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The U.S. Department of Education Adjusts the Amount of Civil Monetary Payments (CMPs)

SUMMARY

On January 14, 2020, the U.S. Department of Education issued the final regulations to adjust the Department's Civil Monetary Payments (CMPs) for inflation. These final regulations provide the 2020 annual inflation adjustments as applied to the penalty amounts that, under the Department's Final Register, published on February 1, 2019, may be levied against institutions of higher education for violations of the Clery Act and the Drug-Free Schools and Communities Act (DFSCA). These adjustments are required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

While these regulations went into effect on January 14, 2020, the adjusted fine amounts will only apply to civil penalties assessed after that date, and will only be applied to substantiated violations that are found to have occurred *after* November 2, 2015.

The new CMPs, adjusted based on the multiplier of 1.01764, are listed below in the order in which they appear in 34 CFR 36.2:

- **20 U.S.C. 1015(c)(5):** The original fine amount, of up to \$24,000 for the failure of an institution of higher education to provide information on the cost of higher education to the Commissioner of Education Statistics, was increased in 2019 to a maximum of \$38,549. The new penalty is now \$39,229.
- **20 U.S.C. 1022d(a)(3):** The original fine amount, of up to \$27,500 for the failure of institutions of higher education to provide information to the State and the public regarding their teacher-preparation programs, was increased to \$32,100 in 2019. The new penalty is now \$32,676.
- **20 U.S.C. 1082(g):** The original fine amount, of up to \$25,000 for violations committed by lenders and guaranty agencies of Title IX of the HEA, was increased to \$57,317 in 2019. The new penalty is now \$58,328.
- **20 U.S.C. 1094(c)(3)(b):** The original fine amount, of up to \$25,000 for an institute of higher education's violation of Title IV of the HEA or its implementing regulations, was increased to \$57,317 in 2019. The new penalty is now \$58,328.
- **20 U.S.C. 1228(c)(2)(E):** The original fine amount, of up to \$1,000 for an educational organization's failure to disclose certain information to minor students and their parents, was increased to \$1,692 in 2019. The new penalty is now \$1,722.
- **31 U.S.C. 1352(c)(1) and (c)(2)(A):** The original fine amounts, of \$10,000 to \$100,000 for recipients of Government grants, contracts, etc. that had been deemed to have improperly lobbied Congress or the Executive Branch with respect to the award of Government grants and contracts, was increased to a range of \$20,134 to \$201,340 in 2019. The new penalty now ranges from \$20,489 to \$204,892.
- **31 U.S.C. 3802(a)(1) and (a)(2):** The original fine amount, of up to \$5,000 for false claims and statements made to the Government, was increased to \$11,463 in 2019. The new penalty is now \$11,665.

Higher education professionals, particularly those in the investigative, compliance, and legal spaces, should familiarize themselves with these new fine amounts. While many of the adjustments may not appear significant on their faces, the fact that the Department of Education can - and often does - levy multiple fines for each discrete violation means that financial penalties can add up quickly. A link to the published rule in full appears [here](#).

Saul Ewing Arnstein & Lehr's lawyers are available to assist with any questions you may have regarding HIPAA, FERPA, and how these laws intersect. For questions about how this guidance affects your company or institution, please reach out to the author of this article.

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