV of the HEA must comply with the *Clery Act*. The institution must certify that it will comply with the *Clery Act* as part of its Program Participation Agreement (PPA) to participate in the Title IV, Federal student financial aid programs.

The *Clery Act* requires institutions to produce and distribute an Annual Security Report (ASR) containing its campus crime statistics. Statistics must be included for the most serious crimes against persons and property that occur in buildings or on grounds that are owned or controlled by the institution or recognized student organizations as well as on adjacent and accessible public property. These crimes are deemed to have been reported anytime such an offense is brought to the attention of an institution's campus police or security department, a local or state law enforcement agency of jurisdiction, or another campus security authority (CSA). A CSA is any institutional official who is 1) designated to receive reports of crime and/or student or employee disciplinary infractions, such as Human Resources and Alternative Dispute Resolution professionals; and/or 2) an official that has significant responsibilities for student life or activities such as residential life staff, student advocacy and programming offices as well as athletic department officials and coaches.

The ASR also must include several statements of policy, procedures, and programmatic information regarding issues of student safety and crime prevention. The *Clery Act* also requires institutions to maintain a Daily Crime Log that is available for public inspection and to issue Timely Warnings and Emergency Notifications to provide up-to-date information about ongoing threats to the health and safety of the campus community. In addition, the *Clery Act* requires institutions to develop emergency response and evacuation plans. Institutions that maintain student residential facilities must develop missing student notification procedures and produce and distribute an Annual Fire Safety Report (AFSR) containing fire statistics and important policy information about safety procedures, fire safety and suppression equipment, and what to do in the case of a fire. Finally, the *Clery Act* amendments that were included in Section 304 of the Violence Against Women Reauthorization Act of 2013 went into effect on July 1, 2015. These provisions are aimed at preventing campus sexual assaults and improving the response to these crimes when they do occur.

The *Clery Act* is based on the premise that students and employees are entitled to accurate and honest information about the realities of crime and other threats to their personal safety and the security of their property. Armed with this knowledge, members of the campus community can make informed decisions about their educational and employment choices and can take an active role in their own personal safety and to secure and protect their personal property. For that reason, the office of Federal Student Aid (FSA) must ensure that the information disclosed in each ASR and AFSR is accurate and complete. FSA uses a multi-faceted approach to ensure that

institutions comply with the *Clery Act*, which includes providing technical assistance and training programs and materials as well as monitoring and enforcement through Program Reviews.

FSA may initiate a campus crime Program Review as a result of a complaint or on public reports about crimes and crime reporting and prevention at a particular institution. FSA has conducted Quality Assurance Reviews in cooperation with the FBI's Criminal Justice Information Service (CJIS) Audit Unit. Program Reviews entail in-depth analysis of campus police and security records and interviews with institutional officials, crime victims, and witnesses. During a program review, an institution's policies and procedures related to campus security matters are also examined to determine if they are accurate and meet the needs of the campus community.

Because more than 90% of campus crimes are alcohol and drug-related, the Secretary of Education has delegated oversight and enforcement responsibilities for the Drug-Free Schools and Communities Act (*DFSCA*), in §120 of the HEA, 20 U.S.C. §1011(i) to FSA. The *DFSCA* requires all institutions of higher education that receive Federal funding to develop and implement a comprehensive drug and alcohol abuse prevention program (DAAPP) and certify to the Secretary that the program is in place. The program must be designed to prevent the unlawful possession, use, and distribution of drugs and alcohol on campus and at recognized events and activities.

On an annual basis, each institution must provide a DAAPP disclosure to all current students (including all students enrolled for any type of academic credit except for continuing education units) and all current employees that explains the educational, disciplinary, health, and legal consequences of illegal drug use and alcohol abuse as well as information about available counseling, treatment, and rehabilitations programs, including those that may permit former students or employees to return following expulsion or firing. The distribution plan must make provisions for providing the DAAPP disclosure annually to students who enroll after the initial distribution and for employees who are hired at different points throughout the year.

Finally, the *DFSCA* requires institutions to conduct a biennial review to determine the effectiveness of its DAAPP to identify areas requiring improvement or modification and to assess the consistency of enforcement actions imposed on students and employees that are found to be in violation of applicable Federal, state, and local drug and alcohol-related statutes or ordinances and/or institutional policies and codes of conduct.

Proper implementation of the *DFSCA* provides students and employees with important information about the detrimental consequences of illicit drug use and alcohol abuse. The conduct of a meaningful biennial review provides the institution with quality information about the effectiveness of its drug and alcohol programs. Any failure to implement these requirements may contribute to increased drug and alcohol abuse on-campus as well as an increase in drug and alcohol-related violent crime. The *DFSCA* is monitored and enforced by the Department.

B. Institutional Information

Occidental College
1600 Campus Road
Los Angeles, CA 90041-3314

Type: Private, Non-Profit

Highest Level of Offering: Master Degree

Accrediting Agency: Western Association of Schools and Colleges

Undergraduate Student Enrollment: 2,062 (Approx. Fall 2016)

% of Students Receiving Title IV: 55% (Approx. Fall 2016)

Title IV Participation¹

2015-2016 Award Year

Title IV Participation Funding Level:

Federal Direct Loan Program	\$	8,272,678
Federal Pell Grant Program	\$	1,843,612
Federal Perkins Loan Program	\$	704,058
Federal Supplemental Education Opportunity Grant Program	\$	262,500
Federal Work-Study Program	\$	902,844
Total	\$	11,985,692

FFEL/DL Default Rate: 2013 - 0.0 %
2012 - 2.8 %
2011 - 2.2 %

Perkins Default Rate:
6/30/15 - 0.8%
6/30/14 - 0.0%
6/30/13 - 2.6%

¹ Postsecondary Education Participants System (PEPS)

Occidental College (Occidental; the College) offers 31 majors across 40 departments and programs. The Occidental campus consists of more than 50 academic, athletic, residential, and business structures, multiple parking lots/structures, and five sports fields situated on 120 acres in the Eagle Rock community of Los Angeles. The Campus Safety Department employs 12 full-time, unarmed, uniformed officers. The department is comprised of these officers, a Chief, and a *Clery Act* Administrator.

The Campus Safety staff is augmented by a group of on-call officers, as well as contract officers, who assist with College events and other special assignments. Student employees provide safety escorts and office support, and staff the ID checkpoint in the Athletics building. The Campus Safety Department uses a variety of electronic devices including security cameras, fire alarms, intrusion alarms, card access systems, and blue-light emergency phones (which are located throughout the campus). All incoming calls to Campus Safety are electronically logged and recorded.

Campus Safety Department officials represented that the College maintains a close working relationship with the Los Angeles Police Department's Northeast Division, and calls upon the LAPD for support as needed. The review team was advised that Occidental officers communicate regularly with LAPD officers on the scene of incidents that occur in and around the campus area, and work closely with the investigative staff at LAPD when deemed necessary. Campus Safety and the LAPD are in the process of memorializing their working relationship via a formal memorandum of understanding.

C. Scope of Review

The U.S. Department of Education (the Department) conducted a program review at Occidental from September 23-27, 2013. The review was conducted by the Clery Act Compliance Division. The lead reviewer was Mr. Keith Ninemire.

The objective of the review was to evaluate Occidental's compliance with the *Clery Act*, the HEA fire safety requirements, the *DFSCA*, and the Department's implementing regulations. Occidental was selected for review due to complaints alleging that Occidental is in violation of several provisions of the *Clery Act*. Specifically, the complaints assert that Occidental has failed to accurately and completely disclose statistics of Clery-reportable offenses, as received by the Department. The complainants also alleged that Occidental repeatedly failed to issue Timely Warnings for certain incidents of crime that posed an ongoing threat.

Furthermore, complainants alleged a general failure on the part of Occidental to keep students, employees, other stakeholders, and the larger campus community fully informed about serious crimes and other threats to their safety and security as they would have had, if the College had developed and implemented a comprehensive campus safety plan and a fully-compliant *Clery Act* compliance program. According to complainants, this condition forced crime victims to seek assistance and support from officials outside of the campus safety structures, including faculty members and others, who did not have official public safety or *Clery Act* compliance roles. Complainants reported that this was necessary because the official points of contact were not

helpful and were apt to disregard or minimize the reports and requests for assistance. Some complainants and interview subjects also asserted that there was reluctance among many crime victims to report crimes that occurred off-campus as well due to the close ties between Occidental officials and the local district of the LAPD. The Department notes that local LAPD were not willing to meet with or actively assist the review team with its investigation at any time prior to or during the site visit

The review consisted of an examination of Occidental's campus safety incident reports, arrest records from local law enforcement agencies, and campus disciplinary files. Both random and judgmental sampling techniques were used to select records for this review. Policies and procedures related to the campus safety and *Clery Act* operations were examined and tested. Interviews of institutional officials with *Clery Act* responsibilities were also conducted.

Disclaimer:

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

D. Findings and Final Determinations

During the review, several areas of noncompliance were noted. The findings identified in the Department's September 14, 2016 Program Review Report appear in italics below. Occidental submitted its official response to the Department's report on January 18, 2017. For the record, it is noted that the College also submitted an interim response on October 14, 2016 to address two specific areas of inquiry. A summary of Occidental's response and the Department's Final Determination appear at the end of each finding. Please note that certain non-substantive edits were made to the text of the initial report.

Finding #1: Lack of Administrative Capability

Citation:

To begin and to continue to participate in any program authorized under Title IV of the HEA, an institution must demonstrate that it is capable of adequately administering the program under the standards established by the Secretary. Among other requirements, the Secretary considers an institution to have administrative capability if it administers the Title IV, HEA programs in accordance with all statutory provisions of, or applicable to, Title IV of the HEA, and all applicable regulatory provisions prescribed under that statutory authority. 34 C.F.R. § 668.16(a). The Secretary's standards of administrative capability also require that an institution employ "an adequate number of qualified persons" as well as ensure that program activities are undertaken with appropriate "checks and balances in its system of internal controls." C.F.R. § 668.16(b)(2); 34 C.F.R. § 668(c)(1). An administratively capable institution "has written procedures for or written information indicating the responsibilities of the various offices with respect to . . . the preparation and submission of reports to the Secretary." 34 C.F.R. § 668.16(b)(4). These standards apply to all aspects of the Title IV Program regulations including the Clery Act.

Noncompliance:

Occidental substantially failed to develop and implement an adequate Clery Act and DFSCA compliance program during the 5-year program review period (2009-2013 calendar years). As substantiated by the violations identified in this report, the College did not have adequate policies, procedures, programs, training initiatives, and systems to comply with Title IV standards of administrative capability. These standards apply to all Title IV operations including the Clery Act and the DFSCA. These findings also strongly indicated that Occidental did not employ an adequate number of qualified staff and did not operate within a system of internal controls sufficient to reasonably ensure compliance with these requirements. The review team also found that these deficiencies were at least in part responsible for the College's failure to provide accurate and complete campus safety and crime prevention information to the students, employees, parents, and other stakeholders including the Secretary.

The evidence developed and examined by the Department indicated that Occidental specifically failed to do the following: 1) compile and disclose accurate, complete, and fully-reconciled crime statistics; 2) issue timely warnings to advise campus community members about serious ongoing threats; 3) maintain an accurate and complete daily crime log; 4) develop and then adhere to required campus safety and crime prevention policies and procedures; and, 5) develop and implement effective drug and alcohol abuse prevention programs. The College also did not identify its Campus Security Authorities (CSAs), advise them of their crime reporting obligations, or provide them with a simplified means to report offenses. Such failures call Occidental's ability and/or willingness to properly administer the Title IV, HEA, FSA programs into serious question.

Compliance with the Clery Act, the DFSCA and the Department's regulations are specifically required by the terms and conditions of Occidental's Program Participation Agreement (PPA) under which the College participates in the Title IV, HEA, FSA programs. The College's current

PPA was executed on May 23, 2011 and is effective through March 31, 2017. This PPA was signed by Occidental President, Dr. Jonathon Veitch.² The PPA requirements can be found at 34 C.F.R. § 668.14(c).

Administrative impairments such as those identified during this program review increase the likelihood that the statutes and regulations that govern the Title IV Programs will not be followed. With regard to the Clery Act, such impairment may result in an institution's systemic failure to provide students and employees with important campus crime information and services that are essential to their safety and security. Impaired administrative capability and weak internal controls are an indication that an institution lacks the ability or willingness to comply with Federal regulations.

Required Action:

As a result of this violation, Occidental was required to take all necessary corrective actions to cure the violations identified in this Program Review Report and to adequately address the organizational weaknesses that contributed to the violations. In addition, the College was required to develop and implement a system of policy and procedure improvements to ensure that these findings do not recur. As part of that process, the College will be required to develop and implement a comprehensive remedial action plan.

Based on an evaluation of all available information, including Occidental's response, the Department will determine appropriate additional actions and advise the College accordingly in the Final Program Review Determination (FPRD).

Institutional Response:

In their official response, Occidental management challenged the Department's finding that the College lacked the requisite administrative capability to properly administer the Title IV, FSA programs during the initial and expanded review period (calendar years (CY) 2009 - 2013). Notably, College officials did not offer any specific rationale for their lack of concurrence³ but did submit extensive documentation about the remedial efforts that were undertaken since the site visit and in response to the Program Review Report. Occidental stated that it was one of many institutions identified for a program review to assess its compliance with the *Clery Act* and *DFSCA*.⁴ College officials also claimed that many of the issues identified by the Department

² Occidental was fully recertified on April 24, 2017. The College's current PPA expires on September 30, 2022.

³ The Department notes that Occidental's response to the Program Review Report registered at least partial disagreement with each finding of violation; however, the College's management did not identify the elements of each finding with which it did not agree nor did they provide any evidence of substantial compliance during the review period. In fact, Occidental conceded to several of the stated violations. In this context, the Department was forced to conclude that the College's partial challenge was grounded in the stated assertions that remedial action was eventually taken. As noted throughout the Program Review Report and this FPRD, each finding is based on specific violations, deficiencies, and other weaknesses that were identified during our examination of documents and other information from the review period. While corrective action is an essential part of the review process, the compliance exceptions documented herein are not in any way ameliorated by subsequent remedial efforts.

⁴ The Department notes that Occidental was not selected for review at random. Rather, a determination was made that a review was needed following an assessment of a credible complaint that alleged serious *Clery Act* violations.

occurred five or more years ago and have been addressed as the College's *Clery Act* program has continued to evolve.

The College also asserted that it has developed its program by dedicating resources to the development and implementation of new policies and procedures and the deployment of reliable systems that were not previously in place. While the response did not speak specifically to the violations related to the prior internal weaknesses, Occidental did claim that steps were taken to implement the VAWA requirements and elements of the guidance contained in the 2016 edition of the Department's Handbook. Per the response, the College has identified and trained CSAs and now conducts regular meetings with key stakeholders, including an internal *Clery* Team. The College states that the team is composed of qualified and trained personnel who are assigned specific responsibilities to match skill sets and duties to maximize future compliance.

Finally, Occidental stated that a *Clery* Administrator position was created and staffed and a new well-qualified Chief of Campus Safety was also hired. Occidental officials stated that they believe that the leadership changes and new compliance program will provide reasonable assurance that the violations noted during the review will not recur.

Final Determination:

In Finding #1, the review team found that Occidental lacked the requisite administrative capability required of participating institutions as a result of its failure to develop and implement an adequate *Clery Act* and *DFSCA* compliance program during the review period. The finding was supported by the numerous, serious, persistent, and systemic violations of the *Clery Act* and the *DFSCA* that were identified in the Program Review Report. The regulations governing the Title IV, Federal Student Aid programs establish certain standards that all participating institutions must maintain to be considered administratively capable. To begin or continue to participate in any Title IV, HEA program, an institution must demonstrate that it is capable of adequately administering that program by substantially complying with all statutory and regulatory requirements, including the *Clery Act* and the *DFSCA*.

During the review period, Occidental did not have an effective internal control structure or adequate communication and coordination strategy to facilitate minimally-acceptable levels of compliance. The administrative impairments observed by the review team are set out in the Noncompliance section above and throughout the Program Review Report. Specifically, the review team found that the College substantially and persistently failed to: 1) compile and disclose accurate, complete, and fully-reconciled crime statistics; 2) issue Timely Warnings to advise campus community members about serious ongoing threats; 3) maintain an accurate and complete Daily Crime Log; 4) develop and then adhere to required campus safety and crime prevention policies and procedures; and, 5) develop and implement effective drug and alcohol abuse prevention programs. The College also failed to identify its Campus Security Authorities (CSAs), advise them of their crime reporting obligations, and provide them with a simplified means to report offenses.

During the course of the review, the Department learned that the College delegated most of the responsibility for Clery compliance to the Campus Safety Department even though that unit was already understaffed, inadequately resourced and included no personnel with the requisite *Clery Act* experience or expertise. As noted in the Department's initial report, Occidental failed to employ sufficient staff to carry out required activities and tacitly conceded that officials in place at the time were unaware of many of the College's obligations under Federal law.

The number and extent of the violations identified in the initial report and sustained in this FPRD support the Department's determination that Occidental did not implement an adequate system of checks and balances and did not operate in an environment of basic internal controls during the review period. Furthermore, it is now clear that that the Department's review was the impetus for most of the remedial steps that were eventually taken and that but for the Department's intervention, it is unlikely that few of these actions would have been taken to address longstanding deficiencies. These compliance concerns noted during the review period were significant enough to call Occidental's ability and/or willingness to properly administer the Title IV, HEA, Federal Student Aid programs into serious question. More information about the disposition of the other specific violations is included in the Final Determinations that follow.

To address the administrative impairments noted in Finding #1, the College was required to review and revise its internal policies and procedures related to its campus safety and *Clery Act* compliance programs, and to develop and implement any new policies and procedures needed to ensure that these violations do not recur. In its response, Occidental stated its disagreement with parts of the finding⁵ but also asserted that extensive remedial action was undertaken over several years to address the very conditions that were identified during the review.

The Department carefully examined all available information, including Occidental's narrative response and supporting documentation. Based on that review and the College's partial admissions, the Department has determined that the violations identified in the initial finding are sustained. In upholding this finding, it must be noted that records secured and analyzed by the Department make it clear that during the initial review period and after Occidental did not comply with the *Clery Act* as required by its Program Participation Agreement and for a period of time after, failed to take adequate action to address said deficiencies in a manner expected of a competent Title IV fiduciary, keeping in mind that the duties of a Title IV fiduciary extend beyond the management of Federal funds. The violations noted herein substantially and negatively impacted the College's ability to operate an effective campus safety program. In upholding this violation, the Department must emphasize that Occidental and all institutions must be continually vigilant and intentional, both operationally and administratively, to provide reasonable assurance of positive *Clery Act* results that support and enhance its campus safety, crime prevention, fire safety, and substance abuse prevention programs.

⁵ Once again, the Department must note that Occidental did not take substantial exception with any of the Department's presentation of specific violations.

This conclusion is supported further by the following facts: The inadequate control environment at Occidental caused the statistics for incidents of crime that were reported as occurring on Clery Geography to be inaccurate. As the College's response confirmed, 79 previously-undisclosed incidents were identified. Moreover, Occidental management ultimately had to agree that the College failed to issue timely warnings in response to at least four incidents that may have posed an ongoing threat to student and employee health and safety. The problems identified in a relatively small sampling from the College's Daily Crime Log raised similar concerns: the review resulted in the addition of 36 incidents for 2012, 31 incidents for 2013, and two additional incidents for 2014. In yet another example of this trend, the review team confirmed the omission of at least 22 required statements of policy, procedure, practice, and programs in its ASRs and AFSRs produced between 2010 and 2014. Going forward, Occidental, like all institutions, must maintain organizational awareness and intentionality to avoid systemic compliance failures and to create positive *Clery Act* results in the delivery of campus safety, crime prevention, fire safety, and substance abuse prevention services.

Although serious concerns remain, the Department's examination also indicated that the identified violations were, for the most part, satisfactorily addressed by Occidental's responsive documents, including its new and revised internal policies and procedures. On this basis, the Department has determined that the College's corrective action plan meets minimum requirements and for these reasons has accepted the response and considers this finding to be closed for the purposes of this Program Review. Nevertheless, the officials and directors of Occidental are put on notice that they must continue to develop the institution's campus safety program and take any additional necessary action to fully address the deficiencies and weaknesses identified by the Department. This includes intentional and effective action to provide for the proper custody and control of required documentation and other information needed to substantiate Occidental's efforts to comply. Along these lines, such corrective measures must also address any deficiencies that were identified during the preparation of the College's response or as otherwise needed to ensure that these violations do not recur.

Occidental is reminded that the exceptions identified above constitute serious violations of the *Clery Act* that, by their nature, cannot be cured. There is no way to truly "correct" violations of this type once they occur. Occidental asserted that it has taken adequate remedial actions, and that, by doing so, it is now in compliance with the *Clery Act* as required by its PPA. Nevertheless, Occidental officials must understand that any failure to administer the Title IV, FSA programs in accordance with Federal law and the Department's regulations trigger a special concern for the Department and more importantly, serve to deprive students and employees of important campus safety information to which they are entitled. For these reasons, the College is advised that its remedial actions cannot and do not diminish the seriousness of these violations, nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Finding#2: Failure to Disclose Accurate and Complete Crime Statistics - Part I

Citation:

The Clery Act and the Department's regulations require that all institutions that receive Title IV, HEA funds must, by October 1 of each year, produce a comprehensive Annual Security Report (ASR) that contains, at a minimum, all of the statistical and policy elements described in 34 C.F.R. § 668.46(b) and distribute it to all current students and employees.

The ASR must be prepared and actively distributed as a single document. Acceptable means of delivery include U.S. Mail, hand delivery, campus mail distribution to the individual, or posting on the institution's website. If an institution chooses to distribute its report by posting to an internet or intranet site, the institution must, by October 1 of each year, distribute a notice to all students and employees that includes a statement of the report's availability and its exact electronic address, a description of its contents, as well as an advisement that a paper copy will be provided upon request. 34 C.F.R. § 668.41(e)(1). The Department's regulations require participating institutions to provide a notice to all prospective students and employees that includes a statement about the ASR's availability, its contents, and its exact electronic address if posted to a website. This notice must advise interested parties of their right to request a paper copy of the ASR and to have it furnished upon request. 34 C.F.R. § 668.41(e)(4).

The Clery Act and the Department's regulations require institutions to include statistics for incidents of crimes reported during the three most recent calendar years. The covered categories include criminal homicide (murder and non-negligent manslaughter), forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. Statistics for certain hate crimes as well as arrest and disciplinary referral statistics for violations of certain laws pertaining to illegal drugs; illegal usage of controlled substances, liquor, and weapons must be disclosed in the ASR. These crime statistics must be disclosed for the following geographical categories: 1) on campus; 2) on-campus student residential facilities; 3) certain non-campus buildings and property; and, 4) certain adjacent and accessible public property. 34 C.F.R. § 668.46(c)(1).

Finally, each institution must submit its crime statistics to the Secretary for inclusion in the Department's "Campus Safety and Security Data Analysis Cutting Tool" and the College Navigator. 34 C.F.R. § 668.41(e)(5).

Noncompliance:

Occidental did not compile and disclose accurate and complete crime statistics during the review period. This finding is based on documentation provided by the College. In a letter dated March 20, 2014, Department officials requested additional records needed to evaluate the accuracy and completeness of Occidental's crime statistics. Through its outside legal counsel from O'Melveny & Meyers LLP, the College provided a response dated May 2, 2014⁶ that

⁶ The title of this binder is "Request 2" which is the second item identified in the Department's letter to Occidental, dated March 20, 2014.

included a binder of documents labeled as a "complete and accurate Audit Trail" of Clery-reportable crimes for calendar years 2009–2012.

On page three of the binder, Occidental stated that a total of 25 reportable forcible sex offenses occurred on the College's "Clery Geography" in calendar year 2010; 24 on-campus, 20 of those within on-campus residence halls, and one at a non-campus location. Contrary to this admission, the College inaccurately submitted the following information to the Departments' Campus Safety and Security Data Analysis Cutting Tool (CSSDACT) for 2011–2012:

- 1) Total forcible sex offenses On-campus 2010: 7 reported - 24 should have been reported.*
- 2) Forcible sex offenses within On-campus residence halls 2010: 3 reported - 20 should have been reported.*
- 3) Forcible sex offenses within Non-campus buildings and properties 2010: 0 reported- 1 should have been reported.*

In addition to the above, the College reported in its 2014 ASRs revised crime statistics for the calendar years 2011 and 2012 that were previously underreported sexual assaults and other crimes in the following years and added these additional numbers in their report:

- 1. Adds 4 cases of Sexual Assault in 2012.*
- 2. Adds 1 case of Robbery in 2012.*
- 3. Adds 1 case of Sexual Assault in 2011.*
- 4. Adds 1 case of Auto Theft in 2011.*
- 5. Adds 1 case of Weapons Referral in 2011.*
- 6. Adds 1 case of Sexual Assault in 2009.*
- 7. Adds 1 case of Aggravated Assault in 2009.*

Failure to compile and disclose accurate and complete campus crime statistics violates one of the most foundational requirements of the Clery Act. Reporting violations of this type deprive interested parties of access to important campus safety information to which they are entitled and calls the College's ability and willingness to properly administer the Title IV, FSA program in to serious question.

Required Action:

Occidental was required to take all necessary corrective actions to rectify this violation and all others identified in this Program Review Report. The College was to address each of the classification and disclosure exceptions noted above. In addition, as discussed below, the College must re-examine all crime statistics disclosed during the review period and in calendar years 2013, 2014, and 2015. The Department's review and Occidental's admissions strongly indicate that there was a serious flaw in the crime statistics that were included in ASRs and that were submitted to the CSSDACT over several years. As such, additional work is needed to determine the extent of the problem as the first step in developing a meaningful corrective action plan that will provide reasonable assurances that such violations will not recur.

To address the deficiencies identified above, Occidental must:

- Conduct a thorough review of all incidents of crime reported to the Campus Safety Department, other security-related officials and offices, any office that students and employees are directed to report matters of crime or that administer student or employee disciplinary programs, such as the Office of Human Resources, and/or to any other CSAs. Similarly, the College must contact all local law enforcement agencies with concurrent jurisdiction to request all necessary records to ensure that all incidents of Clery-reportable crimes were identified and classified correctly and that any and all reporting errors have been corrected. Occidental also must ensure that crimes evidencing that a victim was targeted for crime on the basis of actual or perceived membership in a covered class are disclosed as hate crimes. This requirement applies to all of the violations identified above and all others identified by Occidental during the conduct of the institutional self-study and in the preparation of its response. As part of its response, Occidental must also verify that the crime statistics for all Clery-reportable incidents were categorized and disclosed in accordance with the geographical classifications defined in 34 C.F.R. § 668.46(c)(4).*
- Develop appropriate policies and internal controls to ensure that all officials charged with compiling the required crime statistics request information from all CSAs and local law enforcement agencies and that the College provides and publishes complete and accurate crime statistics. In addition, the College must develop and implement procedures to ensure that CSAs receive appropriate regular training. Finally, the College must design and deploy an effective crime statistics data request and collection mechanism for CSAs.*
- Review all of the College's real estate holdings and ensure that it has correctly applied the Clery Act's geographical definitions to all properties owned or controlled by Occidental including all undeveloped property and lands that are used for any direct or indirect educational purpose. Similarly, the College must also review the status of all buildings and properties that are owned or controlled by any recognized student organizations and apply the campus and non-campus property definitions of the Clery Act to each property. Based on the findings of its review, Occidental must re-evaluate the adjacent and accessible public property boundaries that apply for Clery Act reporting purposes. The College must revise its maps and patrol zones in accordance with its findings. These findings must also be used to determine if all campus, non-campus buildings and property, and all adjacent and accessible public property were properly defined during each of the calendar years in the expanded review period and if all required crime statistics were compiled and disclosed as required. A copy of the property lists and any and all documents, reports, and other work papers created during the College's internal review and its application of the geographical definitions must accompany its official response to this Program Review Report. These documents must identify any errors and omissions identified during the review as well as an explanation of all actions that were or will be taken to address violations and weaknesses.*
- Construct clear audit trails that substantiate the accuracy and completeness of its revised crime statistics through calendar year 2014. The audit trails must support the corrected*

crime statistics for all Clery crime classifications including Part I Offenses, hate crimes, and drug law violation (DLV), liquor law violation (LLV), and weapons law violation (WLV) arrests and disciplinary referrals. The Department will not impose strict requirements as to the exact form of the audit trail so long as it provides the incident report numbers associated with each crime classification broken down by the requisite geographical categories for each calendar year.

- *Review and improve its policies, procedures, internal controls, and training programs to ensure that going forward, all incidents of crime reported to the Campus Safety Department security-related officials, CSAs, and local law enforcement agencies are properly classified in accordance with the definitions in Appendix A to Subpart D of 34 C.F.R. Part 668 and are included in its ASR statistical disclosures.*

Based on an evaluation of all available information, including Occidental's response, the Department will determine appropriate additional actions and advise the College accordingly in the FPRD.

Institutional Response:

In their official response, Occidental management disagreed in part and concurred in part with this finding. The College, as part of the required actions, initiated a review of its crime records for CY 2012 through 2015, and found and corrected 79 under-reported crimes and 236 over-reported crimes. As such, in total, the College committed a total of 315 errors in its disclosing of its crimes statistics to the Department and its college community over this four year period.

Per the response, the College claimed that it took several steps to ensure that future crime reporting will be accurate and complete. Additionally, Occidental indicated that it has provided information regarding its improved policies and procedures, increased staffing, and enhanced training. Finally, officials asserted that they reviewed and updated its Clery Geography and properties as requested by the Department.

Final Determination:

Finding #2 cited Occidental for multiple violations of the *Clery Act* and the Department's regulations, as outlined in the Noncompliance section above. Specifically, the review team found that the College failed to compile and submit timely, accurate, and complete crime statistics to the Department and in the College's AFSSRs⁷ for CYs 2009, 2010, 2011, 2012, 2013, 2014, and 2015.

⁷ For clarity, the Department consistently refers to the reports that institutions are required to produce and distribute for *Clery Act* and HEA compliance purposes as the Annual Security Report (ASR) and the Annual Fire Safety Report (AFSR). While these are the widely-acknowledged and conventional titles for these reports, institutions are free to use another title so long as it is clear that the report(s) were created to meet the Federal requirement(s). Occidental chose to give its combined ASR/AFSR the title of the "Annual Fire Safety and Security Report (AFSSR)." The reports produced by the College and examined by the review team are referred to in this FPRD alternatively using both naming conventions.

As a result of this violation, Occidental was required to develop and implement substantive policies and procedures to ensure that timely, accurate crime statistics are submitted to the Department in accordance with 34 C.F.R. § 668.41(e)(5). In its response, the College concurred in part and disagreed in part with the finding, and submitted documentation in support of its claims. In a review of its own statistics, the College found 315 reporting errors in the CYs 2012 through 2015, which supports the Department's determination that the College lacked the requisite Administrative Capability to comply.

The Department carefully examined all available information, including Occidental's narrative response and supporting documentation. Based on that review and the College's partial admissions, the Department has determined that each of the violations identified in the initial finding is sustained. The examination indicated that the identified violations were, for the most part, satisfactorily addressed by Occidental's updated policies and procedures put forth in its 2016 AFSSR. As such, the Department has decided that the College's corrective action plan meets minimum requirements. For these reasons, the Department has accepted Occidental's response and considers this finding to be closed for the purposes of this Program Review. Nevertheless, College officials and directors must take all other action that may be necessary to address the deficiencies identified by the Department, as well as any additional deficiencies and weaknesses that were detected during the preparation of Occidental's response, and/or as may be needed to otherwise ensure that these violations do not recur.

Occidental is once again reminded that the exceptions identified above constitute serious and persistent violations of the *Clery Act* that, by their nature, cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. Timely submission of accurate crime statistics to the Department is among the most basic requirements of the *Clery Act* and is fundamental to its campus safety goals. Access to this information permits campus community members and their families to make well-informed decisions about where to study and work and empowers individuals to play a more active role in their own safety and security. The College asserted that it has taken adequate remedial actions, and that, by doing so, it is now in compliance with the *Clery Act* as required by its PPA. Nevertheless, Occidental is advised that its remedial actions cannot and do not diminish the seriousness of these violations, nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Finding #3: Failure to Properly Disclose Accurate and Complete Crime Statistics - Part II

Citation:

The Clery Act and the Department's regulations require that institutions participating in the Title IV, HEA programs compile and disclose crime statistics for the three most recent calendar years concerning the occurrence on campus, in or on non-campus buildings or property, and on public property of the following that are reported to police agencies or to a campus security authority: criminal homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, and arson. In addition, institutions must disclose arrests for liquor law violations, drug law violations, and illegal weapons possession.

34 C.F.R. § 668.46(c)(1)(viii). The Department's regulations require that, for Clery Act reporting purposes, participating institutions must compile crime statistics using the definitions of crimes provided in Appendix A to Subpart D of the Department's General Provisions Regulations. 34 C.F.R. § 668.46(c)(7).

Noncompliance:

Occidental failed to compile and disclose accurate and complete crime statistics for calendar years 2012 and 2010. The Department selected samples of incident reports and determined that three (3) incident reports were misclassified, thus affecting the accuracy of the reported crime statistics.

Calendar Year 2012

- 1. Incident No 12-0607 Classified as Harassment - should have been classified as Hate Crime Offense / Intimidation. Complainant was surrounded by five or six males who started to call him sexually orientated slurs. This placed the complainant in "reasonable fear" causing him to quickly retreat from the area. Intimidation occurred when the suspect was surrounded, which unlawfully placed the suspect in reasonable fear of bodily harm, even though no weapons were displayed and the complainant was not physically attacked. This would result in an underreporting of Hate Crime/Intimidation.*

Calendar Year 2010

- 2. Incident No 9974888 Classified as Grand Theft Building - should have been classified as Burglary. A laptop computer was stolen from a residence hall room during Winter Break. This incident meets the three conditions for a Burglary. This would result in an underreporting of burglaries.*
- 3. Incident No 9975053 Classified as All Other Thefts - should have been classified as Burglary. Victim's wallet containing approximately \$300 was stolen from her desk drawer inside her residence hall room. This incident meets the three conditions for a Burglary. This would result in an underreporting of burglaries.*

Failure to compile and disclose accurate and complete crime statistics and to include this data in the ASR and in submissions to the CSSDACT violates the Clery Act and the College's PPA.

Required Action:

As a result of these violations, Occidental was required to review each of the cited incidents of crime and then either reclassify the incident or provide an explanation of why the original crime classification was correct. If the College believes that the original classification should be maintained, it must provide a clear articulation for its position and submit credible information and documents in support of its claims. Furthermore, Occidental must modify its campus crime statistics as needed to address any deficiencies. Finally, the College must develop procedures

that will ensure that all incidents of crime reported will be classified in accordance with Clery Act program definitions. A copy of those procedures was to be submitted with the College's response. The response to this finding may be incorporated into the detailed file examination that is required under Finding #2 at the discretion of management.

Based on an evaluation of all available information, including Occidental's response, the Department will determine appropriate additional actions and advise the College accordingly in the FPRD.

Institutional Response:

In their official response, Occidental management disagreed in part and concurred in part with this finding. Concerning the first incident in 2012, No. 12-0607, the institution disagreed with the Department that it had been misclassified. Asserting its original assessment that the victim never feared for his safety and did not report the incident to law enforcement or Campus Safety, the institution determined that this incident did not qualify as "intimidation."

In the second incident, No- 9974888, Occidental admitted that it had misclassified this crime in its incident report. However, the College states that it was correctly classified and counted as a Burglary in its original 2010 statistics.

Lastly, the third incident, No- 9975053, was recorded as a theft. The College stands by this original determination as it asserts that there was no evidence of unlawful access to the location as the victim had allowed her friends in her room even when she was not present.

Final Determination:

Finding #3 cited Occidental for multiple violations of the *Clery Act* and the Department's regulations, as outlined in the Noncompliance section above. Specifically, the review team found that the College had misclassified crimes, and, as a result, these crimes were never included in the statistical disclosures that appeared in the 2010 and 2012 AFSSRs or in the data submissions to the CSSDACT. As a result of these violations, the College was required to review and revise its internal policies and procedures related to its campus safety and *Clery Act* compliance programs and to develop and implement any new policies and procedures needed to ensure that these violations do not recur. In its response, Occidental asserted that all necessary action was taken to address the violations identified during the review. Once again, the College concurred in part and disagreed in part with the finding while noting that specific action was taken to prevent recurrence.

With regard to incident No - 12-0607, the Department take note of the College's rationale but finds the College's claim that the offense was not a Hate Crime to be unpersuasive. Even though the victim did not report the incident, the incident was reported to a CSA by the victim's mother on the very same night that it occurred. Moreover, in the narrative of Occidental's incident report, the victim was asked if he was gay. When he stated, "No," and attempted to walk away, he was quickly surrounded by five to six subjects who began a series of verbal taunts, calling

him a “faggot,” and “gay.” The victim was able to squeeze by them, and ran away, crying. From this summary, the Department finds that this incident was fear-inducing, intimidating, and threatening and as such, the violation is sustained.

In the second incident, No - 9974888, the College admits that it improperly labeled the crime as “Grand Theft Building” and classified it as “Larceny-Theft” in both its Computer Assisted Dispatch (CAD) report and in the actual crime report of the incident. However, the College points out that, in the narrative, it did label the incident as a “Burglary,” and reported it as such in its 2010 AFSSR. The Department has re-examined this incident and agrees with the College. This violation is not sustained.

In the last example, Incident No-9975053, the College states that it stands by its original classification of the incident as a “theft” as opposed to a “Burglary.” The College cited a lack of evidence of unlawful entry since the victim allowed her friends access to her room even when she was not present. From this explanation, it is clear that the College assumes that a friend of the victim stole her wallet, but, the responsible party was never apprehended in this case. Generally, if an item is missing from a structure, if the individual who took the item is unknown, and if the investigating officer has exhausted all avenues to identifying the perpetrator, the proper classification is Burglary.⁸ The Department finds Occidental’s argument in this regard to be unpersuasive and as such, the violation is upheld.

The Department carefully examined all available information, including Occidental’s narrative response and supporting documentation. Based on the analysis detail above, the Department has determined that two of the three violations identified in the noncompliance section of the initial finding are sustained.⁹ This examination also indicated that the identified violations were, for the most part, satisfactorily addressed by Occidental’s new and revised internal policies, procedures, and systems as detailed in the response. As such, the Department has decided that the College’s corrective action plan meets minimum requirements. For these reasons, the Department has accepted Occidental’s response and considers this finding to be closed for the purposes of this Program Review. Nevertheless, College officials and directors must take all other action that may be necessary to address the deficiencies identified by the Department, as well as any additional deficiencies and weaknesses that were detected during the preparation of Occidental’s response, and/or as may be needed to otherwise ensure that these violations do not recur.

Occidental is once again reminded that the exceptions identified above constitute serious violations of the *Clery Act* that, by their nature, cannot be cured. There is no way to truly “correct” violations of this type once they occur. Occidental asserted that it has taken adequate remedial actions and that by doing so, that it is now in compliance with the *Clery Act* as required by its PPA. Nevertheless, Occidental officials must understand that any failure to publish and distribute an accurate and complete AFSSR deprives students and employees of important campus safety information to which they are entitled. For these reasons, the College is advised that its remedial actions cannot and do not diminish the seriousness of these violations nor do

⁸ See 2005 Handbook, page 36.

⁹ The component of the finding related to Incident #9974888 is not upheld.

they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Finding #4: Timely Warning Issuance and Policy Violations

Citation:

Under the Clery Act an institution must issue timely warnings to the campus community to inform affected persons of crimes considered to be a threat to students and employees. See §485(f)(3) of HEA. These warnings must be issued to the campus community in any case where an incident of crime listed in 34 C.F.R. § 668.46(c)(1) or (c)(3) that may pose a serious or ongoing threat to students or employees and is reported to a campus security authority. 34 C.F.R. § 668.46(e). An institution's ASR must include detailed information about the issuance of timely warnings. 34 C.F.R. § 668.46(b)(2)(i).

Noncompliance:

Occidental did not comply with the timely warning provisions of the Clery Act and also failed to adhere to its own policy and procedures for the issuance of such warnings. Specifically, Occidental did not issue timely warnings for reports of Clery-reportable crime that did in fact pose a serious or ongoing threat to students, employees, and the broader campus community. Moreover, the College did not include accurate and/or essential details about such threats in some of the warnings that were issued. This finding is based on a careful examination of the College's "alert notices," the title used at Occidental for timely warnings, as well as the corresponding crime incident reports, daily crime logs, Campus Safety's Watch Commander's Log, and policies and procedures that were disclosed in ASRs for the calendar years 2009 through 2012. Furthermore, the contents of Occidental's timely warning notices were often so vague as to constitute a failure to provide actual notice of the dangerous condition. For example, some notices did not include pertinent information such as the date and time of the incident. In other cases, references to key facts in certain timely warnings did not match the information, such as the dates and geographic sites of a crime, that were found in the corresponding incident reports, daily crime logs, or Watch Commander's Log (a record of all incidents that were reported to Campus Safety throughout each shift).

A selection of Occidental's timely warning violations are described in the paragraphs below.

In the first example, Occidental violated timely warning provisions of the Clery Act when it did not issue a timely warning for the report of a sexual assault on a high school student that took place on its campus in 2012. This crime constituted both a serious and an ongoing threat to students and employees on the campus.

A summary of the crime incident report is provided below.

- **Incident #12-0574 (Forcible Sexual Assault)** - On Wednesday, May 23, 2012, at approximately 7:40 a.m., an alleged sexual assault occurred on Gilman Road while an

Eagle Rock High School (ERHS) student walked through Occidental's campus on her way to school. An unknown man groped the student's breasts and buttocks and abruptly walked away from the victim. The crime incident was reported to Campus Safety by an ERHS teacher at approximately 8:30 a.m. on the same day that the crime occurred.

The facts of the case clearly show that a warning should have been issued. These include the fact that this was a stranger attack that was reported immediately (within one hour of occurrence). The documents analyzed by the review team also show that the alleged assailant was last seen on campus property fleeing from the victim and his whereabouts quickly became unknown.

As noted above, Occidental's inaction in this case not only violated the Clery Act, but also was contrary to the College's policies and procedures that were included in the ASR. Note the following excerpt from the timely warning policy disclosure that was included in Occidental's 2010, 2011 and 2012 ASRs:

*"In the event that a situation arises, either **on or off campus**, that, in the judgment of the director of Campus Safety, constitutes an ongoing or continuing threat, a campus-wide "timely warning" will be issued. Depending on the severity of the situation, the warning may trigger activation of all or part of the Oxy Alert system – a multilayered approach using siren, voice-mail, e-mail, and website notifications. Students enroll in Oxy Alert during clearance at the start of each semester; faculty, staff, and administrator enroll at the MyOxy section of the College website."*
Guide to Campus Safety 2012-2013; 2011-2012, and 2010-2011.

This statement indicates that timely warnings will be issued for on or off campus incidents that are determined to be an ongoing or continuing threat to the safety of its students and employees. The Department notes that while institutions are not generally required to issue timely warnings for offenses that do not occur on their so-called "Clery Geography," institutions will be held to the policy statements that are included in the ASR. In many cases, it is sound policy to issue warnings for areas beyond an institution's Clery Geography, especially in cases where a significant number of campus community members, live, work, or park off-campus or otherwise are required to traverse areas that are not specifically within the geographical confines of the campus. However, when an institution makes a representation in the ASR that warnings will be issued for an expanded area then that institution will be held to that standard for compliance monitoring and enforcement purposes. The Department notes that Occidental officials claimed that the policy is further enabled by the fact that the Campus Safety Director lives in nearby campus housing and that as a result, is able to respond personally and promptly to reports of serious incidents of crime, including "a crime of violence, like an armed robbery." The expectation then would be that the incident above, as well as those summarized below, would have resulted in the issuance of an informative and timely notice to the campus community. In the second example, Occidental delayed the issuance of an alert notice for an armed robbery that occurred off-campus, but within the patrol zone. In this case, the warning was not issued

until the next day, Sunday, November 22, 2009, at 9:43am, approximately seventeen hours after the crime was reported to Campus Safety. According to the crime incident report, the crime occurred on Saturday, November 21, 2009, at approximately 4:40pm and was reported to Campus Safety at the approximate time and date that the crime occurred.

The following paragraph summarizes the College's crime incident report. Passages in the incident report revealed imminent danger to the campus community existed from the time that the crime incident was reported to Campus Safety.

- **Incident #9973674 (Robbery)** – *On Saturday, November 21, 2009, at approximately 4:40pm, a student called his mother to report that he had "just been mugged" while walking to campus from the CVS drug store that is located on York Boulevard. The mother was unable to immediately reach him so she immediately reported the crime to Campus Safety. Safety officers immediately searched the parking lot of the CVS and the streets nearby the drug store and the campus and found officers from the Los Angeles Police Department (LAPD) speaking with the victims, two male students.*

The crime occurred within two and half blocks of Occidental's campus, adjacent to 4523 Alumni Avenue, where a resident witnessed the crime. Three suspects in a car approached the two students. One of the suspects got out of the car and raised his t-shirt to expose something that resembled a handgun and then ordered the students to place their personal items on the ground. The students complied and were robbed of their cell phones, debit cards, a library card, wallets, a dormitory key, and an identification card. The suspects got into the car and made a right turn on Avenue 45 toward Eagle Rock Boulevard. The student called 911 and his mother from a witness' telephone.

One suspect was described as a Hispanic male, 18 to 20 years of age, approximately 5'7", with a weight range of 150 to 160 pounds, short gelled hair, and wearing a black t-shirt with baggy blue jeans. The second suspect was described as a Hispanic male, 18 to 20 years of age, approximately 5'9" and roughly 175 pounds, and wearing a gray hooded sweatshirt. A description of the driver was not provided.

In a third example, Occidental did not issue a timely warning for another armed robbery that occurred on Monday, November 23, 2009. This crime was very similar to the offense described above in terms of location, description of the assailants, as well as in several other respects. A synopsis of the crime incident report is presented below.

- **Incident #997377 (Robbery)** – *On Monday, November 23, 2009, an armed robbery occurred off-campus in front of 4556 Alumni Avenue. A witness reported the crime to the LAPD that same day at approximately 12:35pm. Dispatch from LAPD subsequently reported the crime to Campus Safety and provided a description of the suspects as two Hispanic males, approximately 18 to 20 years of age. Campus Safety officers proceeded to meet LAPD officers at York and Avenue 45. Two witnesses told Campus Safety officers that they chased the robbers on foot. One robber brandished a knife in his waistband and commanded the victim to place his iPod on the ground. The victim complied and*

walked away. The witnesses lost the robbers during the chase at Eagle Rock Boulevard and subsequently called LAPD. An LAPD Unit found the victim and brought him to Campus Safety officers at York and Avenue 50. The victim confirmed he had been robbed while walking east on Alumni toward the Campus. The LAPD subsequently set-up a search perimeter for the suspect. The search result was negative.

Clearly, the similarities between these incidents should have resulted in the issuance of a timely warning as required by the Clery Act and the College's policy.

The fourth example revealed that Occidental issued a timely warning in an untimely manner to all members of its campus community for a robbery that occurred on public property within Clery-geography in the 1600 block of Campus Road. According to the timely warning notice, the robbery was reported to Campus Safety on February 20, 2009, at approximately 10:30pm. Occidental did not issue the warning until the next business day, on February 21, 2009 at 8:32am, approximately ten hours after the crime was reported to Campus Safety. A passage in the timely warning notice also revealed that "no weapons were alluded to or seen;" however, the information conflicted with Campus Safety's Watch Commander's Log, which revealed a weapon was produced to commit the robbery and no injuries occurred.

Failure to issue timely warnings about serious and ongoing threats deprives campus community members of access to vital, time-sensitive information to which they are entitled. Timely warnings are a primary means of providing updates about serious threats to the health and safety of campus community members. This essential information allows interested parties to make informed decisions regarding their own safety and security and supplements the longitudinal statistical data that is included in the ASR.

Required Action:

As a result of this violation, Occidental was required to review and revise its current timely warning policy. In accordance with 34 C.F.R. § 668.46(e), Occidental was to develop and implement policies and procedures to facilitate the timely issuance of warnings for all Clery-reportable crimes that may pose a serious or an ongoing threat to the campus community. Occidental was also required to include in its policy statement for the making of timely warnings all of the required Clery geography that is prescribed by the Clery Act.

Occidental was required to ensure the accuracy of dates, times, and geographic locations in its daily crime logs and incident reports to ensure that the information in its timely warnings is accurate and complete. Occidental was required to consider the range of factors that will influence its process for determining if a warning will be issued, the timing of the notice, the means/media by which it will be disseminated and then incorporate this information into its policies and procedures.

A copy of the revised policies and procedures were required to accompany the College's response to this Program Review Report. Once the revised policies and procedures have been

evaluated by the Department for conformity with the Clery Act, Occidental will be permitted to incorporate the required changes into its next regularly-scheduled ASR.

Based on an evaluation of all available information, including Occidental's response, the Department will determine appropriate additional actions and advise the College accordingly in the FPRD.

Observation:

While not a finding of violation per se, the review team observed that Occidental included conflicting information in certain incident reports and timely warnings. For example, the following facts were noted in the documents related to an armed robbery that occurred at a near-campus location. Campus Safety issued a timely warning notice that revealed the robbery was reported on March 19, 2010; however, the corresponding crime incident report showed that the incident was reported on July 8, 2010. Further in the narrative of that same crime incident report, the reported date of the crime was disclosed as March 19, 2010. The Department checked Campus Safety's Watch Commander's Log and found an entry in the log that indicated the student reported the robbery occurred on March 19, 2010, the same day the crime occurred. Such errors can adversely affect the efficacy of Occidental's timely warning procedure and otherwise compromise its campus safety and Clery Act compliance program.

Institutional Response:

In their official response, Occidental management disagreed in part and concurred in part with this finding. However, College officials did submit copies of its revised and more detailed timely warning policies and procedures to demonstrate that it has corrected all failures that lead to its improper issuance of timely warnings. Regarding the four incidents cited, the College agrees that a timely warning should have been issued in Examples #1 and #4; however, it disagreed that the incidents cited in Examples #2 and #3 required timely warnings, arguing that it should not need to follow its own timely warning policy as it is broader than the Federal requirement. In summary, the College agreed that it should have issued a timely warning in the incidents noted in Examples #2 and #3; however, it disagrees that its failure to do so constituted a violation of the *Clery Act*.

Final Determination:

Finding #4 cites Occidental for multiple violations of the *Clery Act* and the Department's regulations, as outlined in the Noncompliance section above. Specifically, the review team found that the College failed to comply with the timely warning provisions of the *Clery Act* and for failing to adhere to its own policy and procedures for the issuance of timely warnings. As a result of these violations, the College was required to review and revise its internal policies and procedures related to its campus safety and *Clery Act* compliance programs, and to develop and implement any new policies and procedures needed to ensure that these violations do not recur. In its response, Occidental asserted that all necessary action has been taken to address the violations identified during the review. The College agreed that it failed to issue required timely

warnings in Examples #1 and #4 as discussed above, but disagreed that it was noncompliant with respect to Examples #2 and #3. The College does agree that under its own Timely Warning Policy as stated in its ASR, it should have issued a timely warning in the examples #2 and #3. However, the institution states that it was not until the publishing of the 2011 Handbook that the Department clarified that an institution would become noncompliant if it failed to uphold its own policy that required the College to do more than the minimum requirements of the *Clery Act*.

The Department finds Occidental's arguments that it should not be held accountable for establishing a detailed procedure regarding the issuance of timely warnings to be entirely unpersuasive. While clarification was provided in the 2011 Handbook as the College noted in its response, this topic was addressed in the earlier 2005 Handbook¹⁰, which stated: "Remember that your statements or descriptions of policies must accurately reflect your institution's current procedures and practices."

The Department carefully examined all available information, including Occidental's narrative response and supporting documentation. Based on that review and the College's partial admissions, the Department has determined that the four violations identified in the initial finding are sustained. This examination also indicated that the identified violations were, for the most part, satisfactorily addressed by Occidental's new and revised timely warning policies, procedures, and systems as detailed in the response. As such, the Department has decided that the College's corrective action plan meets minimum requirements. For these reasons, the Department has accepted Occidental's response and considers this finding to be closed for the purposes of this Program Review. Nevertheless, College officials and directors must take all other action that may be necessary to address the deficiencies identified by the Department, as well as any additional deficiencies and weaknesses that were detected during the preparation of Occidental's response, and/or as may be needed to otherwise ensure that these violations do not recur.

Occidental is once again reminded that the exceptions identified above constitute serious violations of the *Clery Act* that, by their nature, cannot be cured. There is no way to truly "correct" violations of this type once they occur. Occidental asserted that it has taken adequate remedial actions, and that, by doing so, it is now in compliance with the *Clery Act* as required by its PPA. Nevertheless, Occidental officials must understand that any failure to issue timely warnings, emergency notifications, and other crime and safety alerts in accordance with Federal law and the institution's own policies and procedures deprives students, employees, and the wider campus community of important campus safety information to which they are entitled. For these reasons, the College is advised that its remedial actions cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

¹⁰ The Department points out that the finding as to these incidents would have been upheld in all cases based on the facts and the law. The treatment of the topic in any sub-regulatory guidance is not in any regard, dispositive.

Finding #5: Failure to Maintain an Accurate and Complete Daily Crime Log

Citation:

The Clery Act and the Department's regulations state that institutions participating in the Title IV, HEA programs maintain a daily crime log. An institution that maintains a campus police or a campus security department must maintain a written, easily understood daily crime log that records, by the date the crime was reported, any crime that occurred on campus, on a non-campus building or property, on public property, or within the patrol jurisdiction of the campus police or the campus security department and is reported to the campus police or the campus security department. The daily crime log must include; 1) the nature, date, time, and general location of each crime; and 2) the disposition of the complaint, if known. The institution must make an entry or an addition to an entry to the log within two business days of the report of the information to the campus police or the campus security department, unless that disclosure is prohibited by law or would jeopardize the confidentiality of the victim. An institution may withhold information if there is clear and convincing evidence that the release of the information would; 1) jeopardize an ongoing criminal investigation or the safety of an individual; 2) cause a suspect to flee or evade detection; or 3) result in the destruction of evidence. The institution must disclose any information withheld once the adverse effect described in that paragraph is no longer likely to occur. An institution may withhold information that would cause the adverse effects described in those paragraphs. The institution must make the crime log for the most recent 60-day period open to public inspection during normal business hours. The institution must make any portion of the log older than 60 days available within two business days of a request for public inspection. 34 C.F.R. § 668.46(f).

Noncompliance:

Occidental failed to properly maintain an accurate and complete daily crime log. The review team examined a limited sample of three months of crime log data from September 1, 2012 to December 31, 2012 to test the accuracy of the information posted in the daily crime log. Incidents of crime were cross-referenced to Campus Safety Department incident reports and other source documents including the Watch Supervisor Observation Report. Based on this limited testing, the review team identified 45 incidents that were not entered into the log during the sample period. These include:

- *Nineteen (19) drug incidents,*
- *Sixteen (16) disturbance responses,*
- *Two (2) vandalisms,*
- *Two (2) burglaries from auto vehicles,*
- *One (1) alcohol violation,*
- *One (1) property damage,*
- *One (1) arson (other),*
- *One (1) Information / child endangerment,*
- *One (1) trespassing, and*
- *One (1) harassment.*

The Clery Act seeks to ensure that campus community members and other stakeholders have timely access to accurate information about campus crime. The crime log provides up-to-date information that can help campus community members to make informed decisions about their own safety and the security of others. The crime log is to be an up-to-date information source that supplements the statistical disclosures in the ASR. Any failure to comply with this requirement deprives interested parties of vital information to which they are entitled.

Required Action:

As a result of these violations, Occidental was required to conduct a crime log review/reconstruction for the September 1 - December 31 timeframe for each year of the review period and for calendar years 2013, 2014, and 2015. A summary report of findings was to be prepared that captured all noted exceptions and a copy of this report was required to be submitted as part of the College's official response. If, as a result of this exercise, Occidental identifies any incidents of crime that were not previously captured, the College was to provide detailed information about these offenses in its response and revise its campus crime statistics as needed both in its ASRs and in its reporting to the CSSDACT. Moreover, the crime log entries for calendar year 2015 forward were to be updated as well to reflect the findings of the internal review.

Finally, Occidental was required to review and revise its policies, procedures, and internal controls to ensure that all incidents of crime reported as occurring within their patrol jurisdiction were entered on the crime log. These revisions must provide for the designation of a capable official(s) to ensure that the crime log was accurately and completely updated in a timely manner that is readily available to the campus community and public for review upon request. A copy of all revisions must be submitted with Occidental's response to the Program Review Report.

Based on an evaluation of all available information, including Occidental's response, the Department will determine appropriate additional actions and advise the College accordingly in the FPRD.

Institutional Response:

In their official response, Occidental management disagreed in part and concurred in part with this finding. Occidental noted that, in reconstructing its Daily Crime Logs (DCL), it identified and added 36 crimes to the 2012 crime log, 31 crimes to the 2013 crime log, and two crimes to the 2014 crime log. The institution claimed that all 2015 crimes were entered on the log. The Department did not find any disagreements in the institution's response to the violations in this finding.

Final Determination:

Finding #5 cited Occidental for multiple violations of the *Clery Act* and the Department's regulations, as outlined in the Noncompliance section above. Specifically, the review team found that the College failed to properly maintain an accurate and complete DCL during the review period. The review team found 79 incidents that were not entered on the log during 2012-2014. As a result of these violations, the College was required to review and revise its internal policies and procedures related to its campus safety and *Clery Act* compliance programs, and to develop and implement any new policies and procedures needed to ensure that these violations do not recur. In its response, Occidental asserted that all necessary action was taken to address the violations identified during the review. The College's response stated that it disagreed in part and concurred in part with this finding, although the Department was unable to identify the basis for any disagreement in the school's response. The College did provide an updated set of policies and procedures regarding the maintenance of the DCLs to ensure that these errors do not occur again.

The Department carefully reviewed all available information, including Occidental's response and supporting documentation. Based on that review and the College's partial admissions, each of the violations noted in the initial finding is sustained. This examination also indicated that the identified violations were, for the most part, satisfactorily addressed by Occidental's reformulated crime log and new and revised internal policies, procedures, and systems as detailed in the response. As such, the Department has decided that the College's corrective action plan meets minimum requirements. For these reasons, the Department has accepted Occidental's response and considers this finding to be closed for the purposes of this Program Review. Nevertheless, College officials and directors must take all other action that may be necessary to address the deficiencies identified by the Department, as well as any additional deficiencies and weaknesses that were detected during the preparation of Occidental's response, and/or as may be needed to otherwise ensure that these violations do not recur.

Occidental is once again reminded that the exceptions identified above constitute serious violations of the *Clery Act* that, by their nature, cannot be cured. There is no way to truly "correct" violations of this type once they occur. Occidental asserted that it has taken adequate remedial actions and that by doing so, that it is now in compliance with the *Clery Act* as required by its PPA. Nevertheless, College officials must understand that the failure to maintain a daily crime log deprives students, employees, parents, the media, and other stakeholders of access to important campus crime information to which they are entitled. Like timely warnings and emergency notifications, the information in the log provides up-to-date current data about the status of criminal incidents on the campus and in the near-campus community. In this way, the crime log and safety alerts supplement the longitudinal statistical data that is included in the ASR and the Department's online campus crime statistics database. For these reasons, the College is advised that its remedial actions cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Finding #6: Omitted and /or Inadequate ASR Policy Statements

Citation:

The Clery Act and the Department's regulations require institutions to include several policy statements in their ASRs. These disclosures are intended to inform the campus community about the institution's security policies and procedures, and the availability of programs and resources as well as channels for victims of crime to seek recourse. In general, these policies include topics such as the law enforcement authority and practices of campus security forces, incident reporting procedures for students and employees, and policies that govern the preparations of the report itself. Institutions are required to disclose their drug and alcohol education and prevention programs. Policies pertaining to sexual assault education, prevention, and adjudication and policies governing the issuance of timely warnings and emergency notifications must also be disclosed in detail. The institution must include the policies and the crime statistics in a single comprehensive document, the ASR. With the exception of certain drug and alcohol program information, cross referencing to other publications is not sufficient to meet the publication and distribution requirements of the Act. §485(f) of the HEA; 34 C.F.R. § 668.46(b); 34 C.F.R. § 668.41(e).

Federal regulations specifically require that the ASR include detailed emergency evacuation and response procedures. At a minimum, the procedure must state that the institution will, immediately and without any delay, disseminate emergency notifications (ENs) upon confirmation of a significant emergency or other immediate threat to student and employee health or safety. The policy must state how institutions will go about confirming immediate threats and how ENs will be communicated to students, employees, and the larger community. An institution's procedure must state who may issue an EN, the process for determining the content of the EN, and its approach for determining what segments of the campus community should receive an EN. Institutions must conduct announced and /or unannounced tests of its emergency procedures on at least an annual basis and publicize the nature and results of the test(s). 34 C.F.R. § 668.46(g).

Federal regulations require any institution that provides on-campus housing to develop and implement policies and procedures it will follow when a student who resides in those on-campus housing facilities is identified as missing and to include these policies in their ASR. The policies must include statements that indicate the individual or organizations to which students, employees, or other individuals should report that a student has been missing for 24 hours and require that any missing student report be referred to the institution's police or security department or local law enforcement. Students who reside in on-campus housing must be informed of the option to identify a contact person who will be informed in the event that they are missing, that their contact information will be registered confidentially, and for students who are under 18 years of age, a statement that their custodial parent will be notified. The policy must indicate that in all instances law enforcement will be notified. The notification must include a statement that when a student is determined to be missing for 24 hours that their contact person will be notified within 24 hours, if they are under 18 that their custodial parent will be notified

and that in all instances, that law enforcement will be notified within 24 hours of the determination that they are missing. 34 C.F.R. § 668.46(h).

Noncompliance:

Occidental failed to include numerous required statements of policy, procedure, practice, and programs in its ASRs during the review period. Moreover, the review team's investigation found that in many cases, the College not only did not include required information in the ASR, but actually failed to develop and implement policy or procedure in several areas. It is likely that these persistent violations predate the review period and may date back to the enactment of the requirement. The nature and extent of these violations represent a general failure to comply with the Clery Act and indicate a serious administrative impairment. Our review of the College's ASRs exposed at least **22 separate policy violations**.¹¹

The extent of Occidental's persistent policy failures suggests a serious administrative impairment. Many of the Department's findings of non-compliance and other systemic weakness in Occidental's campus security operations that were identified throughout the program review can be tracked to exceedingly poor policy development, implementation, and a general lack of communication and training efforts designed to promote knowledge of the limited policies, procedures, and programs that the College did have. The extensive list of violations below supports this assertion and is of great concern to the Department.

The Clery Act is first and foremost a consumer information initiative based on the premise that students and employees should have the information they need to take steps for their own safety and security. Accurate and complete disclosure of policies and a clear articulation of the institution's programs are essential to the goal and allow the campus community to be more fully informed and actively provide for their own safety. Any failure in this area deprives the campus community of vital campus safety information and effectively negates the intent of the Act. The following deficiencies were noted:

2010 ASR - Inadequate/Omitted Disclosures

- Failure to include a statement of current campus policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus. This statement must include the institution's policies concerning its response to these reports, including a list of the titles of each person or organization to which

¹¹ The Department must note that several of the significant policy, procedural, and programmatic statements that were omitted or otherwise found to be inadequate in Occidental's ASRs and AFSRs require a detailed, multi-part disclosure meaning that the College actually failed to include significantly more than 22 disclosures in the reports produced during the review period. The omitted material included information about the College's campus safety, crime prevention, and fire safety programs, including the sexual assault prevention and response information required by Section 304 of the Violence Against Women Reauthorization Act of 2013 (VAWA) and the requirements of 34 C.F.R. § 668.46(b)(11), commonly referred to as the Campus Sexual Assault Victim's Bill of Rights. This information is vitally important to the safety of students and employees at all institutions regardless of a school's size, location, or organizational structure.

students and employees should report the criminal offenses for the purpose of making timely warning reports and the annual statistical disclosure. 34 C.F.R. § 668.46(b)(2).

- *Failure to include a statement of policy concerning the monitoring and recording through local police agencies of criminal activity in which students engaged at off-campus locations of student organizations officially recognized by the institution. 34 C.F.R. § 668.46(b)(7).*
- *Failure to include a statement of policy regarding the institution's campus sexual assault programs to prevent sex offenses and procedures to follow when a sex offense occurs. The College's disclosures did not include minimally-acceptable information about the following: 1) a description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and non-forcible sex offenses; 2) procedures that students should follow when a sex offense occurs, including the importance of preserving evidence; 3) information on the student's option to notify law enforcement authorities and that institutional officials will assist victims or witnesses to navigate the reporting process; 4) information on how to access existing counseling, health, mental health, victim advocacy, legal assistance and other services; 5) specific notification that the institution will change a victim's academic and living situation after an alleged sex offense and the options of those changes, if such changes are requested and are reasonably available; 6) information about the College's procedures for campus disciplinary actions in cases of an alleged sex offense; 7) a statement that both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding brought alleging a sexual offense; and, 8) information about possible sanctions that may be imposed following a finding of responsibility for such offenses. 34 C.F.R. § 668.46(b)(11).*
- *Failure to provide a clear statement with accurate information regarding how interested parties can access State sex offender registry data. 34 C.F.R. § 668.46(b)(12).*
- *Failure to include a complete statement in its emergency response and evacuation procedures providing: 1) the procedures the College uses to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus; 2) a description of the process used to confirm that there is a significant emergency or dangerous situation, the appropriate segment or segments of the campus community to receive a notification, the content of the notification; and the initiation of the notification system; 3) a statement that the College will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency; 4) the list of titles of the person or persons or organization or organizations responsible for carrying out the emergency notification and evacuation actions; and 5) the procedures to test the emergency response and evacuation procedures on at least an annual basis, including*

that tests may be announced or unannounced, the publication of the emergency response and evacuation procedures in conjunction with at least one test per calendar year, and the documentation for each test, a description of the exercise, the date, time, and whether it was announced or unannounced. 34 C.F.R. § 668.46(g).

- *Failure to include a statement in its missing student notification procedures advising students that: 1) their contact person's information will be confidentially registered and that the information will only be accessible to authorized campus officials, and that it may not be disclosed, except to law enforcement personnel in the furtherance of a missing student investigation; and 2) the College will notify the custodial parent or guardian of any student that is determined to be missing and who is under 18 years of age unless said person has been emancipated. 34 C.F.R. § 668.46(h).*

2011 ASR - Inadequate/Omitted Disclosures

- *Failure to include a statement of current campus policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus. This statement must include the institution's policies concerning its response to these reports, including a list of the titles of each person or organization to which students and employees should report the criminal offenses for the purpose of making timely warning reports and the annual statistical disclosure. 34 C.F.R. § 668.46(b)(2).*
- *Failure to include a statement of policy concerning the monitoring and recording through local police agencies of criminal activity in which students engaged at off-campus locations of student organizations officially recognized by the institution. 34 C.F.R. § 668.46(b)(7).*
- *Failure to include a statement of policy regarding the institution's campus sexual assault programs to prevent sex offenses and procedures to follow when a sex offense occurs. The College's disclosures did not include minimally-acceptable information about the following: 1) a description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and non-forcible sex offenses; 2) procedures that students should follow when a sex offense occurs, including the importance of preserving evidence; 3) information on the student's option to notify law enforcement authorities and that institutional officials will assist victims or witnesses to navigate the reporting process; 4) information on how to access existing counseling, health, mental health, victim advocacy, legal assistance and other services; 5) specific notification that the institution will change a victim's academic and living situation after an alleged sex offense and the options of those changes, if such changes are requested and are reasonably available; 6) information about the College's procedures for campus disciplinary actions in cases of an alleged sex offense; 7) a statement that both accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding brought alleging a sexual offense; and, 8) information about possible sanctions that may be imposed following a finding of responsibility for such offenses. 34 C.F.R. § 668.46(b)(11).*

- *Failure to provide a clear statement with accurate information regarding how interested parties can access State sex offender registry data. 34 C.F.R. § 668.46(b)(12).*
- *Failure to include a complete statement in its emergency response and evacuation procedures providing: 1) the procedures the College uses to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus; 2) a description of the process used to confirm that there is a significant emergency or dangerous situation, the appropriate segment or segments of the campus community to receive a notification, the content of the notification; and the initiation of the notification system; 3) a statement that the College will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency; 4) the list of titles of the person or persons or organization or organizations responsible for carrying out the emergency notification and evacuation actions; and 5) the procedures to test the emergency response and evacuation procedures on at least an annual basis, including that tests may be announced or unannounced, the publication of the emergency response and evacuation procedures in conjunction with at least one test per calendar year, and the documentation for each test, a description of the exercise, the date, time, and whether it was announced or unannounced. 34 C.F.R. § 668.46(g).*
- *Failure to include a statement in its missing student notification procedures advising students that: 1) their contact person's information will be confidentially registered and that the information will only be accessible to authorized campus officials, and that it may not be disclosed, except to law enforcement personnel in the furtherance of a missing student investigation; and 2) the College will notify the custodial parent or guardian of any student that is determined to be missing and who is under 18 years of age unless said person has been emancipated. 34 C.F.R. § 668.46(h).*

2012 ASR - Inadequate/Omitted Disclosures

- *Failure to include a statement of current campus policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus. This statement must include the institution's policies concerning its response to these reports, including a list of the titles of each person or organization to which students and employees should report the criminal offenses for the purpose of making timely warning reports and the annual statistical disclosure. 34 C.F.R. § 668.46(b)(2).*
- *Failure to include a statement of policy concerning the monitoring and recording through local police agencies of criminal activity in which students engaged at off-campus locations of student organizations officially recognized by the institution. 34 C.F.R. § 668.46(b)(7).*

- *Failure to provide a clear statement with accurate information regarding how interested parties can access a description of drug and alcohol-abuse education programs. 34 C.F.R. § 668.46(b)(10).*
- *Failure to include a statement of policy regarding the institution's campus sexual assault programs to prevent sex offenses and procedures to follow when a sex offense occurs. The College's disclosures did not include minimally-acceptable information about the following: 1) a description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and non-forcible sex offenses; 2) procedures that students should follow when a sex offense occurs, including the importance of preserving evidence; 3) information on the student's option to notify law enforcement authorities and that institutional officials will assist victims or witnesses to navigate the reporting process; 4) information on how to access existing counseling, health, mental health, victim advocacy, legal assistance and other services; 5) specific notification that the institution will change a victim's academic and living situation after an alleged sex offense and the options of those changes, if such changes are requested and are reasonably available; 6) information about the College's procedures for campus disciplinary actions in cases of an alleged sex offense; 7) a statement that both accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding brought alleging a sexual offense; and, 8) information about possible sanctions that may be imposed following a finding of responsibility for such offenses. 34 C.F.R. § 668.46(b)(11).*
- *Failure to provide a clear statement with accurate information regarding how interested parties can access State sex offender registry data. 34 C.F.R. § 668.46(b)(12).*
- *Failure to include a complete statement in its emergency response and evacuation procedures providing: 1) the procedures the College uses to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus; 2) a description of the process used to confirm that there is a significant emergency or dangerous situation, the appropriate segment or segments of the campus community to receive a notification, the content of the notification; and the initiation of the notification system; 3) a statement that the College will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency; 4) the list of titles of the person or persons or organization or organizations responsible for carrying out the emergency notification and evacuation actions; and 5) the procedures to test the emergency response and evacuation procedures on at least an annual basis, including that tests may be announced or unannounced, the publication of the emergency response and evacuation procedures in conjunction with at least one test per calendar year, and the documentation for each test, a description of the exercise, the date, time, and whether it was announced or unannounced. 34 C.F.R. § 668.46(g).*

- *Failure to include a statement in its missing student notification procedures advising students that: 1) their contact person's information will be confidentially registered and that the information will only be accessible to authorized campus officials, and that it may not be disclosed, except to law enforcement personnel in the furtherance of a missing student investigation; and 2) the College will notify the custodial parent or guardian of any student that is determined to be missing and who is under 18 years of age unless said person has been emancipated. 34 C.F.R. § 668.46(h).*

2013 ASR - Inadequate/Omitted Disclosures

- *Failure to provide a clear statement with accurate information regarding whether the institution has any policies or procedures that allow victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics, and, if so, a description of those policies and procedures. 34 C.F.R. § 668.46(b)(2)(iii).*
- *Failure to provide a clear statement with accurate information regarding how interested parties can access State sex offender registry data. 34 C.F.R. § 668.46(b)(12).*

2014 ASR - Inadequate/Omitted Disclosures

- *Failure to include a statement of current campus policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus. This statement must include the institution's policies concerning its response to these reports, including a list of the titles of each person or organization to which students and employees should report the criminal offenses for the purpose of making timely warning reports and the annual statistical disclosure. 34 C.F.R. § 668.46(b)(2).*

The Clery Act is first and foremost a consumer protection and information law based on the precept that students, employees, parents, and other stakeholder are entitled to accurate, complete, and timely information about campus safety and crime prevention matters. This information can empower individuals to make well-informed decisions about events that affect their own well-being and that of other members of the campus community. Any failure by an institution to provide this information or to otherwise carry out its campus safety program in a transparent manner deprives the campus community members of vital information to which they are entitled and effectively negates the intent of the Act.

Required Action:

As a result of this violation, Occidental was required to review and revise its current policies and procedures that govern the production and distribution of the ASR and AFSR and to then develop and implement additional internal guidance as needed to provide reasonable assurance that all campus safety operations will be carried out in accordance with the Clery Act going forward and that these violations will not recur. Then, using its new and revised policies as a

guide, Occidental was required to conduct an internal review of its 2015 ASR and AFSR to identify all omitted and inadequate disclosures, with a special focus on the VAWA provisions.

Once all deficiencies were identified, the institution was to use this information to produce an accurate and complete 2016 ASR and AFSR. These reports must then be actively distributed to all current students and employees no later than October 1, 2016. No later than October 15, 2016¹², Occidental must submit copies of the 2016 reports and credible evidence showing that each report was actively distributed to mandatory recipients. Suitable evidence of distribution may include a copy of an e-mail used to transmit the report or other similar documentation. These materials must be submitted via electronic mail to Mr. Douglas Rose at douglas.rose@ed.gov.

Based on an evaluation of all available information, including Occidental's response, the Department will determine if additional actions will be required and will advise the College accordingly in its Final Program Review Determination.

Institutional Response:

In their official response, Occidental management disagreed in part and concurred in part with the finding. Nevertheless, the College claimed that it did review and revise its current policies and procedures that govern the production and distribution of the AFSSR and claimed that new policy, procedural, and programmatic content was developed and included in subsequent AFSSRs.

Final Determination:

Finding #6 cited Occidental for multiple violations of the *Clery Act* and the Department's regulations, as outlined in the Noncompliance section above. Specifically, the review team found that the College failed to include all or part of 22 required statements of policy, procedure, practice, and programs in its AFSSRs for the 2010, 2011, 2012, 2013, and 2014 calendar years. The full list of omitted and inadequate informational disclosures is included in the initial finding above. As a result of these violations, the College was required to review and revise its internal policies and procedures related to its campus safety and *Clery Act* compliance programs, and to develop and implement any new policies and procedures needed to ensure that these violations do not recur. In its response, Occidental asserted that all necessary action was taken to address the violations identified during the review. The College's response focused mainly on its implementation of updated policies and procedures for its production and distribution of its AFSSRs. Although the College disagreed with the Department in part, it fails to directly dispute any of the 22 violations cited.

The Department carefully reviewed all available information, including Occidental's response and supporting documentation. Based on that review and the College's partial admissions, each

¹² The due date for the submission of the documents requested above is intentionally different than the applicable deadline for the rest of the College's official response to this Program Review Report.

of the violations identified in the initial finding is sustained. This examination also indicated that the identified violations were, for the most part, satisfactorily addressed by Occidental's revised ASRs and new and revised internal policies, procedures, and systems as detailed in the response. As such, the Department has decided that the College's corrective action plan meets minimum requirements. For these reasons, the Department has accepted Occidental's response and considers this finding to be closed for the purposes of this Program Review. Nevertheless, College officials and directors must take all other action that may be necessary to address the deficiencies identified by the Department, as well as any additional deficiencies and weaknesses that were detected during the preparation of Occidental's response, and/or as may be needed to otherwise ensure that these violations do not recur.

Once again, the Department must note that the exceptions identified above constitute persistent and serious violations of the *Clery Act* that, by their nature, cannot be cured. There is no way to truly "correct" violations of this type once they occur. Occidental asserted that it has taken adequate remedial actions and that by doing so, that it is now in compliance with the *Clery Act* as required by its PPA. The production of an accurate and complete ASR is one of the most basic requirements of the *Clery Act* and is an essential part of a comprehensive campus safety and crime prevention program. Accurate and complete safety information enables interested campus community members and their families to make well-informed decisions about where to study and work and empowers them to play a more active role in their own safety and security. Occidental has stated that it has brought its overall campus safety operations program into compliance with the *Clery Act* as required by its PPA. Nevertheless, Occidental is advised that such actions cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Finding #7: Discrepant Crime Statistics Reported to CSSDACT and Included in ASRs

Citation:

The Clery Act and the Department's regulations require institutions to report statistics for the three most recent calendar years concerning the occurrence in on-campus student residential facilities, on campus, in or on non-campus buildings or property, and on public property of the following that are reported to local police agencies or to other campus security authorities: criminal homicide, murder and non-negligent manslaughter, negligent manslaughter, sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, arson, and arrests for liquor law violations, drug law violations, and illegal weapons possession. 34 C.F.R. § 668.46(c)(1). In complying with this requirement, an institution must make a reasonable, good faith effort to obtain the required statistics and may rely on the information supplied by local or state law enforcement agencies. 34 C.F.R. § 668.46(c)(9).

Furthermore, federal regulations require institutions to disclose crime statistics by geographical category. The categories of Clery Geography are defined in 34 C.F.R. § 668.46(a) and include:

- 1) On Campus I: any building or property owned or controlled by the institution within the same reasonably contiguous geographical area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls;*
- 2) On Campus II: a subset of On Campus I that includes any building or property that is within or reasonably contiguous to the area defined in #1 above that is controlled by another person or entity, is frequently used by students, and supports institutional purposes (such as a food or other retail vender);*
- 3) Non-Campus Building or Property: any building or property owned or controlled by a recognized student organization; or any building or property owned and controlled by the institution as described in 1) above and is frequently used by students, but is not within the same reasonably contiguous area; and,*
- 4) Public Property: all public property that is within the boundaries of the campus or that is immediately adjacent to or accessible from the campus.*

Noncompliance:

Occidental failed to submit campus crime statistics to the Secretary for inclusion in the Campus Safety and Security Data Analysis Cutting Tool that matched the crime statistics that were included in its 2011 and 2013 ASRs. Specifically, in calendar years 2011 and 2012, Occidental submitted crime statistics to the CSSDACT for calendar years 2009, 2010, and 2011 that did not match statistical data that it included in its 2011 and 2012 ASRs for the same offense categories, geographic locations, and calendar years. An institution's crime statistics, as submitted online to CSSDACT and as included in the ASR should always match. Furthermore, institutions must be able to substantiate the accuracy and completeness of their crime statistics with credible evidence and supporting documentation. For this purpose, Occidental submitted to the Department its audit trails that were used to compile and tally all of its Clery crimes that were reported to the campus police, local law enforcement agencies, and other CSAs. Audit trails identify the incident report number, dates the offense category, geographic location and calendar year for each Clery-reportable crime that is submitted to the CSSDACT and included in ASRs.

The Department reviewed the College's audit trails, crime statistics in the ASRs, and the data submitted to the CSSDACT. As a result, the Department found Occidental's audit trails did not demonstrate the accuracy and completeness of its crime statistics that were submitted to the CSSDACT and included in ASRs, since the audit trails omitted incident report numbers, dates, and geographic locations for where crimes occurred.

Through its outside counsel (O'Melveny & Myers, LLC), Occidental provided the Department a letter dated May 2, 2014, Page 4, which states:

Prior to 2013, Occidental reported all crimes that occurred in the Campus Safety Escort Zone that surrounds the campus as public property crimes. This interpretation of public

property is broader than the adjacent public property (sidewalk-street-sidewalk) definition for the purposes of the Clery Act. Occidental reviewed and revised its public property numbers in 2013 to comply with the correct definition of public property.

However, this does not negate the consumer information that was provided to students, employees, parents, and potential employees and students, who reviewed the ASR and CSSDACT. Furthermore, Occidental's misinterpretation of Clery geography does not cure the institution of its obligation to provide concise and accurate crime statistics. The review team found a minimum of 49 incidents from calendar years 2009 to 2012 that were not included in Occidental's crime statistics for incidents that occurred on public property. The following discrepancies, identified with an asterisk (), are recognized as improperly reported crime statistics occurring on public property.*

Occidental claimed that certain incidents of crime that appeared to be part of its Clery-reportable public property actually were outside of its Clery Geography. The College is reminded to clarify any issues regarding its campus crime statistics with an appropriate note or caveat in the ASR and in its reporting to the CSSDACT to avoid errors or inaccurate interpretations by users of the information. No such notes or caveats were included during the review period. Information on the proper use of caveats was included in The Handbook for Campus Safety and Security Reporting (2011), Chapter 9

The following discrepancies were identified as a result of a comparison of the crime statistics that were included in the ASR and in the data submitted to the CSSDACT. A selected group of those discrepancies and others are described in the paragraphs below.

1. Forcible Sex Offenses On-Campus and in On-Campus Student Residential Facilities, Calendar Year 2009

Occidental's online submission to CSSDACT during reportable year 2011 revealed that four (4) forcible sex offenses took place on campus property and in on-campus student residential facilities during calendar year 2009; however, its 2011 ASR indicated that (0) offenses occurred during this time period.

<i>Forcible Sex Offenses for Calendar Year 2009</i>		
<i>Source</i>	<i>2011 CSSDACT</i>	<i>2011 ASR</i>
<i>On-Campus</i>	<i>4</i>	<i>0</i>
<i>On-Campus Student Residential</i>	<i>4</i>	<i>0</i>

Occidental's forcible sex offense statistics continued to evidence serious discrepancies. The College's 2012 submission to the CSSDACT indicated that four (4) incidents occurred on campus and in on-campus student residential facilities; however, the 2012 ASR indicated that zero (0) offenses occurred on campus and in on-campus student residential facilities during this time period.

Forcible Sex Offenses for Calendar Year 2009		
Source	2012 CSSDACT	2012 ASR
On-Campus	4	0
On-Campus Student Residential	4	0

2. Non-Forcible Sex Offenses On-Campus and in On-Campus Student Residential Facilities, Calendar Year 2009

Crime statistics that were submitted to CSSDACT during reportable year 2011 for non-forcible sex offenses did not match statistical data that was included in the 2011 ASR for the same offense category and geographic locations in calendar year 2009. Specifically, Occidental reported to the CSSDACT that zero (0) non-forcible sex offenses occurred on campus in calendar year 2009; however, the 2011 ASR indicated that four (4) such incidents were reported during the same time period.

The crime statistics that were included in ASRs under "on-campus student residential facilities" were not replicated as a subset under the "on-campus property" geographic location. The 2011 ASR showed zero (0) as the statistic for non-forcible sex offenses under the on-campus property geographic location for calendar year 2009; but, four (4) non-forcible sex offenses were reported in the ASR under the on-campus student residential facilities geographic location for that same calendar year.

According to a May 2, 2014 letter, these four (4) incidents were "mistakenly categorized". Furthermore, the letter stated the "CSSDACT was mistakenly left blank in the non-campus category and should have reflect zero incidents" exhibiting the inaccurate information presented to the consumer.

Non-Forcible Sex Offenses for Calendar Year 2009		
Source	2011 CSSDACT	2011 ASR
On-Campus	0	0
On-Campus Student Residential	0	4

3. All Criminal Offenses on Non-Campus Property, Calendar Year 2009

Occidental did not properly apply the Clery Geography definitions to its buildings and properties during the review period. Specific errors of this type were identified during an analysis of the statistical information that was included in the 2011 and 2012 ASRs. The College disclosed certain crimes as occurring on "off-campus property" as opposed to the correct category of "non-campus buildings and property." Similarly, "on-campus property" was referred to improperly as "general campus" in the statistical grids and in the caveat sections of crime statistics tables.

Furthermore, Occidental's ASR indicated that "zero" incidents of crime were reported in each sub-category during the calendar year; however, the College's response to the Campus Safety and Security Data Analysis Cutting Tool was left blank. The Department's survey instructions specifically state, "Do not leave any cells blank even if you have no crimes to disclose for a

particular category. Zero (0) is a statistic; enter a zero whenever there are no reported crimes to disclose in a particular table cell."¹³

4. Robberies on Public Property, Calendar Year 2009*

Occidental failed to properly report robberies that occurred on public property. Although eight (8) robberies were disclosed in the ASR and reported to the CSSDACT; the audit trail provided to the review team did not substantiate the accuracy of this disclosure.

5. Burglaries on Public Property, Calendar Year 2009*

Occidental included reports in its ASRs and online to CSSDACT that two (2) burglaries occurred on public property; however, the actual number of burglaries is zero (0) for this time period.

Burglaries for Calendar Year 2009			
Source	2010 CSSDACT	2010 ASR	Actual
Public Property	0	2	0

6. Motor Vehicle Thefts on Public Property, Calendar Year 2009*

Occidental failed to properly disclose the number of motor vehicle thefts that occurred on public property. In this case, fourteen (14) offenses were reported to the CSSDACT; however, eighteen offenses were disclosed in the ASR. The correct number of offenses is eighteen (18).

Motor Vehicle Thefts for Calendar Year 2009			
Source	2010 CSSDACT	2010 ASR	Actual
Public Property	14	18	18

7. Robberies on Public Property, Calendar Year 2010*

Occidental failed to properly disclose the number of robberies that occurred on public property. In this case, six (6) incidents were disclosed in the ASR and reported to the CSSDACT; however, five (5) of these offenses occurred beyond the parameters for the College's Clery Geography, per the Watch Commander's Log. It was noted that most of these incidents did occur within the College's patrol jurisdiction and therefore, were required to be entered on the daily crime log.

Robberies for Calendar Year 2010			
Source	2011 CSSDACT	2011 ASR	Actual
Public Property	6	6	1

8. Aggravated Assaults on Public Property, Calendar Year 2010*

Occidental failed to properly report the number of aggravated assaults that occurred on public property. Three (3) offenses were disclosed in the ASR and reported to the CSSDACT; however,

¹³ The Handbook for Campus Safety and Security Reporting (2011), Chapter 9.

all three (3) incidents occurred beyond the parameters of Clery Geography but within the College's patrol jurisdiction.

Aggravated Assaults for Calendar Year 2010			
Source	2011 CSSDACT	2011 ASR	Actual
Public Property	3	3	0

9. Burglaries on Public Property, Calendar Year 2010*

Occidental failed to properly report the number of burglaries that occurred on public property. Nineteen (19) incidents were disclosed in the ASR while zero (0) incidents were reported to the CSSDACT for the same time period. The actual number of burglaries is zero (0).

Burglaries for Calendar Year 2010			
Source	2011 CSSDACT	2011 ASR	Actual
Public Property	0	19	0

10. Motor Vehicle Thefts on Public Property, Calendar Year 2010*

Occidental failed to properly report the number of motor vehicle thefts that occurred on public property. Occidental recorded eight (8) offenses; however, seven (7) of these incidents occurred beyond the parameters of the College's Clery Geography.

Motor Vehicle Thefts for Calendar Year 2010			
Source	2011 CSSDACT	2011 ASR	Actual
Public Property	8	1	1

11. Arson on On-Campus Student Housing Facility, Calendar Year 2010

Occidental failed to properly report the number of arsons that occurred in on-campus student housing units. One (1) offense was disclosed in the 2011; however, zero (0) arsons were reported to the CSSDACT. The actual number of incidents was one (1).

Arson for Calendar Year 2010			
Source	2011 CSSDACT	2011 ASR	Actual
On-Campus Student Housing Facility	0	1	1

12. Hate Crime on Public Property, Calendar Year 2010*

Occidental failed to properly report the number of hate crimes that occurred on public property. In this case, Occidental disclosed one (1) offense in the ASR and reported the same incident to the CSSDACT; however, this incident actually occurred beyond the parameters of the College's Clery Geography.

Hate Crime for Calendar Year 2010			
Source	2011 CSSDACT	2011 ASR	Actual
Public Property	1	1	0

13. Robberies on Public Property, Calendar Year 2011*

Occidental failed to properly report the number of robberies on public property. In this case, Occidental disclosed one (1) offense in the ASR and also reported it to the CSSDACT; however, this incident actually occurred beyond the parameters of the College's Clery Geography but within the patrol jurisdiction.

Robberies for Calendar Year 2011			
Source	2012 CSSDACT	2012 ASR	Actual
Public Property	1	0	0

14. Burglaries on Public Property, Calendar Year 2011*

Occidental's ASR indicated that four (4) burglaries occurred on public property but reported zero (0) offenses to the CSSDACT for the same time period. The actual number of burglaries was zero (0).

Burglaries for Calendar Year 2010			
Source	2011 CSSDACT	2011 ASR	Actual
Public Property	0	4	0

15. Motor Vehicle Thefts on Public Property, Calendar Year 2011*

Occidental failed to properly report the number of motor vehicle thefts that occurred on public property. During this time period, there were ten (10) reported motor vehicle thefts in the College's patrol jurisdiction, but only two (2) occurred on the College's public property.

Motor Vehicle Thefts for Calendar Year 2010			
Source	2011 CSSDACT	2011 ASR	Actual
Public Property	10	10	2

This finding is supported by the crime statistics that Occidental included in its ASRs as well as the information submitted to the CSSDACT for calendar years 2011 and 2012.

Any failure to report accurate and complete crime statistics to the CSSDACT and to fully reconcile the crime statistics included in the ASR with the data submitted to the Secretary deprives campus community members and other stakeholders of access to accurate campus safety information to which they are entitled. Discrepant information may cause confusion for users of the ASR and the CSSDACT and distorts information that is intended to allow interested parties to play a more active role in their own safety and security.

Required Action:

As a result of this violation, Occidental was required to take all necessary corrective actions to rectify this violation and all others identified in this Program Review Report. In addition, the College was to review/reconstruct the crime statistics disclosed during the review period and for calendar years 2013, 2014, and 2015. If as a result of this exercise, Occidental identifies additional incidents of crime that were not previously included in its campus crime statistics then steps must be taken to revise those statistics (ASR and CSSDACT), as required. A summary report was to be prepared that captures all changes, and this report must be submitted as part of the College's official response. The response to this finding may be incorporated into the detailed file examination that is required under Finding #2 at the discretion of management. The Department's review and Occidental's admissions strongly indicate that there was a serious flaw in the crime statistics that were included in ASRs and that were submitted to the CSSDACT over several years. As such, additional work is needed to determine the extent of the problem as the first step in developing a meaningful corrective action plan that will provide reasonable assurances that such violations will not recur.

As part of this process, the College was required to review and enhance its policies, procedures, internal controls, systems, and training programs to ensure that all statistical disclosures that are included in the ASR and AFSR and that are submitted to the CSSDACT are accurate, complete, and fully reconciled. The College also required to review and revise its existing policies and procedures and develop and implement new internal guidance, as needed, to ensure compliance with these requirements going forward and to further ensure adequate custody, control, and data integrity of all Clery-related records and supporting documentation in accordance with the Department's record retention requirements at 34 C.F.R. § 668.24(f). A copy of all new and revised policies and procedures must accompany Occidental's response to this Program Review Report.

Institutional Response:

In their official response, Occidental management disagreed in part and concurred in part with this finding. In light of its submission of several erroneous numbers to the CSSDACT as compared to its AFSSRs, the College has indicated that it has implemented several safeguards to ensure that crime statistics are accurately and completely compiled for future reports. For example, the College points out that it has: identified all CSAs on campus and provided training to them; reviewed all Report Exec and Maxient incident reports; and conferred with residential services, student conduct services, and Title IX officers on a regular basis to discuss processes for reporting incident reports. Additionally, the College indicated that it has also taken steps to ensure that it retains all relevant information and records for the 7 years following the Department's Program Review.

Final Determination:

Finding #7 cited Occidental for multiple violations of the *Clery Act* and the Department's regulations, as outlined in the Noncompliance section above. Specifically, the review team

found that the College failed to submit campus crime statistics to the Secretary for inclusion in the CSSDACT that matched the crime statistics that were included in its 2011 to 2013 AFSSRs, meaning that one or both data sets were inaccurate. Please see the chart above for more information on the specific statistical discrepancies identified by the review team. As a result of these violations, the College was required to conduct an internal review of its crime statistics and the source documents upon which they were based. Then, based on that data collection and analysis, Occidental officials were required to correct the statistical data that was submitted to the CSSDACT and that was included in its ASRs. Finally, the College was required to review and revise its existing policies and procedures and develop and implement new internal guidance, as needed, to provide reasonable assurance that these violations will not recur. Although it noted partial disagreement, the College does not refute that it provided incorrect data concerning the 15 examples in the Noncompliance Section of the Program Review Report. The College admitted that it erroneously submitted the wrong data. Many times, the College stated that its over reporting of its numbers was due to a failure to adhere to the *Clery* geography rules for the 2011 through 2013 review period. The College has since corrected the erroneously reported figures, and has placed safeguard mechanisms in place to avoid this type of inaccurate reporting in the future.

The College also examined its AFSSRs and the information submitted to CSSDACT for the period of 2012 through 2015, and made corrections as needed. In one incident, the Department disagreed with the College's analysis of a 2013 Arson as reported in its response in Appendix A, example 25. Occidental believed that this case should not have been reported as Arson since the LAFD did not report back to them on an annual report request that this particular incident was Arson. However, in a report issued by LAFD on October 21, 2014 Incident 0013 indicates that the cause of ignition was "intentional"; thus, this incident should have been reported as an Arson. The College will need to adjust its reports to reflect the correct classification of this crime and update the crime statistics accordingly.

The Department carefully examined all available information, including Occidental's narrative response and supporting documentation. Based on that review and the College's partial admissions, the Department has determined that each of the violations identified in the noncompliance section of the initial finding are sustained. The examination indicated that the identified violations were, for the most part, satisfactorily addressed by Occidental's responsive documents and new and revised policies and procedures. As such, the Department has decided that the College's corrective action plan meets minimum requirements. For these reasons, the Department has accepted Occidental's response and considers this finding to be closed for the purposes of this Program Review. Nevertheless, College officials and directors must take all other action that may be necessary to address the deficiencies identified by the Department, as well as any additional deficiencies and weaknesses that were detected during the preparation of Occidental's response, and/or as may be needed to otherwise ensure that these violations do not recur.

Occidental is reminded that the exceptions identified above constitute serious and persistent violations of the *Clery Act* that, by their nature, cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. Timely submission of accurate crime statistics

to the Department is among the most basic requirements of the *Clery Act* and is fundamental to its campus safety goals. Access to this information permits campus community members and their families to make well-informed decisions about where to study and work and empowers individuals to play a more active role in their own safety and security. The College asserted that it has taken adequate remedial actions, and that, by doing so, it is now in compliance with the *Clery Act* as required by its PPA. Nevertheless, Occidental is advised that its remedial actions cannot and do not diminish the seriousness of these violations, nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Finding #8: Failure to Establish an Adequate System for Collecting Crime Report Information from All Required Sources - Campus Security Authorities

Citation:

The Clery Act and the Department's regulations require institutions to compile and include accurate and complete statistics concerning the occurrence of the following incidents: homicide, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assaults, burglary, motor vehicle theft, and arson. Statistical disclosure of arrests and disciplinary actions related to violations of Federal, State or local drug, liquor and weapons laws are also required. 34 C.F.R. § 668.46(c)(1)(B). To comply with these requirements, institutions must develop a system that allows for the collection of incidents of crime reported to any campus security authority. 34 C.F.R. § 668.46(c)(2). Federal regulations define a campus security authority in four distinct groups of individuals and organizations associated with an institution: 1) a campus police or a campus security department of an institution; 2) any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department; 3) any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses; and 4) an official of an institution who has significant responsibility for student and campus activities, including but not limited to athletics, student housing, student discipline and campus judicial proceedings. 34 C.F.R. § 668.46(a).

The ASR also must include a list of the title of each official or organization to which students or employees should report criminal offenses for the purpose of issuing timely warnings and compilation of the annual statistical disclosure. This statement must disclose whether the institution has any policies or procedures that allow victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics, and if so, a description of those policies and procedures. 34 C.F.R. § 668.46(b)(2)(iii).

Noncompliance:

Occidental failed to gather statistics for incidents of Clery-reportable crimes from nearly all of the College's campus security authorities (CSAs) for the years 2009, 2010, and 2011. Copies of the College's records indicate that the College only requested information from two (2) CSAs

during this time period. As a result of this very serious systemic failure, the College failed to produce an accurate and complete ASR as required by the Clery Act over this three-year period.

Two days prior to the commencement of the Department's site visit, the College sent out a memo to 120 CSAs requesting them to report any crimes that they were aware of for the year 2012. The memo apologized for the requested short turnaround (due back by September 24, 2013) since they needed to have this information prior to producing the 2013 ASR, which was due to be distributed a few days later on October 1, 2013. In fact, the use of CSAs were only referred to in the 2010, 2011, and the 2012 ASRs as places where the College would collect statistics. Nothing in these ASRs mentioned that a student, faculty, or staff member could report a crime to a CSA or actually included a comprehensive list of CSAs to whom one could report a crime until the 2013 ASR. In addition, the review team learned from several Occidental officials that there was no training provided to CSAs prior to June 2013. The first CSAs that received any training were a group of five senior administrators who attended training on the Clery Act in San Francisco three months prior to the Department's program review.

While it is not clear that Occidental engaged in this pattern of conduct purposely, the apparent lack of effort to identify and train CSAs across the College was a major contributor in the serious compliance failure identified during the program review. It is now clear that the College's CSAs were not aware of their reporting obligations and this caused an unquantifiable number of offenses in the official statistics. Moreover, such failures result in survivors not being provided with the services and protective measures to which they are entitled. The review team also found that the coordination and communication between the campus security officials charged with preparing the ASR and nearly all CSAs was wholly deficient and that the data collection processes were not reasonably constructed to permit the College to compile and include accurate and correct crime statistics.

Occidental also failed to provide a listing of titles of each person or organization (CSAs) to which students and employees should report criminal offenses in their 2014 ASR. Pages 10-11 of this ASR refer to CSAs, but provide no distinctive list of CSAs. This 2014 ASR refers to Occidental's Title IX definition for "responsible employees" who have the responsibility for accepting the report of sexual offenses; however, concerning all other crimes, the ASR fails to clearly delineate the CSAs by title or organization.

Failure to request and disclose statistics for incidents of crime reported to CSAs and to include this information in an accurate and complete ASR deprives students and employees of important campus safety information to which they are entitled. This vital information empowers interested campus community members to be better informed and to play a more active role in their own safety. This information also serves as an important resource for the media, researchers, policymakers, and other stakeholders.

Required Action:

As a result of these violations, Occidental was required to develop detailed policies and procedures and implement adequate internal controls to ensure that officials charged with

compiling crime reports from CSAs and local law enforcement agencies carried out these duties in a manner that will result in the compilation and disclosure of accurate and complete crime statistics and otherwise provide reasonable assurances that these violations will not recur. The College was to also design and deployed an effective crime statistics data request and collection mechanism for CSAs to use. Such procedures must provide for the proper classification of incidents, in accordance with the definitions in Appendix A to Subpart D of the General Provisions Regulations, and ensure that accurate and complete statistics for these offenses are included in the ASR and submitted to the CSSDACT. In addition, Occidental was required to take steps to ensure that CSAs were properly identified and received appropriate training concerning their reporting obligations and was given a simplified method to report incidents to the designated officials. Finally, Occidental was required to provide a good-faith estimate of the number of CSAs that it believed to have been in place during the 2009, 2011, 2013, and 2015 calendar years. A current list of actual CSAs by department and job title was required in the College's response. This information will be used to estimate the effect of this violation.

Based on an evaluation of all available information, including Occidental's response, the Department will determine whether additional actions are needed and advise the College accordingly in its Final Program Review Determination.

Institutional Response:

In their official response, Occidental management disagreed in part and concurred in part with this finding. Under the required actions, the College did provide its new procedures for training and collecting information from its CSAs. The College estimated that, during calendar years 2009, 2011, 2013 and 2015, it had approximately 200 CSAs. Additionally, as requested, the College provided a current list of its 206 CSAs, along with their respective titles. The College further noted that it has entered into a Memorandum of Understanding (MOU) with the LAPD effective February 24, 2016.

Final Determination:

Finding #8 cited Occidental for multiple violations of the *Clery Act* and the Department's regulations, as outlined in the Noncompliance section above. Specifically, the review team found that the College failed to collect statistics for incidents of *Clery*-reportable crimes from nearly all of the College's CSAs for calendar years 2009, 2010, and 2011. As a result of these violations, Occidental was required to take extensive action in an attempt to ascertain the negative effects on the accuracy and completeness of the College's crime statistics that resulted from the ongoing failure to collect information about incidents of crimes that were reported to CSAs throughout the review period. In its response, the College disagreed in part and concurred in part with this finding. However, in doing so, the College does not refute that it failed to collect statistics from its CSAs for the CYs 2009, 2010, and 2011. As noted in the noncompliance section, the College first requested this information from its CSAs while the Department was on-site conducting its Program Review.

The Department carefully examined all available information, including Occidental's narrative response and supporting documentation. Based on that review and the College's partial admissions, the Department has determined that each of the violations identified in the initial finding is sustained. The examination indicated that the identified violations were, for the most part, satisfactorily addressed by Occidental's updated policies and procedures, although the effects of this violation can never be fully known or in any meaningful regard, remedied. Moreover, as was the case with the entire response, the College stated that it disagreed with some aspects of the finding but failed to identify any factual or legal flaws in the Department's presentation. While the response claims that errors were identified and that necessary revisions were made, there is no indication that Occidental attempted to determine the reasons for its persistent failure to identify CSAs, to notify them of the reporting obligations conferred upon them by Federal law, and to provide them a simplified mechanism to provide crime information to a central source for compilation and as importantly, for appropriate follow-up.

While the response indicated that the College has continued to have some 200 CSAs throughout the review period it is now clear that crime statistics were not collected from most of these officials during those years. Furthermore, prior to the Department's intervention, the ASRs that the College produced during the review period did not clearly explain the role of CSAs or identify a list of CSAs to whom students and employees could report incidents or any substantive information about what would be done with that information. This condition was partially remedied for the first time in the 2013 AFSSR. The fact that the full extent of this violation cannot be quantified at this point is part of what makes it so serious. What is known is that a violation of this type always causes the extent of criminal activity on a campus to be underrepresented in the ASR and in the reporting to the CSSDACT and also compounds the effect of other violations, such as the failure to issue timely warnings or to maintain an accurate and complete crime log.

Moreover, this violation is an indication of the types of serious administrative impairments that were set out in Finding #1. The CSA requirements, both with regard to practice and policy, at 34 C.F.R. § 668.46(b)(iii) recognize the ways that many campus community members actually reports incidents of crime. While Occidental acknowledged these requirements, much of the response to this finding minimized its seriousness and did not indicate that the College understands the importance of an adequate CSA process plays in overall *Clery Act* compliance. An institution's opportunity to file a substantive official response to findings of violation is an integral part of the Program Review process and is the primary means by which an institution shows that it understands the cause of a deficiency and that officials have the ability and resources to prevent recurrence. As importantly, the response phase ensures that the institution's right to be heard is protected and preserved and allows an institution to submit evidence to challenge a finding of violation and/or to raise facts in mitigation. In these regards, the College's response causes serious concerns because rather than filing a clear answer to the findings that shows that the violation will not recur, the College chose to stay defensive and alternatively minimized the exceptions or framed remedial measures as efforts taken to appease the Department. The point that must not be lost is that the failures documented throughout this FPRD caused information to be disseminated to campus community members and other stakeholders that was false and that served to make the campus and the near-campus community

appear safer than it was. Notwithstanding these concerns, the review team's examination of the response and supporting information indicates that the College has started to address most of its most serious compliance problems regarding CSAs. As such, the Department has determined that the College's corrective action plan meets minimum requirements and for these reasons, has accepted Occidental's response and considers this finding to be closed for the purposes of this Program Review. Nevertheless, the officials and directors of Occidental are put on notice that they must take all other action that may be necessary to address the deficiencies identified by the Department, as well as any additional deficiencies and weaknesses that were detected during the preparation of Occidental's response, and/or as may be needed to otherwise ensure that these violations do not recur.

The Department must point out again that Occidental's failures noted above constitute serious and persistent violations of the *Clery Act* that, by their nature, cannot be cured. There is no way to truly "correct" a violation of this type once it occurs. The requirements to identify CSAs and to make them fully aware of the obligations conferred upon them by the law are essential precursors to compliance with the law. From there, an institution must actively seek out information about incidents of crime that were reported to CSAs. Any failure to carry out these steps will cause the disclosure of inaccurate and incomplete crime statistics in direct opposition to the law's purpose. Access to this complete and fully-reconciled crime information permits campus community members and their families to make well-informed decisions about where to study and work and empowers individuals to play a more active role in their own safety and security. The College asserted that it has taken adequate remedial actions, and that, by doing so, it is now in compliance with the *Clery Act* as required by its PPA. Nevertheless, Occidental is advised that its remedial actions cannot and do not diminish the seriousness of these violations, nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective actions as a result.

Finding # 9: Drug and Alcohol Abuse Prevention Program Requirements Not Met - Multiple Violations

Citation:

The DFSCA and the Department's Part 86 Regulations require each institution of higher education (IHE) to certify that it has developed and implemented a drug and alcohol abuse prevention program (DAAPP). The program must be designed to prevent the unlawful possession, use, and distribution of drugs and alcohol on campus and at recognized events and activities.

On an annual basis, each IHE must provide the following information in writing to all current students (enrolled for any type of academic credit except for continuing education units) and all current employees:

- *A written statement about its standards of conduct that prohibits the unlawful possession, use or distribution of illicit drugs and alcohol by students and employees;*

- A written description of legal sanctions imposed under Federal, State, and local laws and ordinances for unlawful possession or distribution of illicit drugs and alcohol;
- A description of the health risks associated with the use of illicit drugs and alcohol abuse;
- A description of any drug or alcohol counseling, treatment, and rehabilitation/re-entry programs that are available to students and employees; and,
- A statement that the IHE will impose disciplinary sanctions on students and employees for violations of the institution's codes of conduct and a description of such sanctions.

The distribution plan must make provisions for providing the DAAPP disclosure annually to students who enroll at a date after the initial distribution and for employees who are hired at different points throughout the year.

In addition, each IHE must conduct a biennial review to determine the effectiveness of its DAAPP and to ensure consistent enforcement of applicable drug and alcohol-related statutes, ordinances, and institutional policies against students and employees found to be in violation. The biennial review materials must be maintained by the IHE and made available to the Department upon request. 34 C.F.R. §§ 86.3 and 86.100.

Noncompliance:

Occidental violated multiple requirements of the DFSCA. Specifically, the review team found that the College failed to develop and implement a comprehensive DAAPP and as a result, also did not produce an accurate and complete annual disclosure that summarizes the program. The College chose to include certain drug and alcohol information in the Student Handbook and the Employee Handbook. The information in the handbooks did not address the following required program elements:

1. No description of any health risks associated with the use of illicit drug and alcohol abuse;
2. No description of any drug or alcohol counseling, treatment, and rehabilitation/re-entry programs that are available to students and employees; and,
3. No statement that the College will impose disciplinary sanctions on students and employees for violations of the institution's codes of conduct and a description of such sanctions.

Occidental also violated the annual DAAPP disclosure distribution requirement by failing to actively deliver program information to all employees and students who are enrolled for any academic credit annually. The review team found that the College merely sent an e-mail message to students and employees that asked them to read the Handbook and to acknowledge that they have done so. The message also requests that campus community members comply with the policies and procedures set forth therein. This passive approach to distributing DAAPP

information is not adequate to meet the active distribution standard set out in Federal law and the Department's regulations. An institution may distribute the annual disclosure by electronic mail if it wishes to do so. The method for such a distribution would require the institution to post program materials on its website and then send an e-mail message to each mandatory recipient that includes a direct link to the document. Sending a general email message to students and employees encouraging them to read all of the College's policies does not meet the standard for direct notice.

Finally, Occidental failed to conduct substantive biennial reviews to actually assess the effectiveness of its DAAPP and the consistency of sanctions imposed for violations of its codes of conduct. While the review team takes notice that Occidental did produce biennial review reports in 2009 and 2013, neither report evidences any attempt to actually measure the effectiveness of the College's neither DAAPP nor the consistency of sanctions imposed for violations. For this reason, the review team found that the rudimentary reports that were produced did not meet minimum standards. Moreover, the Department must point out that the College failed to conduct a biennial review in 2011.

Failure to comply with the DFSCA's DAAPP requirements deprives students and employees of important information regarding the educational, disciplinary, health, and legal consequences of illegal drug use and alcohol abuse. Failure to conduct substantive biennial reviews deprives the institution itself of important information about the effectiveness of any drug and alcohol programming that may have been in place during the review period. Data compiled by the Department shows that such failures may contribute to increased substance abuse as well as an increase in drug and alcohol-related violent crime.

Required Action:

Occidental was required to take all necessary corrective actions to resolve these violations. At a minimum, these actions must include:

- Developing and implementing a comprehensive DAAPP that included all of the required elements found in the DFSCA and the Department's Part 86 regulations and producing a materially-complete disclosure that summarized the program;*
- Developing procedures for ensuring that the DAAPP program disclosure is distributed to all employees and all students enrolled for academic credit on an annual basis. Occidental must provide a draft copy of its DAAPP disclosure and new distribution policy with its response to this Program Review Report. Once the materials are approved by the Department, the College must distribute them in accordance with the Part 86 regulations and its new policy and provide documentation evidencing the distribution, as well as a statement of certification attesting to the fact that the materials were distributed as required. This certification must also affirm that the College understands all of its DFSCA obligations and that it has taken all necessary corrective actions to ensure that these violations do not recur;*

- *Submitting a copy of the 2015 biennial review report. If the College has not already conducted a review, immediately conduct a substantive biennial review to assess the effectiveness of its DAAPP. Occidental must describe the research methods and data analysis tools that will be used to determine the effectiveness of the program and identify the responsible official(s) and office(s) that conducted the biennial review. Finally, the biennial review report must be approved by the College's President and/or its board. The biennial review must be completed by December 1, 2016 and the report must be completed and submitted to the review team no later than December 15, 2016; and,*
- *Establishing policies and procedures that ensure that all subsequent biennial reviews are conducted in a timely manner and are fully documented. The College also must take all other necessary action to ensure that these violations do not recur.*

Based on an evaluation of all available information including Occidental's response, the Department will determine if additional actions will be required and will advise the College accordingly in the FPRD.

Institutional Response:

In their official response, Occidental management disagreed in part and concurred in part with this finding. The College asserts that it has implemented a comprehensive DAAPP and that program materials have been disseminated separately to students and employees since 2010.

Regarding this distribution, the College stated that, since 2012, it has sent out its Alcohol and Other Drugs (AOD) policy to students, via an Enrollment Clearance process that includes an electronic version of the policy. From 2010 to 2012, the College used a distribution policy of providing a link, in its electronic Enrollment Clearance process, to the AOD policy for students to read. Prior to 2010, the school indicated that it distributed a hardcopy of the student handbook, which included the AOD policy and requested that students electronically acknowledge their receipt and reading of the policy.

In support of its claims, the College submitted a copy of its 2015 Biennial Review Report and a copy of its new and revised policies and procedures.

Final Determination:

Finding #9 cited Occidental for multiple violations of the *DFSCA* and the Department's Part 86 Regulations, as outlined in the Noncompliance section above. Specifically, the review team found that the College did not develop and implement a comprehensive DAAPP that addressed all required subject areas during the entire review period. As noted in the finding, the program materials provided to the review team did not address health risks associated with substance abuse, options for counseling and treatment on campus and in the near-campus community, or the required statement that the College will impose disciplinary sanctions for violations of its codes of conduct. In addition, Occidental failed to actively distribute accurate and complete Part 86 program materials prior to 2012. Moreover, the review team found that the College did not

conduct adequate biennial reviews in CYs 2009, 2011, and 2013. No review of any kind was conducted in 2011.

These separate and distinct violations necessarily follow from each other because the biennial review is primarily a study of the DAAPP's effectiveness. Therefore, an institution cannot conduct a proper biennial review until it has a fully-functional DAAPP in place and program requirements and standards of conduct are communicated clearly to all members of the campus community. As a result of these violations, Occidental was required to review and revise any existing DAAPP materials and develop new program content, as needed. The College was also required to produce and distribute an accurate and complete annual DAAPP disclosure and to actively distribute it to all campus community members in accordance with Federal requirements and the institution's new internal procedures. In addition, Occidental was required to conduct a substantive biennial review and produce an initial report of findings, recommendations, and supporting documentation. Finally, College officials were directed to submit copies of all new and revised program materials, policies, and procedures along evidence that Part 86 program materials were distributed in the required manner, and a certification statement attesting to its remedial efforts. In its response, College officials concurred in part with the finding, described their remedial actions, and submitted documents in support of their claims.

While the College stated its disagreement with parts of the finding, it did not dispute its failure to include information about health risks, counseling and treatment options, and enforcement of its codes of conduct in the DAAPP for CYs 2009, 2010, 2011, 2012, and 2013. The College did not address the fact that it also failed to include information regarding these same three subject areas in the DAAPP materials intended for employees from 2009 through the end of the review period. Finally, the College did not address its failure to conduct and document substantive biennial reviews prior to April, 2014. In fact, on Page 3 of the school's 2015 Biennial Review Report, the Occidental DOA committee reported the following: "During the fall of 2009 the committee compiled their first review of the College's AOD prevention program. However, there was not a thorough biennial review completed until April of 2014." This determination tracked the Department's rationale and is based on the repeated failure to assess the effectiveness of the substance abuse prevention program and the consistency of sanctions imposed for violations of its codes of conduct from 2009 through at least 2013.

The Department carefully examined all available information, including Occidental's narrative response and supporting documentation. Based on this review and the College's partial admissions, each of the violations noted in the initial finding are sustained, as the evidence indicates that Occidental never fully complied with the *DFSCA* prior to and for a period after the Department's intervention. Nevertheless, the review team's examination indicated some improvement in these areas and that the majority of the violations were, for the most part, satisfactorily addressed by the College's new and revised Part 86 program materials, 2015 biennial review report, and new and revised internal policies and procedures. However, one element of the required actions set out in the Program Review Report was not adequately addressed. As of the date of this FPRD, the College has not provided a copy of an acceptable DAAPP disclosure or evidence of active distribution in accordance with Federal law and the College's new distribution procedure. The College must remedy this condition within 30 days of

its receipt of this FPRD.¹⁴ These program materials must specifically address the legal sanctions that may be imposed for violations of Federal, state, and local drug and alcohol laws and the health risks associated with drug and alcohol abuse. Moreover, the officials and directors of Occidental must take all necessary action to address the deficiencies and weaknesses identified by the Department as well as those that were detected during the preparation of the response to the Department's report and as may otherwise be needed to ensure that these violations do not recur.

In this regard, Occidental is advised that it must continue to develop its DAAPP. The College must also ensure that it distributes accurate and complete DAAPP materials to all students and employees on an annual basis in accordance with the Department's regulations and the College's procedures. Moreover, Occidental must conduct substantive biennial reviews and do so on the required schedule. Occidental officials must take care to ensure that each review is in fact a probative inquiry into the program's effectiveness. The review process must not merely become a conclusory ratification of existing policy. Finally, the College must produce detailed reports that clearly state the methods used and outcomes reached during each review. Each report must also be approved by Occidental's chief executive and/or its Board.

Occidental is reminded that the exceptions identified above constitute serious and persistent violations of the *DFSCA* that by their nature cannot be cured. There is no way to truly "correct" violations of this type once they occur. The College asserted that it has taken adequate remedial actions and is now in compliance with the *DFSCA* as required by its PPA. Nevertheless, Occidental officials must understand that the Department deems compliance with the *DFSCA* is essential to maintaining a safe and healthy learning environment. This is true for all institutions regardless of their size, location, or organizational structure. Data compiled by the Department shows that the use of illicit drugs and alcohol abuse is highly correlated to increased incidents of violent crime on campus, increased absenteeism, and a failure to successfully complete a program of study. The compliance failures identified above deprived the College and its officials of important information about the effectiveness of any drug and alcohol programs that were in place during the Department's review period. Such failures may contribute to increased drug and alcohol abuse on-campus as well as an increase in drug and alcohol-related violent crime and constitute a violation of Federal law. For these reasons, the Occidental is reminded that corrective measures cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department will impose an adverse administrative action and/or require additional corrective measures as a result.

Finally, the Department strongly recommends that Occidental re-examine its drug and alcohol abuse prevention policies, procedures, and programs on at least an annual basis and revise them as needed to ensure that they continue to reflect current College policies and are in full compliance with the *DFSCA*. Please be advised that the Department may request information on a periodic basis to test the effectiveness of the College's new policies and procedures.

Additional Inquiry: Separate Campuses

Citation:

The Clery Act and the Department's regulations require that all institutions that receive Title IV, HEA funds must, by October 1 of each year, produce and distribute to its current students and employees through appropriate publications and mailing, a comprehensive Annual Security Report and Annual Fire Safety Report (if the institution has an on-campus student residential facility) that contain, at a minimum, all of the statistical and policy, procedural, and programmatic elements enumerated in 34 C.F.R. §§ 668.46 and 668.49, respectively.

These regulations further require that all campuses must independently meet all Clery Act campus safety and fire safety-related requirements for each separate campus. A location is considered to be a separate campus if it meets the following criteria:

- *The institution owns or controls the site;*
- *It is not reasonably contiguous with the main campus;*
- *It has an organized program of study; and,*
- *There is at least one person on site acting in an administrative capacity.*

Required Action:

In response to this Departmental inquiry, Occidental was required to take immediate and intentional action to research the extent to which the College operates one or more separate campuses other than the main campus under the criteria set out above.

Specifically, Occidental's response must address with specificity the status of the William and Elizabeth Kahane United Nations Program in New York City, Occidental's Biology Department Program in Costa Rica, and Occidental's research vessels in the Los Angeles area as to whether one or more of these locations constitutes a separate campus for Clery Act purposes. All claims made and positions taken in the response to this inquiry must be substantiated by credible supporting documentation. The response to this inquiry must accompany the interim response required under Finding #6 and must be submitted to Mr. Rose via electronic mail. If it is determined that one or more of these locations is a separate campus, Occidental will be required to produce a 2016 ASR and AFSR (if the campus has student housing). At its discretion, the College may produce a single ASR and AFSR that includes all required information for all campuses or it may prepare campus-specific reports. Regardless of the campus status of these locations, Occidental must report on its efforts to provide an adequate campus safety and crime prevention program at these locations and describe its efforts to comply with the Clery Act.

Based on a review of all available information, including Occidental's response, the Department will determine if additional actions will be required and will advise the College accordingly in subsequent correspondence and in its Final Program Review Determination.

Institution's Response to Additional Inquiry Concerning Separate Campuses:

On October 14, 2016, the College provided a response to our inquiry about the above-referenced programs and locations. Additional information about the proper treatment of these programs and locations for *Clery Act* purposes will be provided separately.

Conclusion

As noted throughout this report, Occidental violated numerous provisions of the *Clery Act's* campus safety standards, the HEA's fire safety rules, and the substance abuse prevention requirements of the *DFSCA*. The Department considers compliance in these areas to be fundamental to the health and safety goals of the HEA, the *Clery Act*, and the *DFSCA*. Access to accurate, complete, and transparent disclosures of safety information helps students, employees, and other stakeholders to make well-informed decisions about where to study, work, and live. The transparency created by these disclosures also empowers campus community members to play a more active role in their own safety and security. Occidental asserted that it has taken adequate remedial actions and that by doing so, is now in compliance with the HEA, the *Clery Act* and the *DFSCA*, as required by its PPA. Nevertheless, Occidental officials must understand that the violations documented here deprived students, employees, parents, the media, and other interested parties of access to important campus safety, crime prevention, and fire safety information to which they are entitled. For these reasons, the College is once again advised that its remedial actions cannot and do not diminish the seriousness of these violations nor do they eliminate the possibility that the Department may require additional corrective actions as a result.

The Department's objective in conducting this and all Campus Crime Program Reviews is to improve the safety of America's college campuses. The development and implementation of a substantive corrective action plan is the first step to moving Occidental toward full compliance with the HEA, the *Clery Act*, and the *DFSCA* as soon as possible.

The Department strongly recommends that Occidental re-examine its campus safety and general Title IV policies and procedures on an annual basis to ensure that they continue to reflect current institutional practices and are compliant with Federal regulations. As part of these periodic reviews, Occidental officials may wish to review the Department's "Handbook for Campus Safety and Security Reporting" (2016) for guidance on complying with the *Clery Act*. The handbook is available online at: www2.ed.gov/admins/lead/safety/handbook.pdf. The Department also provides a number of other *Clery Act* training resources. Occidental officials can access these materials at: www2.ed.gov/admins/lead/safety/campus.html. The regulations governing the *Clery Act* can be found at 34 C.F.R. §§ 668.14, 668.41, 668.46, and 668.49.

Finally, in light of the violations documented during this review, Occidental management is advised to take immediate action to ensure that the College is in compliance with Section 304 of the Violence Against Women Reauthorization Act of 2013 (VAWA). VAWA amended the *Clery Act* to require institutions to compile and disclose statistics for incidents of sexual assault, dating violence, domestic violence, and stalking. VAWA also requires institutions to include new policy, procedural, and programmatic disclosures regarding sexual assault prevention and

response in its ASRs. All institutions were already obligated to comply with the statutory requirements of VAWA and must include the new required amendments in the 2014 ASR. Because the Department issued Final Rules on the VAWA amendments on October 20, 2014, the new regulations went into effect on July 1, 2015, per the Department's Master Calendar. Occidental officials may access the text of the Final Rule at:
<http://ifap.ed.gov/fregisters/attachments/FR102014FinalRuleViolenceAgainstWomenAct.pdf>.