**U.S. DEPARTMENT OF EDUCATION**
**Case Management Division Northeast**
**The Wanamaker Building**
**100 Penn Square East, Suite 511**
**Philadelphia, PA 19107**

**STUDENT FINANCIAL ASSISTANCE PROGRAMS**

**REGION III**

March 9, 2000

Dr. William R. Haden
President
West Virginia Wesleyan College
59 College Avenue
Buckhannon, WV 26201-2995

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PRCN: 19983031613

Final Program Review
Determination Letter

Dear Dr. Haden:

This letter responds to West Virginia Wesleyan College's (the College) submission dated October 5, 1999. This package was provided in response to the Philadelphia Case Management Team's September 9, 1999 program review report. The September 9, 1999 program review report detailed the Philadelphia Case Management Team's assessment of the College's compliance with the Crime Awareness and Campus Security Act of 1990 (the Act). This program review identified certain findings of non-compliance based on analysis of incident reports from 1994, 1995, and 1996. The September 9, 1999 program review report is incorporated by reference in its entirety into and made part of this Final Program Review Determination letter. It is attached hereto as attachment A.

During the on-site visit, some areas of concern were identified. The findings detailed in the September 9, 1999 program review report were based on a review of several hundred incident reports, college judicial system files, and other supporting documentation for the statistics in the 1994, 1995, and 1996 Campus Security Reports. The program review also consisted of an analysis of the College's policies and procedures regarding the preparation and distribution of the Campus Security Reports. In addition, interviews were conducted with institutional and law enforcement officials. The program review team also established an on-going dialogue with the College's General Legal Counsel that facilitated the information gathering and policy clarification process.

As stated in the program review report, the review team's analysis indicated that the findings of non-compliance were the result of unintentional weaknesses in the College's security operation. Based on this determination, the requirements in the program review report focused on specific corrective actions aimed at assisting the College toward full compliance with the Act.

On October 5, 1999, the College submitted a package in response to the September 9, 1999 program review report. The response includes revised policies on the collection, compilation, and distribution of crime statistics. The response also details certain staff improvements and an enhanced mechanism for communicating with external agencies. Based on this response and representations made by institutional officials relating to the Department's September 9, 1999 program review report, the College may now consider the program review closed.

The College is advised that the program review was conducted in accordance with Federal regulations in place at the time of the on-site visit. As such, the program review report and this Final Program Review Determination letter were also prepared in accordance with Federal regulations in place at that time. The 1998 Amendments to the Higher Education Act have modified the requirements of the Crime Awareness and Campus Security Act of 1990. All subsequent Campus Security Reports must be prepared and distributed in accordance with current Federal regulations.

The College is further advised that repeat findings may result in the Department initiating an adverse action against the institution. An adverse action may include the imposition of a formal fine, or the limitation, suspension, or termination of the institution's eligibility pursuant to 34 CFR § 668, Subpart G, General Provisions, as amended, March 16, 1993.

Thank you for cooperation, courtesy, and patience throughout the program review process. If you should have any questions, please contact Mr. James Moore or Mr. James Walsh of the Philadelphia Case Management Team at (215) 656-6442.

Sincerely,

John S. Loreng
Team Leader

Enclosure

Cc: Dr. Trina Dobberstein
Dean of Student Development

Mr. David McCauley
General Legal Counsel

**Attachment A**

**Institutional Review Data Sheet**

**West Virginia Wesleyan College**
**59 College Avenue**
**Buckhannon, WV 26201-2600**

| | |
|---|---|
| **DATES OF REVIEW:** | April 20, 1998 – April 24, 1998 |
| **YEARS REVIEWED:** | 1994, 1995, and 1996 |
| **OPE ID NUMBER:** | 003839 |
| **CRS ID NUMBER:** | 1550357056A1 |
| **TYPE AND CONTROL:** | Private, Non-Profit |
| **ACCREDITATION:** | North Central Association of Colleges and Universities |
| **METHOD OF FUNDING:** | Advance Payment |
| **REVIEWING ED OFFICIALS:** | Mr. James L. Moore, III<br>Mr. James M. Walsh |

**INSTITUTIONAL OFFICIALS CONTACTED:**

Dr. William Haden, President
Dr. Trina Dobberstein, Vice President and Dean of Student Development
Dr. G. Thomas Mann, Vice President and Chair of Campus Judicial Appeals Board
Mr. David McCauley, General Legal Counsel
Mr. Richard Dillon, Director of Housing, Residence Life, and Campus Safety
Mr. David Coates, Director of Security
Mr. Michael Kuba, Director, Counseling and Wellness center
Ms. Lisa Arnold, Resident Life Coordinator
Mr. Steven Cox, First Sergeant
Mr. Glenn Yerkey, Part-time Patrol Officer

## INTRODUCTION

### A. The Institution

Founded in 1890, West Virginia Wesleyan College (WVWC) currently enrolls 1,500 students in 35 undergraduate majors and 8 pre-professional programs. The College and its programs are fully accredited by the North Central Association of Colleges and Universities and are approved by the University Senate of the United Methodist Church. Situated on 80 acres, the College's campus is comprised of 23 buildings in Buckhannon, West Virginia.

### B. Background

In December 1997, The Philadelphia Case Management Team received a complaint from C.R.U.S.A.D.E. Security alleging that West Virginia Wesleyan College failed to comply with the provisions of the Crime Awareness and Campus Security Act of 1990 (the Act). This complaint was filed on behalf of C.R.U.S.A.D.E. Security and a part-time security officer at the institution. Several attachments accompanied the letter of complaint. The complainants also made these materials available to Security on Campus, Inc. for their review. Based on their independent review of the materials, Security on Campus, Inc. filed its own inquiry with this office on December 15, 1997.

Specifically, the complaint by C.R.U.S.A.D.E. Security alleged that certain violations of state and Federal law, to include the Act, were identified during an investigation of campus security matters on behalf of a client. During their investigation, C.R.U.S.A.D.E. Security contacted members of the institution's security department to assess their policies and procedures. One of these officers later became a co-complainant. Their complaint suggested that certain reportable offenses under the Act were not properly classified, disclosed or were otherwise omitted from the institution's Campus Security Reports.

Based on the Philadelphia Case Management Team's initial review, the complaint was initially referred to the U.S. Department of Education's Office of the Inspector General (OIG). The decision to refer the complaint was based on certain allegations of fraudulent activities on the part of the institution. Based on the OIG's review, it was determined that this office was more appropriately equipped to handle this matter.

The U.S. Department of Education is responsible for conducting oversight of participating institution's administration of the Title IV, Higher Education Act (HEA), Student Financial Assistance Programs (SFAP). This responsibility includes the monitoring of an institution's compliance with the requirements of the Crime Awareness and Campus Security Act of 1990. Therefore, when information, in the form of complaints, media accounts or any other manner, come to the attention of the Department, alleging violations under the Act, it is the Department's practice to make

inquiries, gather information, and determine an appropriate course of action. In this case, the Department determined that a program review focusing on West Virginia Wesleyan College's compliance with the Act was appropriate.

## C. Scope of the Review

On January 16, 1998, the Philadelphia Case Management Team sent a letter to the institution seeking detailed information regarding its campus security policies and procedures. On February 12, 1998, West Virginia Wesleyan College responded with specific answers and supporting documentation. These materials enabled this office to develop a work plan and focus areas for the on-site review. On April 6, 1998, this office officially announced that a program review focused on campus security would be conducted.

An on-site review was conducted at the institution the week of April 21, 1998 and at the regional office prior to April 21, 1998, to determine the institution's compliance with the Crime Awareness and Campus Security Act of 1990. The review consisted of an examination of West Virginia Wesleyan College's policies and procedures regarding the annual Campus Security Report required by law. The review team also analyzed the incident reports, college judicial system files, and other records that serve as supporting documentation for the statistics in the 1994, 1995, and 1996 Campus Security Report. In addition, interviews were conducted with institutional and law enforcement officials. With the assistance of the institution's General Legal Counsel, the review team toured exact locations noted in incident reports for crimes that did not appear in the campus Security Report.

In light of the complaint by C.R.U.S.A.D.E. Security, the review team evaluated the institution's security policies and procedures to determine if in fact, "West Virginia Wesleyan College has falsified their campus criminal statistics." In an attempt to determine the degree and scope of noncompliance, a thorough review of several hundred reports was performed. The review team also established an on-going dialogue with the institution that allowed for policy clarification and additional document requests. Due to the volume of required document analysis, the program review has progressed at a slower pace than normal. While certain exceptions were identified, the review team's analysis suggests that these findings are the result of weaknesses in the institution's security operation, were not intentional, and are not indicative of fraud.

During the visit, some areas of noncompliance were noted. Findings of noncompliance are referenced to the applicable statutes and regulations and specify the actions to be taken by West Virginia Wesleyan College to come into compliance with Act. Please note that this report was prepared in accordance with the regulations in place for the years covered by the review. These requirements have been modified by the 1998 Amendments to the Higher Education Act.

Although the review of the institution's implementation of the Act's requirements was thorough, it cannot be assumed to be all-inclusive. The absence of statements in the report concerning the institution'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 West Virginia Wesleyan College of its obligation to comply with all of the statutory and regulatory provisions pertaining to the Act or the Title IV, HEA programs.

## D. Findings and Requirements

### Finding # 1: Required Policy Statements Omitted or Incomplete

In the years covered by the program review, the institution failed to include certain required policy statements in its Campus Security Reports. These policy statements allow students and parents to make informed decisions and be aware of available resources and channels for recourse. The inclusion of these policies in the Campus Security Report gives interested parties a single reference point for security information. For example, the institution's Campus Security Report does not include a listing for local police agencies. 34 CFR 668.47(a)(3)(ii). In addition, the Campus Security Report does not contain a statement of policy concerning the monitoring and recording of criminal activity at off-campus locations of student organizations recognized by the institution. 34 CFR 668.47(a)(7). Also, there is no description of available drug or alcohol abuse education programs. 34 CFR 668.47(a)(11).

Failure to include accurate and complete policy statements in campus security reports deprives the campus community of important security information.

**Reference:**

Crime Awareness and Campus Security Act of 1990, Public Law 101-542,
20 USC § 1092(f), as amended,
34 CFR § 668.47 (a)(3)(ii) and (a)(7) and (a)(11)

**Requirement:**

Federal regulations require that institutions include certain policy statements in their Campus Security Reports. These policies allow the campus community to be fully informed about the institution's policies and programs regarding security issues. In response to this finding, West Virginia Wesleyan College must conduct a comprehensive review of its policies and procedures as detailed in finding # 3. In addition, the institution's response must include copies of all required statements of policy to be included in subsequent Campus Security Reports.

**Finding # 2: <u>Hate Crime Statistics Not Included in Campus Security Reports</u>**

For the years covered by the program review, West Virginia Wesleyan College's Campus Security Reports did not include statistics identifying the number of bias-related criminal incidents on campus.

20 USC §1092 (f)(6) and 34 CFR §668.47 (a)(6)(ii) require that an institution's annual campus security report includes statistics of Part 1 crimes as defined by the Uniform Crime Reporting (UCR) system that meet the criteria prescribed by the Hate Crimes Statistics Act. 28 USC § 534. Any case that involves the criminal offenses of murder, forcible rape, and aggravated assault that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity must be classified as a hate crime.

Failure to collect and distribute accurate and complete campus security statistics and policies deprives the campus community of important security information.

**Reference:**

Crime Awareness and Campus Security Act of 1990, Public Law 101-542,
20 USC § 1092 (f), as amended.
Hate Crime Statistics Act, Public Law 101-275, 20 USC § 534, as amended.
34 CFR § 668.47 (a)(6)(ii)(1997).

**Requirement:**

In response to this finding, West Virginia Wesleyan College is required to conduct a comprehensive review of its policies and procedures as detailed in finding # 3. In addition, the institution's response must address the manner in which incident reports will be evaluated to determine if specific offenses manifest evidence of a hate crime.

**Finding # 3: <u>Failure to include all required incidents in Campus Security Report</u>**

For the years covered by the program review, West Virginia Wesleyan College did not include all required incidents in its Campus Security Reports. While the review team has concluded that these omissions were not intentional, it is also clear that certain requirements of the Act have not been fully implemented by the institution. During the course of the last year, the review team has undertaken a comprehensive review of the institution's incident reports. This review indicates that the certain incidents were omitted by the Campus Security Reports for the following reasons.

## A. The Miscoding of Specific Incidents

The review team has determined that the incidents listed on Appendix A were miscoded and therefore, were not included in the institution's Campus Security Reports. Federal regulations require that institutions publish statistics concerning the occurrence on campus of the following criminal offenses reported to local police organizations or to any official of the institution who has significant responsibility for student and campus activities: murder, rape, robbery, aggravated assault, burglary, and motor-vehicle theft. 34 CFR § 668.47(a)(6)(i). Federal regulations further require that incidents be classified in accordance with definitions established by the Federal Bureau of Investigation's Uniform Crime Reporting system (UCR).

## B. Omission of Arrest Data – Failure to Coordinate Data from All Sources

The review team has determined that West Virginia Wesleyan College did not include required arrest data in it Campus Security Reports. These incidents are listed below. This determination is based on interviews conducted with and documents provided by the institution and local law enforcement agencies. Federal regulations require that an institution include in its annual Campus Security institutions statistics concerning the number of arrests for liquor law violations, drug law violations, and weapon offenses occurring on campus. 34 CFR § 668.47 (a)(8)(I).

| Date | Incident | Location |
|---|---|---|
| 10/8/95 | Underage Consumption | Theta Chi |
| 10/8/95 | Underage Consumption | Theta Chi |
| 10/11/95 | Possession of Marijuana | Unspecified |
| 10/11/95 | Possession of Marijuana | Unspecified |
| 2/13/96 | Possession of Marijuana | McCuskey Hall |
| 2/13/96 | Possession of Marijuana | McCuskey Hall |
| 2/13/96 | Possession of Marijuana | McCuskey Hall |
| 2/13/96 | Possession of Marijuana | McCuskey Hall |
| 2/13/96 | Furnishing Alcohol to Minors (2 counts) | Unspecified Residence Hall |

## C. Omission of Statistics from Counseling and Wellness Center – Failure to Coordinate Data from All Sources

On April 23, 1998, the review team interviewed the Director of the Counseling and Wellness Center to ascertain that office's role in the institution's campus security program. During the visit to the Wellness Center, the team intended to review records to determine compliance with certain provisions of the Act dealing with sexual assaults.

Previously, the review team discussed the Department's need for access to these records with the institution's General Legal Counsel. While the institution had some concerns

about maintaining student's confidentiality, the General Legal Counsel agreed to allow the review team to see the documents. During the interview, the Center's Director stated that no records were available for the years covered by the program review. The Director further stated that no permanent records of any kind are maintained by the Center and all records are destroyed at the end of each year. The institution's General Legal Counsel stated that he was unaware of this policy.

The review team asked approximately how many on-campus sexual assaults are brought to his attention annually. The Director stated that the number is small and amount to "1 or 2" incidents for most years. The Director further stated the Center did not provide statistics for the Campus Security Report for the years covered by the program review. For the years covered by the program review, institutional officials with significant counseling responsibilities were required to report statistics to be included in the Campus Security Report. However, these officials were not required to provide any other information to law enforcement or institutional officials. Under the 1998 Amendments to the Higher Education Act, these requirements are subject to change.

Failure to compile and distribute accurate and complete campus crime statistics deprives the campus community of important security information.

**Reference:**

Crime Awareness and Campus Security Act of 1990, Public Law 101-542
20 USC § 1092(f), as amended
34 CFR § 668.47(a)(6)(I) and (a)(7) and (a)(8)

**Requirement:**

Federal regulations require that institutions publish accurate statistics concerning the occurrence on campus of the following criminal offenses reported to local police agencies or to any official of the institution who has significant responsibilities for student and campus activities: murder, rape, robbery, aggravated assault, burglary, and motor vehicle theft. To ensure full compliance with these regulations, institutions must evaluate their incident reports within the context of the Uniform Crime Reporting System's definitions of criminal offenses. Institutions must also have a mechanism to coordinate information and statistics from all sources to include institutional officials and outside agencies.

In response to this finding, West Virginia Wesleyan College is required to conduct a comprehensive review of their policies and procedures regarding the coding of incidents, the collection and compilation of data, the production of the report, and its distribution. This corrective action plan must accompany the institution's response to this program review report and address specific areas for improvement and the officials that will implement the plan.

## Finding # 4: Failure to Notify All Prospective Students of the Availability of the Campus Security Report

The institution did not adequately inform all prospective students of the availability of the Campus Security Report.

Federal regulations require institutions to inform prospective students and employees of the availability of its annual campus security reports, give a summary of its contents, give interested individuals an opportunity to request the report, and furnish it upon request. 34 CFR § 668.47 (b)(2).

On April 21, 1998, the review team was advised that prospective students were informed of the availability of the Campus Security Report through materials distributed by the admissions office. To determine compliance with this provision of the Act, copies of all documents typically distributed to prospective students were requested. The review team received and reviewed the institution's catalogs, student handbooks, applications, visitor's guide, and viewbook as well as various other materials. No disclosure regarding the availability of the CSR was identified during this review. The review team was further advised that the personnel office is responsible for notification to prospective employees. While this matter did not receive the same level of inquiry, the exact method of notification to prospective employees remains unclear.

Failure to distribute accurate and complete campus security statistics to prospective students and employees in accordance with Federal regulations deprives the campus community of important security information.

**Reference:**

Crime Awareness and campus Security Act of 1990, Pub. L. 101-542,
20 USC § 1092(f), as amended,
34 CFR § 668.47(b)(2)(1997)

**Requirement:**

Federal regulations require that institutions inform prospective students and employees of the availability of the annual Campus Security Report, give a summary of its contents, give interested parties an opportunity to request the report, and provide a copy upon request.

To facilitate compliance with this provision, the institution is required to add a notification statement to the admissions package that is normally provided to prospective students. This statement may take whatever form deemed appropriate by the institution but should be conspicuous, clear, and complete. Additionally, the institution must provide a policy statement detailing it process for notifying prospective employees of the report's availability.

## Appendix A

| Date | WVWC Coding | Correct Coding Per UCR |
|---|---|---|
| 1/2/94 | Larceny/Breaking & Entering | Burglary |
| 1/2/94 | Larceny/Breaking & Entering | Burglary |
| 2/10/94 | Larceny | Burglary |
| 2/16/94 | Larceny | Burglary |
| 3/7/94 | Theft | Burglary |
| 3/23/94 | Stolen Property | Burglary |
| 4/19/94 | Theft | Burglary |
| 5/6/94 | Theft | Burglary |
| 5/10/94 | Larceny | Burglary |
| 9/18/94 | Attempted Break-in | Burglary |
| 10/10/94 | Larceny/Breaking & Entering | Burglary |
| 11/11/94 | Breaking & Entering | Burglary |
| 12/11/94 | Larceny | Burglary |
| | | |
| 1/11/95 | Larceny | Burglary |
| 2/13/95 | Larceny | Burglary |
| 10/9/95 | Stolen Items | Burglary |
| | | |
| 2/21/96 | Larceny | Burglary |
| 2/25/96 | Battery | Aggravated Assault |
| 5/9/96 | Bike Stolen from Dorm | Burglary |
| 7/6/96 | Theft | Burglary |
| 10/4/96 | Money Stolen from Room | Burglary |
| 12/9/96 | Theft | Burglary |