



MAR 02 2016

Mr. Anthony Kinkel  
President  
Wichita Area Technical College  
4004 N. Webb Road  
Wichita, KS 67226

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Dear Mr. Kinkel:

This letter is to inform you that the U.S. Department of Education (Department) intends to fine Wichita Area Technical College (WATC) a total of \$27,500 based on the violations of statutory and regulatory requirements outlined below. This fine action is taken in accordance with the procedures that the Secretary of Education (Secretary) has established for assessing fines against institutions participating in any or all of the programs authorized under Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070 *et seq.* (Title IV, HEA programs). As applicable here, under the Department's regulations, the Department may impose a fine of up to \$27,500 for each violation. 34 C.F.R. § 668.84. As detailed below, this fine action is based on WATC's failure to comply with the requirements of the Drug-Free Schools and Communities Act Amendments of 1989 (DFSCA) as reflected in 34 C.F.R. Part 86.

Under the DFSCA and the Department's regulations, institutions participating in the Title IV, HEA programs must adopt and implement a drug prevention program for its students and employees that, at a minimum, includes the annual distribution in writing to each employee, and to each student who is taking one or more classes for any type of academic credit (except continuing education units) standards of conduct. In addition, an institution must conduct a biennial review of its program to determine its effectiveness and implement changes to the program if they are needed. 34 C.F.R. § 86.100.

The Department conducted a program review at WATC from June 4, 2012 to June 8, 2012. The focus of the review was WATC's compliance with the statutes and Federal regulations governing the institution's administration of the Title IV, HEA programs, including the DFSCA. The review consisted of, but was not limited to, an examination of WATC's policies and procedures regarding institutional and student eligibility, individual student financial aid and academic files, attendance records, student account ledgers, and fiscal records.

On September 10, 2012, the Department issued a Program Review Report (PRR) to WATC. Among other violations, the review found that WATC had not complied with the DFSCA and the Department's implementing regulations. WATC responded to the PRR on November 2, 2012. After reviewing WATC's responses, the Department issued its Final Program Review

**Federal Student Aid**

AN OFFICE OF THE U.S. DEPARTMENT OF EDUCATION

Administrative Actions and Appeals Service Group  
830 First St., N.E. Washington, D.C. 20002-8019  
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Determination (FPRD) letter to WATC on February 18, 2014. The FPRD is incorporated by reference into this fine action. (Enclosure 1).

The Department is taking this fine action based on the findings in the FPRD which concluded that WATC did not meet the requirements of the DFSCA and the Department's implementing regulations in 34 C.F.R. Part 86.

### **WATC DID NOT COMPLY WITH THE DRUG AND ALCOHOL ABUSE PREVENTION REQUIREMENTS**

The DFSCA and the Department's regulations require institutions of higher education to adopt and implement a drug prevention program for its students and employees that, at a minimum, includes the annual distribution in writing to each employee, and to each student who is taking one or more classes for any type of academic credit (except continuing education units) standards of conduct that: clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities; describe the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol; describe the health risks associated with the use of illicit drugs and the abuse of alcohol; describe any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and include a clear statement that the institution will impose disciplinary sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions for violation of the standards of conduct. In addition, an institution must conduct a biennial review of its program to determine its effectiveness and implement changes to the program if they are needed and ensure that the disciplinary sanctions mentioned above are consistently enforced. 34 C.F.R. § 86.100.

WATC did not meet the requirements of the DFSCA and the Department's regulations. Specifically, in the FPRD, the Department found that, as of the time of the program review, WATC did not distribute to employees the required information on its drug and alcohol prevention program (DAAPP) as required by the DFSCA and 34 C.F.R. §86.100(a) and did not conduct a biennial review to evaluate the effectiveness of its DAAPP and to assess the consistency of sanctions imposed for violations of its disciplinary standards and codes of conduct related to drugs and alcohol. The Department originally identified this finding in the PRR. In its response to the PRR, WATC did not challenge this finding or present any evidence to demonstrate that it was in compliance with the statutory and regulatory requirements at the time of the review.

In determining the amount of a fine, the Department considers both the gravity of the offense and the size of the institution. 34 C.F.R § 668.92. Pursuant to the Secretary's decision In the Matter of Bnai Arugath Habosem, Docket No. 92-131-ST (August 24, 1993), the size of an institution is based on whether it is above or below the median funding levels for the Title IV, HEA programs in which it participates. The latest year for which complete funding data is available for WATC

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is the 2013-2014 award year. According to the Department records, WATC received approximately \$5,408,727 in Federal Pell Grant (Pell) funds, \$7,732,719 in Federal Direct Loan funds and \$201,021 in Campus-Based funds. The latest information available to the Department indicates that the median funding level for institutions participating in the Federal Pell Grant program is \$1,571,915, for institutions participating in the Federal Direct Loan programs, the median funding level is \$2,408,978, and for institutions participating in the Campus-Based programs, the median funding level is \$266,597. Accordingly, WATC is a large institution because its funding levels for Federal Pell Grant, and Federal Direct Loan exceeds the median funding levels for those Title IV, HEA programs.

As detailed in this letter, WATC's violations of the DFSCA are very serious. Congress enacted the DFSCA to ensure that students and employees had vital information about the drug and alcohol prevention program at their institution. WATC's students and employees were not given drug and alcohol program information that would have helped them to understand the standards and code of conduct expected of them with regard to drugs and alcohol use, and sanctions to be imposed if the code of conduct is violated. A DAAPP that has not been tested in a biennial review is unlikely to be reliable and effective. Moreover, the Department considers an institution's compliance with the DFSCA requirements to be part of its administrative capability, and WATC's failure to comply with those requirements constitutes an inability to properly administer the Title IV programs.

I have assessed a fine of \$27,500 for WATC's failure to distribute a substantive DAAPP to its employees, and its failure to conduct a biennial review to evaluate the effectiveness of its DAAPP and to assess the consistency of sanctions imposed for violations of its disciplinary standards and codes of conduct related to drugs and alcohol. This is a serious violation because employees cannot be expected to understand a DAAPP that has not been distributed to them. Moreover, the failure to conduct a biennial review may have resulted in a DAAPP that was not helpful to its students and employees.

The fine of \$27,500 will be imposed on **March 26, 2016**, unless I receive, by that date, a request for a hearing or written material indicating why the fine should not be imposed. WATC may submit both a written request for a hearing and written material indicating why a fine should not be imposed. If WATC chooses to request a hearing or submit written material, you must write to me at:

Administrative Actions and Appeals Service Group  
U.S. Department of Education  
Federal Student Aid/Program Compliance  
830 First Street, NE – UCP-3, Room 84F2  
Washington, DC 20002-8019

If WATC requests a hearing, the case will be referred to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of

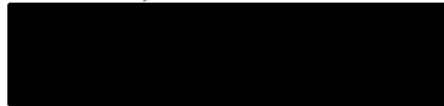
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WATC's case to a hearing official who will conduct an independent hearing. WATC is entitled to be represented by counsel during the proceedings. If WATC does not request a hearing but submits written material instead, I will consider that material and notify WATC of the amount of fine, if any, that will be imposed.

**ANY REQUEST FOR A HEARING OR WRITTEN MATERIAL THAT WATC SUBMITS MUST BE RECEIVED BY MARCH 26, 2016; OTHERWISE, THE \$27,500 FINE WILL BE EFFECTIVE ON THAT DATE.**

If you have any questions or desire any additional explanation of WATC's rights with respect to this action, please contact Lawrence Mwehuku of my staff at 202/377-3684.

Sincerely,



Susan D. Crim, Director  
Administrative Actions and Appeals Service Group  
Federal Student Aid/Program Compliance  
U.S. Department of Education

Enclosure

cc: Sunil Ahuja, Vice President for Accreditation Relations, the Higher Learning Commission (HLC), via [info@hlcommission.org](mailto:info@hlcommission.org)  
Ms. Brezze Richardson, Director of Communications, KS Board of Regents, via [Brichardson@ksbor.org](mailto:Brichardson@ksbor.org)