The Handbook for Campus Safety and Security Reporting

U.S. DEPARTMENT OF EDUCATION

The Handbook for Campus Safety and Security Reporting

Prepared for:
U.S. Department of Education
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ABBREVIATIONS

AD: Athletics director

Clery Act: Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act

CSA: Campus Security Authority

DUI: Driving under the influence

DWI: Driving while intoxicated

ED: U.S. Department of Education

HEA: Higher Education Act of 1965

HEOA: Higher Education Opportunity Act

FERPA: Family Educational Rights and Privacy Act

FBI: Federal Bureau of Investigation

FSEOGs: Federal Supplemental Educational Opportunity Grants

GO: General order

LEAP: Leveraging Educational Assistance Partnership

MOA: Memorandum of Agreement

MOU: Memorandum of Understanding

NIBRS: Uniform Crime Reporting National Incident-Based Reporting System

PPA: Program Participation Agreement

RA: Resident assistant

SOP: Standard operating procedure

UCR: Uniform Crime Reporting

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Foreword

In 2005 we published *The Handbook for Campus Crime Reporting*, a compendium of U.S. Department of Education (ED) guidance on complying with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)*. Since that time, the *Higher Education Opportunity Act (HEOA)* was signed into law, amending the *Clery Act* and adding a number of safety- and security-related requirements to the *Higher Education Act of 1965*, as amended *(HEA)*.This new legislation necessitated writing *The Handbook for Campus Safety and Security Reporting*—an updated and expanded version of the previous handbook.

This new version of the handbook will familiarize you with the amended *Clery Act* and the new regulations that were added by *HEOA*. Similar to the 2005 version, this handbook takes you step by step along the path to compliance and explains what the regulations mean and what they require of your institution. It also includes new examples and enhanced explanations of many topics based on questions asked of our Campus Safety and Security Help Desk (see inside back cover for e-mail address) over the past several years.

What hasn't changed is the handbook's emphasis on compliance as a whole system of developing policy statements, gathering information from a variety of sources and translating it into the appropriate categories, issuing alerts, disseminating information, and, finally, keeping records. Although we address "you" throughout, we want to stress that this is not a one-person job. As you will see when you read further, a key ingredient in ensuring compliance is coordination—knowing who does what and when. This means that most of you will find it necessary to coordinate compliance activities with many people and offices in the campus community.

We hope that you will use this handbook not only to comply fully with the law and its regulations, but to make sure that your disclosures to students, employees, families and the public are easily understandable and useful. So, please read the handbook carefully, think about how the requirements apply to your situation and then review the handbook again. Remember: the goal of the safety- and security-related *HEA* regulations is to provide students and their families, as higher education consumers, with accurate, complete and timely information about safety on campus so that they can make informed decisions.

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Acknowledgments

This handbook would be less than complete without the contributions of the many institutions who gave us permission to use their policy statements and reporting forms as samples to illustrate compliance. Our thanks goes to the following:

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- California State University, Fresno
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- Montgomery College, Maryland
- San Diego State University
- Strayer University
- Tufts University
- University of California, Irvine
- University of California, San Diego
- University of California System
- University of New Mexico, Albuquerque
- University of Tennessee, Chattanooga
- University of Wyoming
- Vanderbilt University
- Virginia Polytechnic Institute and State University

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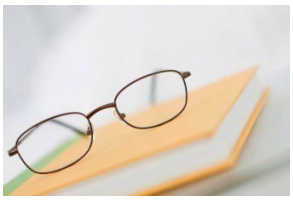
Introduction:
An Overview of Campus Safety And Security Reporting

Chapter 1



Choosing a postsecondary institution is a major decision for students and their families. Along with academic, financial and geographic considerations, the issue of campus safety is a vital concern. In 1990, Congress enacted the *Crime Awareness and Campus Security Act of 1990* (Title II of Public Law 101-542), which amended the *Higher Education Act of 1965* (*HEA*). This act required all postsecondary institutions participating in *HEA's* Title IV student financial assistance programs to disclose campus crime statistics and security information. The act was amended in 1992, 1998 and 2000. The 1998 amendments renamed the law the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* in memory of a student who was slain in her dorm room in 1986. It is generally referred to as the *Clery Act*.

On Aug. 14, 2008, the *Higher Education Opportunity Act* or *HEOA* (Public Law 110-315) reauthorized and expanded the *Higher Education Act of 1965*, as amended. *HEOA* amended the *Clery Act* and created additional safety- and security-related requirements for institutions. Specifically, it added:

- New categories to the list of hate crimes all institutions must disclose (Clery amendment);
- A new disclosure regarding the relationship of campus security personnel with state and local law enforcement agencies (Clery amendment);
- Implementation and disclosure of emergency notification and evacuation procedures for all institutions (Clery amendment);
- Implementation and disclosure of missing student notification procedures for institutions with on-campus student housing facilities (*HEOA*);
- Fire safety reporting requirements for institutions with on-campus student housing facilities (*HEOA*);

- Text clarifying the definition of an on-campus student housing facility (Clery and *HEOA*); and

- A Program Participation Agreement (PPA) requirement concerning disclosure of the results of disciplinary proceedings to the alleged victim of any crime of violence or a non-forcible sex offense (*HEOA*).

Although *HEA*, as amended, is the law that governs the administration of all federal higher education programs, as used in this handbook, *HEA* refers only to the *Clery Act* and *HEOA* safety- and security-related requirements.

Although *HEA*, as amended, is the law that governs the administration of all federal higher education programs, as used in this handbook, *HEA* refers only to the *Clery Act* and *HEOA* safety- and security-related requirements.

How to determine if your institution must comply with *HEA*

Does your institution participate in federal Title IV student financial assistance programs? All public and private postsecondary institutions that participate in Title IV must comply with *HEA*. Title IV institutions have signed Program Participation Agreements (PPAs) with the U.S. Department of Education (ED) to administer these financial assistance programs. They include: Pell Grants; Federal Supplemental Educational Opportunity Grants (FSEOGs); the Federal Work-Study Program; Federal Perkins Loans; the Direct Loan Program; and the Leveraging Educational Assistance Partnership (LEAP). If you are not sure whether your institution participates in Title IV, contact your institution's financial aid officer or chief executive officer.

Note that:

- Your institution must comply with *HEA* requirements beginning on the date your Program Participation Agreement goes into effect (i.e., the date it is signed by the secretary of education). If you have questions about when your PPA went into effect, contact our School Eligibility Channel's School Participation Team for your region.

- If your institution is Title IV eligible, but has a location or locations that serve students who are not receiving Title IV student aid, you must still comply with *HEA* requirements for all locations. The requirement is based on **institutional eligibility**, not location eligibility.

- If your institution primarily serves secondary students, but enrolls even one postsecondary student, you must comply.

- If your institution is not a Title IV institution or has a "deferment only" status (i.e., it does not provide student loans or grants through Title IV programs but does have students who are eligible to defer federal student loans while they are enrolled in your school), you are not required to comply with *HEA* requirements described in this handbook.

Title IV institutions that are exempt from compliance:

- If your institution is a **distance education-only** school, you do not have to comply providing students are never present on a physical campus. This means that students do not go to a physical location to enroll, seek guidance, study, work, intern, etc. The exception to this rule is the annual graduation ceremony. For this event only, if students attend the ceremony at a location that your institution owns or controls, your institution is still exempt from compliance.

- **Foreign institutions** are exempt from the requirements; however, foreign campuses of U.S. institutions are not exempt and must comply with *HEA* requirements.

If you have determined that your institution *is* a Title IV institution and must comply, read on.

Purpose of the Handbook

This handbook contains current ED guidance and was written to assist you, in a step-by-step and readable manner, in understanding and meeting the various *HEA* requirements. It is intended for use by postsecondary institutions as well as our program reviewers who are responsible for evaluating an institution's compliance with the requirements. This is to ensure that everyone involved in complying with the law and in monitoring compliance is "on the same page."

The handbook will not change the current regulations in any way. It does not supplant or replace *HEA*, and *HEA* and its regulations take precedence if there are any differences

between them and the handbook. Your institution is responsible for ensuring that it complies with any changes to *HEA* and the regulations.

Handbook Organization

Chapter 2 assists you in **laying the proper foundation for *HEA* safety- and security-related reporting** by explaining the important role geography has in compliance with the law and its regulations. We discuss in detail how to identify which buildings and property owned or controlled by your institution fall into the various *HEA*-related geographic categories. Getting this foundation right is key to knowing:

- What crimes and fires to report and in which reporting categories to disclose them;
- From whom to collect crime and fire reports;
- Whether a campus alert must be issued;
- Whether a crime or a fire report must be entered into a log;
- What policy statements your institution must have on record; and
- What annual reports your institution must publish.

We suggest reading the chapters in order because some chapters contain information that builds upon previous topics.

Subsequent chapters describe and discuss the various requirements by topic. We suggest reading the chapters in order because some chapters contain information that builds upon previous topics. For example, Chapter 3 discusses how to count and classify the crimes that occur on your *HEA* geography for inclusion in your statistical disclosures. Chapter 4 helps you determine from whom within your institution and from which local law enforcement agencies you must obtain such crime information. There are also cross-references throughout the handbook for the times you just want to research a particular regulation or issue.

The handbook also contains citations for the applicable legislation, highlights important information in side notes, provides examples of crime and fire scenarios, suggests helpful practices and provides sample documents to assist you in determining if your policies and procedures are compliant. There are a number of appendices at the back of the handbook which are referenced throughout the chapters, along with an index to help you locate specific terms and topics. And,

because no handbook could cover every situation, help desk contact information is provided if you need further assistance.

The Requirements

The law contains specific requirements, but allows a great deal of flexibility in complying with them. This flexibility acknowledges the myriad differences in types, locations and configurations of postsecondary schools. Although **all institutions have immediate, ongoing and annual requirements**, compliance might differ in some respects from one institution to another. For example, compliance for an institution with on-campus student housing facilities will differ in some respects from compliance for a small commuter school located in a strip mall. A single institution might have some different compliance requirements for each of its campuses. In any case, whatever the requirements are for your specific institution, they must be met completely and on time.

All institutions have immediate, ongoing and annual requirements.

The requirements fall into three categories based on the configuration of an institution: (1) Clery crime statistics and security-related policy requirements that must be met by every institution; (2) an additional Clery crime log requirement for institutions that have a campus police or security department; and (3) *HEOA* missing student notification and fire safety requirements for institutions that have at least one on-campus student housing facility. Following is a list of the requirements by category along with the number of the applicable handbook chapter or chapters.

1. **Every institution must:**

- **Collect, classify and count crime reports and crime statistics.**

  The regulatory requirements for classifying and counting crimes are discussed in Chapter 3. The regulatory requirements for collecting crime reports and statistics are discussed in Chapter 4.

- **Issue campus alerts.** To provide the campus community with information necessary to make informed decisions about their health and safety, you must:

  – Issue a **timely warning** for any *Clery Act* crime that represents an ongoing threat to the safety of students or employees;

- Issue an **emergency notification** 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.

The regulatory requirements regarding these topics are discussed in detail in Chapter 6.

- **Publish an annual security report** containing safety- and security-related policy statements and crime statistics and distribute it to all current students and employees. Schools also must inform prospective students and employees about the availability of the report.

  The regulatory requirements regarding crime statistics are discussed in Chapter 3 and the regulatory requirements for the annual security report are discussed in Chapters 7–9.

- **Submit crime statistics to ED.** Each year in the fall you must participate in a Web-based data collection to disclose crime statistics by type, location and year.

  The regulatory requirements for the data collection are discussed in Chapter 9. The comprehensive user's guide for the survey is located online at: **https://surveys.ope.ed.gov/security**.

2. In addition to the requirements for all institutions listed under no. 1, if your **institution maintains a campus police or security department**, you must keep a **daily crime log** of alleged criminal incidents that is open to public inspection.

The regulatory requirements regarding the daily crime log are discussed in Chapter 5.

3. In addition to the requirements for all institutions listed under no. 1, if your **institution has any on-campus student housing facilities,** you must:

- Disclose **missing student notification** procedures that pertain to students residing in those facilities.

- Disclose **fire safety information** related to those facilities. You must:
  - Keep a **fire log** that is open to public inspection.
  - Publish an **annual fire safety report** containing **policy statements** as well as **fire statistics** associated with each on-campus student housing facility, including number of fires, cause, injuries, deaths and property damage. Schools also must inform prospective students and employees about the availability of the report.
  - Submit **fire statistics** to ED each fall in the Web-based data collection.

The regulatory requirements regarding missing student notification are discussed in Chapter 10 and the regulatory requirements regarding fire safety are discussed in Chapters 11–14.

Compliance Timetable

Compliance with *HEA* is not a once-a-year event. Many requirements must be satisfied before an institution can be considered in full compliance. Some requirements are ongoing, such as crime information collecting, campus alerts and log updating, while other requirements are less frequent, such as the annual reports and the online survey you submit to ED.

Compliance with *HEA* is not a once-a-year event.

Table 1 is an overview of the basic requirements and time frames for the main components of compliance. (Note that Appendix E provides a detailed checklist for compliance.)

Table 1. Components of *Higher Education Act* compliance regarding campus safety and security reporting: Basic requirements and time frames

What to Do	When to Do It
Have emergency notification and evacuation procedures for alerting the campus community about significant emergencies or dangerous situations. Disclose your policies and procedures in the annual security report.	Use emergency notification procedures whenever there is an immediate threat to the health or safety of students or employees on campus.
Issue timely warnings to alert the campus community about crimes that pose a serious or continuing threat to safety. Disclose your policy in the annual security report.	Issue a warning whenever there is a threat that a crime is ongoing or may be repeated.
Keep a crime log that records, by date reported, all crimes reported to the campus police or security department.[a]	Update your log within two business days of the crime report. Make the log available to the public during business hours.
Keep a fire log that records by date reported, all fires in on-campus student housing facilities.[b]	Update your log within two business days of the fire report. Make the log available to the public during business hours.
Collect crime reports from campus security authorities within the institution.	Identify campus security authorities at the beginning of the calendar year and collect crime reports on an ongoing basis.
Request crime statistics from local law enforcement in the jurisdiction where the institution is located.	Make a request annually, ideally at the beginning of the calendar year.
Submit crime and fire statistics to ED via a Web-based data collection.[b]	Submit statistics each fall, by the dates provided by ED in a letter to your institution sent each year in July.
Have missing student notification procedures to aid in determining if a student is missing and in notifying law enforcement personnel. Disclose your policy and procedures in the annual security report.[b]	Follow required procedures whenever a student is determined to have been missing for 24 hours. Offer students the opportunity to register a contact annually.
Publish an annual security report containing campus security policy disclosures and crime statistics for the previous three years.	Publish and distribute your report or provide a notice of its availability annually by Oct. 1.
Publish an annual fire safety report containing policy disclosures and fire statistics for on-campus student housing facilities for the previous three years.[b]	Publish and distribute your report or provide a notice of its availability annually by Oct. 1.

[a] The crime log is mandatory for all institutions that maintain a campus police or security department.
[b] The fire log, annual fire safety report, disclosure of fire statistics and missing student notification procedures are mandatory for any institution that has an on-campus student housing facility.

Getting Additional Help

For questions that are not answered by this handbook, assistance is available by e-mailing: HandbookQuestions@ed.gov.

Please include the following information and we will respond as soon as possible:

- Your name and title.
- The name of your school.
- A detailed description of the assistance you need.

Before Moving On …

Now that we have introduced you to the basics of *HEA* compliance, you need to be aware of the consequences of noncompliance. In addition to providing guidance on the implementation of regulations and collecting and disseminating crime and fire data to Congress and the public, the U.S. Department of Education is also responsible for monitoring compliance.

ED can issue civil fines of up to $27,500 **per violation** for a substantial misrepresentation of the number, location or nature of the crimes required to be reported or for a violation of any other provision of the safety- and security-related *HEA* regulations. Final Review Determination Reports are public records. (Our Program Review Guide can be accessed at http://www.ifap.ed.gov.) Note that *HEOA* added **whistle-blower protection** making it clear that nothing in the law shall be construed to permit a school to take retaliatory action against anyone with respect to the implementation of the regulations.

Again, Chapter 2 presents a detailed look at *HEA* geography, what it is and why it's the cornerstone of safety- and security-related reporting. We strongly urge you to read it prior to reading the remaining handbook chapters, even if you are a reporting veteran.

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Geography:
Location, Location, Location

CHAPTER 2

The *Clery Act* requires institutions to disclose statistics for reported crimes based on:

- **Where** the crimes occurred,
- **To whom** the crimes were reported,
- The **types** of crimes that were reported, and
- The **year** in which the crimes were reported.

This chapter identifies and breaks down the physical parameters of crime reporting and explains how to apply these parameters to institutions of different sizes and in different settings.

You must disclose statistics for reported Clery crimes that occur: (1) on campus, (2) on public property within or immediately adjacent to the campus, and (3) in or on noncampus buildings or property that your institution owns or controls. The definitions for these geographic categories are *Clery Act*-specific and are the same for every institution regardless of its physical size or configuration. It doesn't matter whether your campus consists of leased space in a strip mall, occupies 10 city blocks or consists of a couple of buildings on another school's campus. "Clery geography" is defined the same way.

Geographic breakdown citation
34 CFR 668.46(c)(4)

Understanding each of these geographic categories as defined by the *Clery Act* is vital to being in compliance with the law. You must provide a breakdown of the crime statistics by category. You must disclose, for example, whether an aggravated assault occurred on your campus, or on the public sidewalk in front of your campus or in a high school classroom in a nearby city that your institution rents for creative writing classes. Remember, *location* is the key here—statistics for Clery crimes that don't occur within your Clery geography are not included in your Clery statistical disclosures even if your students or employees are involved. As you read through the description of each of the three categories, it may be helpful to

Understanding each of these geographic categories as defined by the *Clery Act* is vital to being in compliance with the law.

create a list of the buildings and properties associated with your institution that fit each defined area.

How to Identify Your On-campus Geography

Under Clery, the **on-campus** category encompasses the following:

On-campus definition citation
34 CFR 668.46(a)

> *Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and*
>
> *Any building or property that is within or reasonably contiguous to paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).*

The first part of this definition states that, for Clery reporting purposes, your campus includes buildings and properties that meet all of the following criteria:

- Your institution owns or controls them;
- They are reasonably contiguous to one another; and
- They directly support or relate to the institution's educational purposes.

So what does this mean?

Controlled by means that your institution rents, leases or has some other type of *written* agreement (including an informal one, such as a letter or an e-mail) for a building or property, or a portion of a building or property. Even if there is no payment involved in the transaction, under Clery, a written agreement for use of space gives your institution control of that space for the time period specified in the agreement. For example, if your campus consists of leased space comprising the entire third floor of an office building, you are in control of the third floor. A reported crime that occurs on the third floor (rooms, hallway, restrooms), or in the lobby, stairwell or

elevator that students must use to access the third floor, is considered to have occurred "on campus." If the agreement gives your institution use of the parking lot or specific spaces in the lot, the parking lot or the specified section of the lot is also part of your on-campus geography. To emphasize: Your control extends only as far as the space specified in your written agreement along with any area your students and employees have to use to access that space. So, if you lease the third floor of the building and a crime occurs on the elevator going to the third floor during the period of time covered by your lease, you must disclose a statistic for the crime. If however, the crime occurred on the second floor, you don't have to include the crime in your Clery statistics because your institution doesn't have control of any space on the second floor.

Note that for the purposes of *HEA*, if you have an **institution-associated foundation** that owns or controls a building or property that is operated in support of, or in relation to, your institution's educational purposes, your institution is considered to be in control of that building or property.

Reasonably contiguous refers to a building or property your institution owns or controls that's in a location that you and your students consider to be, and treat as, an integral part of your main or core campus; and is covered by the same security policies as your campus. An example might be a house two blocks from campus that's owned by your institution and has been converted into an art studio for your students.

Directly support, or relate to, the institution's educational purposes refers to the function of the building or property. For example, the dorms on your campus that house your students, support the school's educational purposes. However, a high school that is located on your campus, but is otherwise not associated with your institution and is not used by your students or employees for any reason, does not.

The second part of the on-campus definition requires you to include buildings and properties within your campus, or reasonably contiguous to it that meet all three of the following criteria:

- Your institution owns but does not control them;
- They are frequently used by your students; and
- They are used to support the institution's educational purposes.

Examples are a bookstore or a fast-food restaurant that lease space in your student center. Remember that these entities are considered to be part of your "on-campus" geography because you own the building, your students frequently use the space, and it supports your institution. Joe's Fried Chicken Emporium across the street from your student center is not included in your on-campus geography even though many of your students eat there daily, because your institution does not own or control it.

Other On-campus Considerations

Listed below are examples of how to apply the "on-campus" parameters to nontraditional campuses and multiple campuses.

- **Institutions that share a campus:** If your institution shares a campus with another Title IV institution, both institutions must disclose statistics for Clery crimes that occur anywhere on the campus. The reasons for this are: (1) the *Clery Act* requires every Title IV institution to report statistics and (2) crime statistics are maintained on our public website and are retrieved for viewing by entering the name of a specific institution. Your statistics must be viewable to any interested party who searches the website's database for your institution.

- **Institutions that lease space on another institution's campus:** If your institution leases some buildings and property on another institution's campus, your campus is determined by the specifics of that contract. For example, if you have sole use of a dorm, a classroom building, an administration building and a parking lot, that is your campus. If your contract also allows your students to share a dining hall with students from the host institution, that dining hall is included. If the host institution also participates in Title IV programs, both schools must include the shared dining hall in their on-campus geography.

- **Institutions that offer dual classes and degrees:** If your institution has a partnership with another institution to offer dual classes and degrees and the agreement specifies only that your students can attend classes there and that the other school's

students can attend classes at your school, you do not have to disclose reported Clery crimes that occur on the other campus because you do not own or control it.

- **Institutions that lease space in strip malls:** Your campus consists of any space within the strip mall that is covered by your written agreement. If the lease includes use of the parking lot, or selected spaces in the lot, include the lot (or selected spaces) as part of your campus. If your students need to use stairwells or elevators or hallways to access the space your institution controls, include them as part of your campus as well. Do not include any of the strip mall's stores, restaurants, offices, etc., in your on-campus category because your institution doesn't control them.

- **Institutions located in institution-owned strip malls:** Your campus consists of any space within the strip mall that is used for the institution's educational purposes. Do not include any of the strip mall's stores, restaurants, offices, etc., in your on-campus category because your institution leases that space to private individuals and businesses, and the space isn't used for your institution's educational purposes.

- **Institutions with more than one campus:** If your institution has more than one campus, each campus must comply independently with all of the *Clery Act* and the fire- and safety-related *HEA* requirements as described in this handbook. For the purpose of these requirements, consider an additional location a **separate campus** if it meets all of the following criteria:

  – Your institution owns or controls the site;

  – It is not reasonably geographically 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.

  Administrative personnel encompass a variety of individuals who may have some responsibility for the activities that take place at the location;

If your institution has more than one campus, each campus must comply independently with all of the *Clery Act* and the fire- and safety-related *HEA* requirements as described in this handbook.

administrative personnel, for example, include a director, a building coordinator, a registrar or a secretary. If your institution owns or controls noncontiguous academic locations where students take a course or two and there are no administrative personnel on site, those are not separate campuses. They are noncampus locations and they are discussed later in this chapter under "How to Identify Your Noncampus Buildings or Property."

Examples of separate campuses

Branch campus definition citation
34 CFR 600.2

- **Branch:** A branch campus is always a separate campus. **Branch campus** is a specific ED designation. It is defined as *a location of an institution that is geographically apart and independent of the main campus of the institution. A location of an institution is considered independent of the main campus if the location is permanent in nature, offers courses in educational programs leading to a degree or other recognized educational credential, has its own faculty and administrative or supervisory organization, and has its own budgetary and hiring authority.*

- **School:** A school is a division of an institution that is organized to give instruction of a defined type, such as a school of business, law, medicine or nursing. A school may be, but is not always, a separate campus. For example, if your institution has a school of law that is reasonably geographically contiguous with the main campus, include it as part of your main campus. If the school of law has an organized program of study, administrative personnel on-site and is not reasonably contiguous to the main campus, treat it as a separate campus. Note that if you have a beauty school or technology school, etc., with multiple locations that each function as a main campus, each campus must comply independently with *HEA* requirements.

- **Other locations:** Other institution-owned or -controlled locations may include satellite, extension or similar types of noncontiguous

sites that have an organized program of study and administrative personnel on-site.

– **Foreign locations:** A foreign location that a U.S. institution owns or controls that has an organized program of study and administrative personnel on-site is a separate campus.

– **Military bases:** If your institution has a written agreement giving it use of a defined space within the base, and the location otherwise meets the definition of a campus, it's a separate campus. If your school simply sends instructors to the base, it's not a separate campus.

On-campus Subset: On-campus Student Housing Facilities

Under the *Clery Act*, an institution that has on-campus student housing facilities must separately disclose two sets of on-campus statistics:

Crimes by location citation
34 CFR 668.46(c)(4)(ii)

- The total number of crimes that occurred on campus, *including* crimes that occurred in student housing facilities; and

- The number of crimes that occurred in on-campus student housing facilities as a subset of the total.

Definition of an On-campus Student Housing Facility

For purposes of the *Clery Act* regulations (as well as *HEA* missing student notification and fire safety regulations which are discussed in Chapters 10 and 11–14, respectively), *any student housing facility that is owned or controlled by the institution, or is located on property that is owned or controlled by the institution, and is within the reasonably contiguous geographic area that makes up the campus is considered an on-campus student housing facility.*

On-campus student housing facility definition citation
34 CFR 668.41(a)

This definition includes the following types of housing:

- Undergraduate, graduate and married student housing.

- Single family houses that are used for student housing.

- Summer school student housing.
- Buildings that are used for student housing but also have faculty, staff or any other individuals living there. (Do not include faculty-only housing in this category. Institution-owned or controlled faculty-only housing that is located on the campus belongs only in the "on-campus" category.)
- Buildings that are owned by a third party that has a written agreement with your institution to provide student housing. It doesn't matter whether the rent is paid to the third party by the institution on behalf of the students or paid directly by the students.
- Housing for officially and not officially recognized student groups, including fraternity or sorority houses, that are owned or controlled by your institution or are located on property that your institution owns or controls.

Note that it doesn't matter whether the housing falls under the management of Residential Life or your real estate office, or another office. Be sure to include any facility that meets the definition of an "on-campus student housing facility."

If your **institution shares an on-campus student housing facility with another Title IV institution,** both institutions are considered to be in control of that facility and both institutions must include it when complying with the campus safety and security regulations.

Properly defining what's "on campus" is vital—not just for disclosing on-campus crime statistics, but for accurately identifying another category of Clery geography: public property.

Before Moving On …

Properly defining what's "on campus" is vital—not just for disclosing on-campus crime statistics, but for accurately identifying another category of Clery geography: public property. If you can't determine the boundaries of your campus under Clery, you will not be able to properly identify your campus' public property.

How to Identify Your Public Property

Under Clery, **public property** encompasses the following:

> *All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.*

Public property definition citation
34 CFR 668.46(a)

Public property refers to property owned by a public entity, such as a city or state government. An example of public property is a parking lot with a sign that reads, "City of Rockville Public Parking." A parking lot with a sign that reads, "Joe's 24-Hour Parking" is not public property despite the fact that the public can park there.

No matter where your campus is located, your Clery public property category consists solely of two limited areas.

No matter where your campus is located, your Clery public property category consists solely of two limited areas.

The first is public property *within* your campus. An example is a public road or public bike path that runs through the campus. You must report statistics for crimes that occur on the section of the road or bike path that touches your campus. A private road or private driveway running through your campus is not public property. A public or municipal parking lot that bisects your campus is part of your public property. A privately owned parking lot that bisects your campus is not. *However*; regardless of whether it's publicly or privately owned, if your institution has a written agreement giving it use of the parking lot, include the lot in your on-campus geography, not your public property geography.

The second area is public property that immediately borders *and* is accessible from the campus. In many cases this property consists of a public sidewalk that borders the campus, the public street along the sidewalk and the public sidewalk on the other side of the street (i.e., sidewalk, street, sidewalk). Again, only the portions of the sidewalk, street and sidewalk that are adjacent to your campus are included in your public property. If you have an urban campus that is comprised of 100 buildings that have public sidewalks and public streets separating them, the same rules apply. You must identify the public property associated with each of these campus buildings, generally: sidewalk, street, sidewalk.

So how do you determine whether the public property immediately adjacent to your campus is **accessible**? Look for one of two conditions to be present:

- There is no barrier of any kind between your campus border and public property. For example, you can step off of the edge of your campus directly onto a public sidewalk.

- A standard of use has been established by your students. This means that although some type of barrier is present, your students **frequently** ignore, overcome or even use it, to gain access to public property. Some examples are:
  - A wall that students frequently climb over.
  - A fence that students frequently climb over, under or through. This includes a fence with a hole in it that students frequently crawl through.
  - A fence with a missing or broken gate that students frequently walk or drive through.

Other Public Property Considerations

- **Sidewalk, street, sidewalk:** Your public property does not include anything beyond the second sidewalk. (If there isn't a second sidewalk, it doesn't include anything beyond the street.)

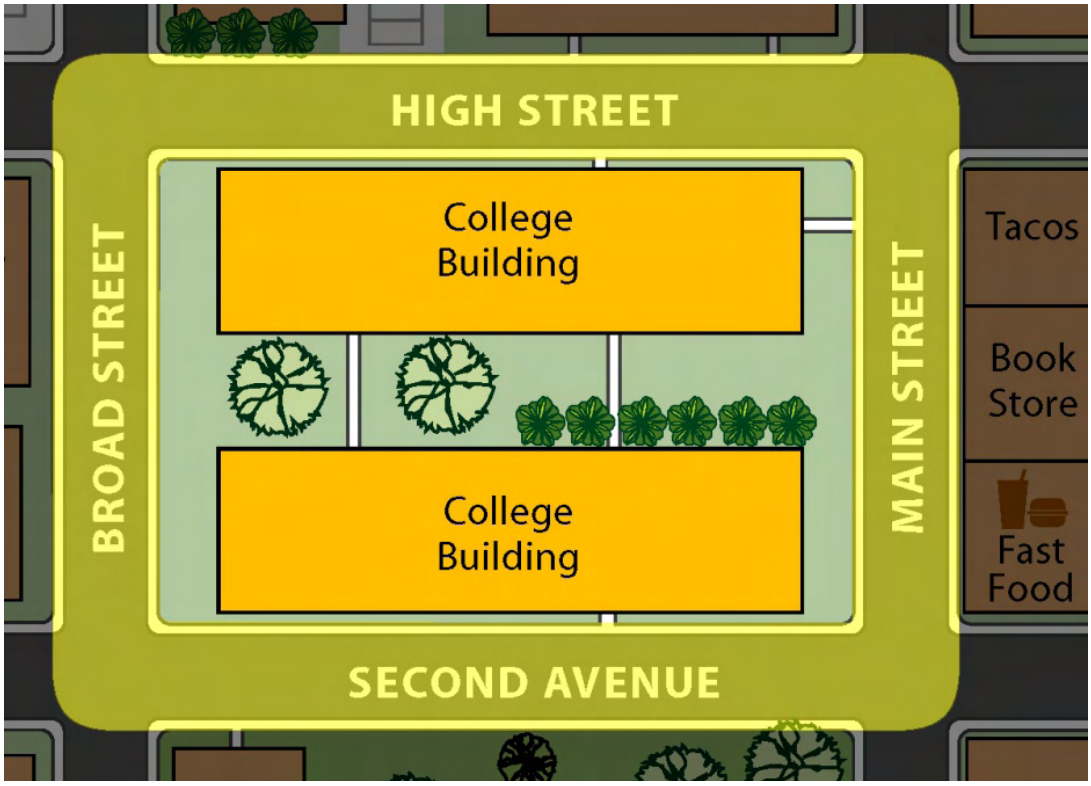

Figure 1. Example of public property: sidewalk, street, sidewalk. *In this illustration, the college's public property consists of the public sidewalk, street, and opposite sidewalk along all four borders of the campus. Nothing beyond the second sidewalk is included in the college's public property.*

- **Private homes and businesses are not included:** Public property does not include any businesses or any private homes (i.e., businesses or homes not owned or controlled by your institution) even if they immediately border your campus. This means that your public property does not include Joe's Coffee House even if it's located right next to your campus and many of your students hang out there every day. Nor does it include a privately owned house next to your campus that some of your students rent.

- **Public Parking:** If there is a public or municipal parking facility or lot bordering your campus, it is part of your public property. If the parking facility or lot that borders your campus is owned by an individual or a business, it is not. Your public property does not include a public parking facility or lot on the other side of the street across from your campus.

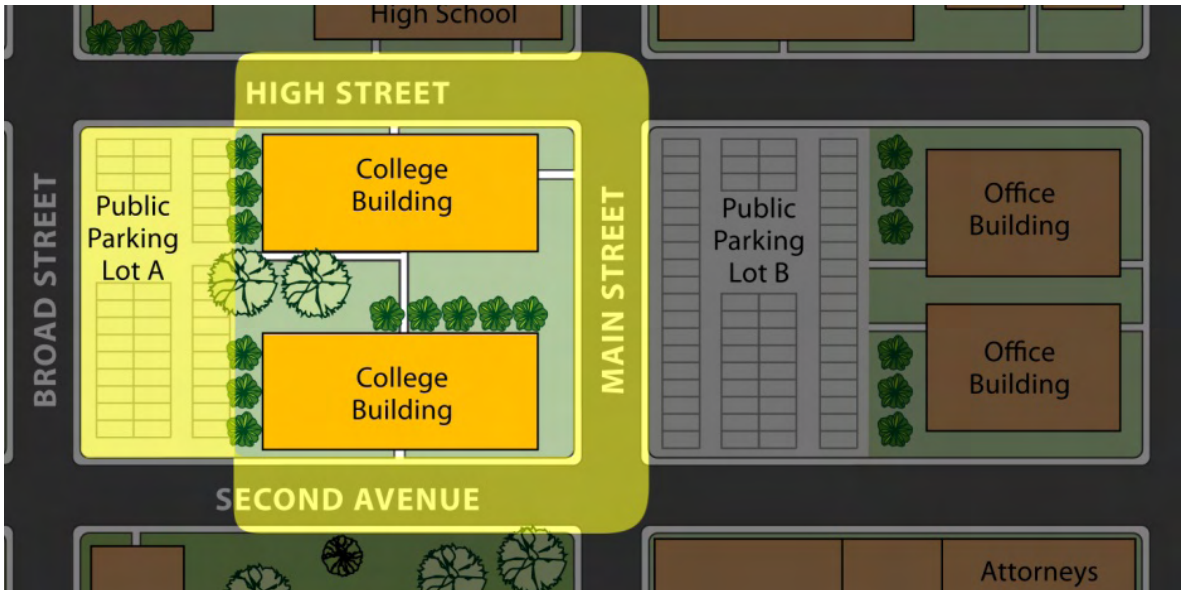

Figure 2. Example of public property: parking lot. *In this illustration, Public Parking Lot A is included in the college's public property category because it's immediately adjacent to and accessible from the campus. Public Parking Lot B is not included in the college's public property category because it's not immediately adjacent to the campus. A sidewalk, street and sidewalk separate it from the campus.*

- **Public property associated with campuses in malls or office buildings:**

  – If your campus is within a mall or office building and you step outside onto a public sidewalk, include the sidewalk in your public property.

  - If your agreement includes use of the mall or office building parking lot, the lot is part of your on-campus geography because under Clery, the contract gives you control of the lot. If there is a public street running adjacent to the parking lot, that's your public property.

  - If your agreement does not include use of the parking lot owned by the mall or office building, do not include the parking lot in your on-campus or your public property category. It is a private parking lot.

  - If there is a public parking lot bordering the mall or office building (i.e., a parking lot owned by a public entity), include it in your public property. If you lease a section of the lot, you are in control of that section and that section is part of your on-campus geography. If your lease allows you to park anywhere in the lot along with all of the other tenants, include the entire lot in your on-campus geography.

- **Public parks:** If there is a public park or similar type of public area **immediately adjacent** to your campus, we recommend that you extend the reporting area one mile into the portion of the property that borders your campus. We consider this to be a reasonable walking distance from the campus. However, if the portion of the park adjacent to your campus is fenced in or otherwise inaccessible from your campus, it is not your public property. If the park is gated on the portion that borders your campus, and the gate is open at specific times, the park is your public property at the times it is accessible from your campus. If the public park is on the opposite side of the street from your campus, do not include it in your public property category.

- **Public waterways:** If the public property that is immediately adjacent to your campus is a public waterway, it should be treated the same as a park. We suggest that you extend the reporting area one mile into the area of the river, lake, ocean, etc., that borders your campus. However, if the portion of the waterway adjacent to your campus is inaccessible from your campus, it is not your public property. If the waterway is accessible at specific times, it is your

public property at the times it is accessible from your campus.

- **Public transit stops:** A public transit stop (e.g., subway or metro station, trolley or bus stop) located on your campus or immediately adjacent to your campus is included in your public property category up to the point at which a rider is required to have paid a fare. For a subway or metro station, your public property would end at the fare gates. For a trolley or bus stop, it would end when someone gets on the vehicle. Apply this guidance to all other types of transit stops as well. (If your institution has a campus police or security department whose patrol jurisdiction extends beyond the point where a fare is required, crimes reported there would be included in your daily crime log. An example is campus police who patrol the waiting platform of a commuter train station. More about the crime log in Chapter 5.)

- **Public buildings:** Buildings or property belonging to a public college or university are not considered public property under Clery. Nor are buildings that are open to the public in private institutions.

  Do not include the inside of a public building such as a public high school or public library in your public property category.

  Some state institutions have charters specifying that state-owned roads running through the campus are under the control of the campus. Such roads are on-campus roads, not public property.

- **Institutions that share a campus:** If you share an entire campus with another Title IV institution, both institutions have the same public property.

- **No public property:** It's possible that your campus does not have any public property. Some examples are:

  – An institution that is located on, and completely surrounded by, the campus of another institution. If you cannot step out of one of the buildings you control without stepping onto property owned or controlled by the other institution, you don't have any public property.

- All property within your campus boundaries is owned or controlled by your institution and there are no public streets, sidewalks, thoroughfares or parking facilities immediately adjacent to your campus.
- An institution that is located in a mall or office building if the parking lot and streets surrounding the building are privately owned by an individual or business.
- A campus entirely surrounded by a gated fence that restricts access (e.g., it is opened only by a guard or some type of pass). However, if the gate remains open for a specific period of time, and the gate opens onto a public road, the portion of the road along the gated side of the campus is public property during the times the gate is open. (Do not limit this public property to the area immediately in front of the gate.)

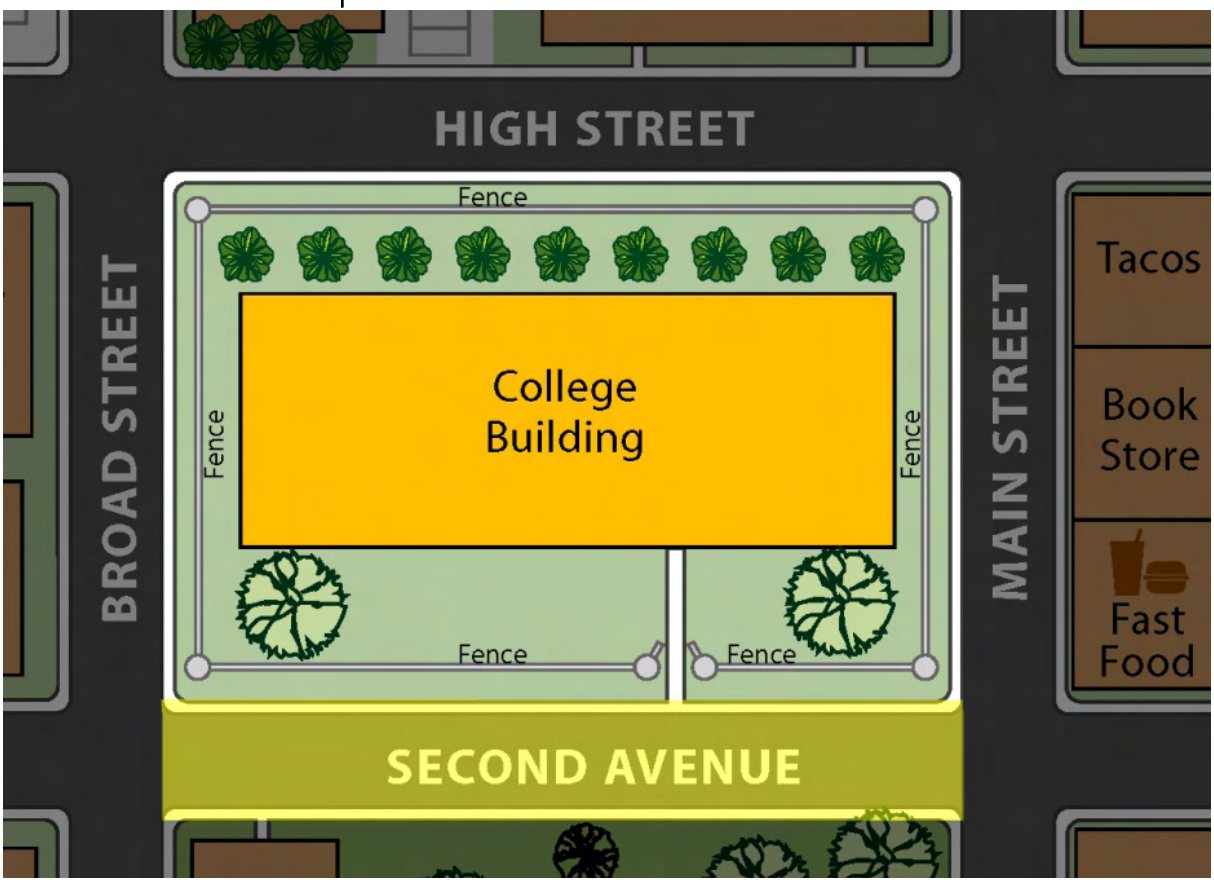

Figure 3. Example of public property: gated fence. *In this illustration, the college is bordered by a fence on all sides. When the gate is open, the college's public property consists of the public sidewalk, street and opposite sidewalk that border the gated side of the campus.*

Before Moving On …

It's important that all Title IV institutions are on the same page regarding campus crime reporting. A significant part of this is adhering to Clery geographic parameters when making your statistical disclosures. If there's some public property near your institution that's dangerous but it's not within your reportable geography, and you want to report statistics for that location, don't include it in your Clery statistical disclosures. Instead, add a caveat or table that clearly separates non-Clery statistics from Clery statistics.

It's important that all Title IV institutions are on the same page regarding campus crime reporting. A significant part of this is adhering to Clery geographic parameters when making your statistical disclosures.

How to Identify Your Noncampus Buildings or Property

Does your institution own or control any buildings or property located off campus, in another city or even in another country? Does it have any officially recognized student organizations? If so, you may have what Clery refers to as "noncampus buildings or property."

The noncampus category encompasses two distinct types of buildings and property: those owned or controlled by officially recognized student organizations, and those located off campus but owned or controlled by your institution. The Clery definition of **noncampus buildings or property** is:

> *Any building or property owned or controlled by a student organization that is officially recognized by the institution; or Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.*

Noncampus definition citation
34 CFR 668.46(a)

The first part of the definition applies to any building or property that is owned or controlled by a student organization *if* the organization is "officially recognized" by your institution. If it's owned or controlled by the student organization, it's considered noncampus under Clery. There is one exception to this rule. If a fraternity or sorority house is located within the confines of the campus on land that is owned by the institution, the building is considered to be "on campus" even if it is owned or controlled by the fraternity or sorority.

The second part of the definition applies to additional locations that are associated with the campus but are not separate campuses. For example, you might lease a municipal athletic field for your team's home soccer games or you might rent classroom space in a local high school two nights a week to hold creative writing classes for your students. Perhaps your institution owns an apartment building a few miles from the campus that you use for student housing. These locations are examples of what the *Clery Act* calls noncampus buildings and properties, and because your institution owns or controls them, you must disclose statistics for reported crimes that occur there. These are some of the more common types of noncampus locations, but you should include any location (except a separate campus) that:

- Is owned or controlled by the institution;
- Supports or is used for the institution's educational purposes;
- Is frequently used by students; and
- Is not considered part of the core campus.

Because an institution may rent, lease or otherwise control a location for varying amounts of time, we suggest that you give someone at your institution responsibility for monitoring the status of all buildings and properties for which you have a written agreement. If your institution rents a classroom location only for a semester, the following semester that location would no longer be included in your noncampus category. If you rent a location for classes, but later use the same rented location only as offices for your payroll personnel, and it is no longer frequently used by students, it would cease to be a noncampus location. Regardless of the time period involved (e.g., a month, a semester or an entire calendar year), you must disclose Clery crime statistics for the days and times that your institution owns or controls any buildings or property that meet the noncampus definition.

Other Noncampus Considerations

Noncampus locations do not have a public property reporting requirement.

- **Noncampus locations do not have a public property reporting requirement.** Although you must disclose Clery crime statistics for public property that is within or immediately adjacent to and accessible from your campus, you are not required to

do so for public property within or adjacent to noncampus buildings or property.

- **There is a difference between owning and controlling a noncampus building or property.** If your institution owns a noncampus building or property you must disclose statistics for crimes that occur there at any time. If you do not own the location, under Clery you only have to disclose statistics for crimes that occur when your institution has control of the space, that is, for the dates and times specified in your lease, rental agreement or other written agreement. Additionally, if your agreement is for a section of a building or property, for example the third floor of an office building, you only have to disclose statistics for crimes that occur on the third floor, *plus* any other areas of the building that your students or employees must use to access the contracted space. So, suppose you have an agreement for the third floor of a building for Sept. 1 through Nov. 30, Monday through Thursday, 7:00 a.m. to 12:00 p.m. You must disclose statistics for Clery crimes that occur Sept. 1 through Nov. 30, Monday through Thursday, 7:00 a.m. to 12:00 p.m. on the third floor, the stairwell and elevators, the main lobby if it's used to access the stairwell and elevators, etc. If your contract includes the use of the parking lot or spaces 1 through 20 in the parking lot, include statistics for crimes that occur in the lot or in spaces 1 through 20 as well. Note that if your contract specifies 7:00 a.m. to 12:00 p.m., you must disclose statistics for that time period even if your students and employees only occupy the space for part of that time, for example, from 8:00 a.m. to 11:30 a.m.

- **Limits of control:** Suppose your institution rents one half of a building—for example, a public high school—for specific days and times. One night while one of your classes is in session, a criminal incident occurs in the part of the building not leased by your institution. You are not required to disclose the crime statistic because your institution doesn't have control over the part of the building you don't lease. This is true even if the crime involved one of your students.

- **Space versus program agreements:** Perhaps your institution sends students to an off-campus site for

internships, externships, clinical training or student teaching. If you own or control the site or any space within the site, include the site or the specified space in your noncampus category. If you do not own or control the space, don't include it. If you have an agreement, even a written agreement, to send your students to a location for one of the aforementioned reasons, *but that written agreement is for the program rather than for use of the physical space*, you do not have control of the location and do not have to disclose statistics for crimes that occur there. For example, if you have a written agreement to send students to a privately owned hospital for clinical training, but you don't have a written agreement for use of the hospital or any space within the hospital, you do not have to disclose statistics for crimes that occur there. However, if you rent classroom space for your students within the same hospital, you are required to disclose crime statistics for that space, as well as for any other areas, such as a lobby or hallways and elevators used to access that space for the period of time specified in the agreement.

- **Corporate offices:** Include corporate offices that are owned or controlled by your institution and are not reasonably contiguous to your campus in the noncampus category if they are frequented by your students for any reason, including student jobs or internships.

- **Prisons:** If your institution sends faculty to a prison to teach, do not include the prison in your Clery disclosures as you do not own or control it.

- **Military bases:** If you have a written agreement, such as a memorandum of understanding, giving you control over some part of a military base, include the space in your noncampus category. Disclose statistics for crimes that occur in that space for the days and times specified in the agreement. If you simply send faculty to a military base, but do not have a written agreement with the base giving you control of any space there, do not include the base in your noncampus geography.

- **Third-party contracts:** If there is an apartment building across town from your campus that's owned by a third party that has a written agreement with

your institution to provide student housing, it is a noncampus location. It doesn't matter whether the rent is paid to the third party by the institution on behalf of the students or paid directly by the students.

If multiple institutions contract with the apartment building owner to provide student housing, you still must report based on your agreement. This means that if your agreement is limited to apartments on the north wing of the first floor, disclose statistics for the apartments on that wing plus any common areas, such as the laundry room and the lobby, and the hallway used to access the apartments. If your agreement doesn't specify which apartments are reserved for use by your institution's students, you must disclose statistics for the entire building except for the interior of the apartments that are used by another school's students.

- **Institution-owned apartments and management companies:** If your school owns an off-campus apartment building and puts a management company or a leasing agent in charge, but doesn't use the building for student housing, do not include the building in your noncampus category even if some of your students happen to rent apartments there. The building doesn't support the institution's educational purposes.

- **Mixed-use apartment buildings:** If your school owns or controls an off-campus apartment building and reserves certain apartments or floors of apartments for student housing, the areas used for that housing, as well as common areas and areas used to access the student housing, are included in your noncampus category. Include any unoccupied apartments that are specifically reserved for student housing. Do not include the apartments or floors of apartments that are not reserved for student housing. Do not include floors or apartments that are reserved for your faculty or staff.

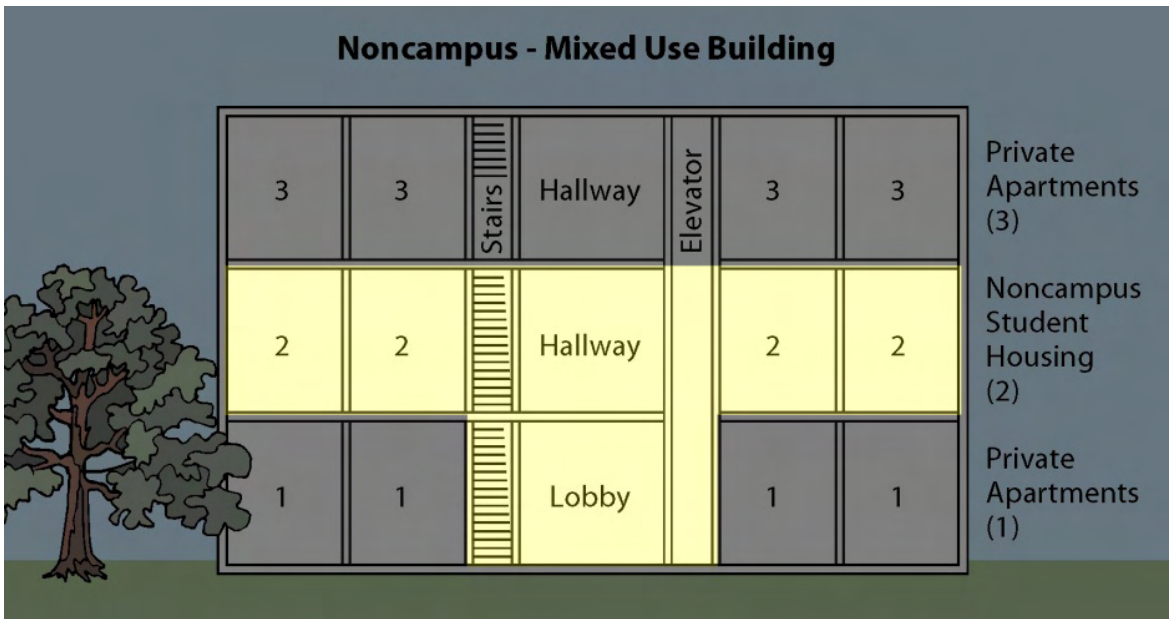

Figure 4. Example of noncampus: mixed-use apartment building. *In this illustration, the college leases the second floor of an off-campus apartment building to house students. The college must disclose statistics in the noncampus category for crimes reported to have occurred on the second floor, the lobby and the stairs and elevator that students use to access the second floor.*

- **Preferred leasing:** If you steer students toward recommended off-campus housing, but the housing is not owned or controlled by your institution, you aren't required to disclose statistics for crimes that occur there.

- **Field trips:** You are not required to disclose statistics for crimes that occur on field trips at locations your institution does not own or control.

- **Overnight, school-sponsored trips:** If your institution sponsors students on an overnight trip, for example to see a play, and they rent motel rooms, you don't have to disclose crimes that occur in those rooms because they don't meet the frequently-used-by-students criterion.

- **Study abroad programs:** If your institution sends students to study abroad at an institution that you don't own or control, you don't have to disclose statistics for crimes that occur in those facilities. However, if your institution rents or leases space for your students in a hotel or student housing facility, you are in control of that space for the time period covered by your agreement. Host family situations do not normally qualify as noncampus locations *unless*

your written agreement with the family gives your school some significant control over space in the family home.

- **Research boats/ships:** If your institution owns or controls research boats or ships that carry students for educational purposes, you must disclose Clery crimes that occur on those vessels.

- **Institutions with shared campuses:** If your institution shares a campus with another institution that has noncampus buildings or property, you are not required to disclose crime statistics for those noncampus buildings or properties unless the agreement gives your institution use of them as well.

- **A noncampus location that becomes a separate campus:** It's possible for a location to be noncampus for a period of time and then become a separate campus. For example, suppose your institution rents a few rooms in a building where your students take one or two writing classes. This is a noncampus location. A year and a half later it's become a very popular location and you decide to rent additional space there and offer a certificate program in technical writing. You hire a program director and administrative assistant to work there. Now the location offers an organized program of study and has administrative personnel on-site. It's a separate campus and must comply with all of the applicable *HEA* requirements. If the situation changes and the location is once again used only for a class or two, it reverts back to being a noncampus location.

Use of Maps

Although the use of a map is not required under Clery, some institutions choose to provide one in their annual security report to help the campus community better understand where reported crimes occurred. A map is also useful if your institution is ever visited by our program reviewers to help identify the buildings and property that make up your institution's Clery geography, and to pinpoint the patrol jurisdiction of your campus police or security personnel, if you have any. Use a map only if it presents an accurate picture of the geographic locations it depicts, and update it as necessary. If you have several campuses and choose to provide maps, you must have a separate map for each campus.

Remember that keeping track of the buildings and properties your institution owns and controls, and what they are used for, is an institutional responsibility.

When in Doubt …

Remember that keeping track of the buildings and properties your institution owns and controls, and what they are used for, is an institutional responsibility. If you are still unsure how to identify your Clery geography or if you have a unique situation that isn't covered here, help is always available. Please see "Getting Additional Help" in Chapter 1 for information on e-mailing our help desk.

Crime Statistics:
Classifying and Counting *Clery Act* Crimes

CHAPTER 3

Consider the following scenarios:

> A student enters three unlocked rooms in an on-campus student housing facility and takes several items from two of them ...
>
> Campus security breaks up a party in a noncampus student housing facility and six students get referred for disciplinary action for possession of marijuana ...
>
> A school employee calls the police to report spray-painted racial slurs on the side of an on-campus dining hall ...
>
> Items are stolen from a retail store located in the same mall as your school ...

Are these incidents Clery crimes? Must you disclose statistics for them in your annual security report and the Web-based data collection? Should you count crimes in dorm rooms the same way you count crimes in academic offices? What's the difference between Burglary and Larceny?

This chapter discusses the types of crimes that the *Clery Act* requires your institution to disclose and the rules for classifying and counting them. Throughout the discussion, there are examples that illustrate the rules and the exceptions to the rules. To read about how to present the statistics in your annual security report, see Chapter 9. For step-by-step instructions on entering the statistics in the Web-based survey see the user's guide located at https://surveys.ope.ed.gov/security.

Reported crime statistics citation
34 CFR 668.46(c)

The *Clery Act* requires your institution to disclose three general categories of crime statistics:

- **Criminal Offenses—**Criminal Homicide, including:
  a) Murder and Non-negligent Manslaughter, and
  b) Negligent Manslaughter; Sex Offenses including:

a) Forcible, and b) Non-forcible; Robbery; Aggravated Assault; Burglary; Motor Vehicle Theft; and Arson.

- **Hate Crimes**—Any of the above-mentioned offenses, and any incidents of Larceny-Theft, Simple Assault, Intimidation, or Destruction/Damage/Vandalism of Property[1] that were motivated by bias; and

- **Arrests and Referrals for Disciplinary Action** for Weapons: Carrying, Possessing, Etc., Drug Abuse Violations and Liquor Law Violations.

Crime Definitions

Uniform Crime Reporting Handbook *definitions citation*
34 CFR 668.46(c)(7)

Per the *Clery Act*, you must classify crimes based on the Federal Bureau of Investigation's (FBI's) *Uniform Crime Reporting Handbook* (*UCR*). For sex offenses only, use definitions from the FBI's *National Incident-Based Reporting System (NIBRS)* edition of the *UCR*. Classify hate crimes according to the FBI's *Uniform Crime Reporting Hate Crime Data Collection Guidelines* and *Training Guide for Hate Crime Data Collection*. Although the law states that institutions must use the *UCR* for defining and classifying crimes, it doesn't require *Clery Act* crime reporting to meet *all UCR* standards.

Note that in this chapter, *UCR* crime definitions appear in italics. Some of the text that is provided to help you classify criminal incidents is taken directly from FBI materials and some has been condensed or paraphrased. Some crime examples are taken or adapted from FBI materials, and others were created for this handbook based on questions schools have asked our Campus Safety and Security Help Desk over the years.

You must disclose reported offenses, not the findings of a court, coroner or jury or the decision of a prosecutor.

You must **disclose reported offenses**, not the findings of a court, coroner or jury or the decision of a prosecutor. Classify and count crimes from the records of calls for service, complaints and investigations.

[1] The 2008 *HEOA* regulations expanded the list of hate crime statistics to be included in *Clery Act* statistical disclosures.

Types of Criminal Offenses

1. Criminal homicide. These offenses are separated into two categories: Murder and Non-negligent Manslaughter, and Negligent Manslaughter.

a) Murder and Non-negligent Manslaughter is defined as *the willful (non-negligent) killing of one human being by another.* **Count one offense per victim.**

Classify as Murder and Non-negligent Manslaughter:

Any death caused by injuries received in a fight, argument, quarrel, assault or commission of a crime.

Do not classify as Murder and Non-negligent Manslaughter:

- Suicides.
- Fetal deaths.
- Traffic fatalities.
- Accidental deaths.
- Assaults to murder and attempts to murder. (Classify assaults and attempts to murder as aggravated assaults.)
- Situations in which a victim dies of a heart attack as the result of a crime, even in instances where an individual is known to have a weak heart.
- Justifiable homicide (which is defined as and limited to *the killing of a felon by a peace officer in the line of duty, or the killing of a felon during the commission of a felony, by a private citizen*).

Examples of Murder and Non-negligent Manslaughter

Scenario 1: A gunman enters a classroom on campus and kills two students and a faculty member before being subdued and arrested. Classify this as three on-campus Murder and Non-negligent Manslaughter statistics.

Scenario 2: Two groups of students get into an argument in a campus parking lot. Jim punches Joe and causes him to hit his head on a concrete sidewalk, inflicting severe head trauma. Two days later, Joe dies. Classify this as one on-campus Murder and Non-negligent Manslaughter statistic.

Scenario 3: A husband and wife have an argument at a married student housing facility owned by the institution that is five miles from campus, and the wife shoots and kills her husband. Classify this as one noncampus Murder and Non-negligent Manslaughter statistic.

Scenario 4: A nonstudent is shot and killed during an armed robbery on a city-owned sidewalk in front of a building on campus. Classify this as one public property Murder and Non-negligent Manslaughter statistic.

Scenario 5: Two students get into an argument at a popular off-campus bar. Bob attacks Brad with a broken bottle and Brad pulls out a gun and kills Bob. Do not include a statistic for this incident in your statistical disclosures, as the incident occurred at a private facility off campus.

b) Negligent Manslaughter is defined as *the killing of another person through gross negligence.* **Count one offense per victim.**

Classify as Negligent Manslaughter:

Any death caused by the gross negligence of another. **Gross negligence** is *the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another*. In other words, it's something that a reasonable and prudent person would not do.

Do not classify as Negligent Manslaughter:

- Deaths of persons due to their own negligence.
- Accidental deaths not resulting from gross negligence.
- Traffic fatalities.

Remember that the findings of a court, coroner's inquest, etc., do not affect classifying or counting criminal incidents.

Example of Negligent Manslaughter

Scenario: Two students are handling a gun at an on-campus fraternity house owned by the institution, and one "jokingly" points the gun at the other. Jim fires the gun, and Mike is killed. Jim claims no knowledge of the gun being loaded. Classify this as one Negligent Manslaughter in the on-campus category and one Negligent Manslaughter in the on-campus student housing facility category.

2. Sex offenses. Sex offenses are separated into two categories: forcible and non-forcible. Include attempted sex offenses, but do not include in your Clery statistical disclosures any sex offenses other than the four types of Forcible Sex Offenses and the two types of Non-forcible Sex Offenses described in this chapter.

a) Sex Offenses—Forcible is defined as *any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.* **Count one offense per victim.** In cases where several offenders commit a Forcible Sex Offense against one person, count one Forcible Sex Offense. Do not count the number of offenders.

There are four types of Forcible Sex Offenses:

- **Forcible Rape** is *the carnal knowledge of a person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth). This offense includes the forcible rape of both males and females.* **Count one offense per victim.**

  If force was used or threatened, classify the crime as forcible rape regardless of the age of the victim. If no force or threat of force was used and the victim was under the statutory age of consent, classify the crime as statutory rape. The ability of the victim to give consent must be a professional determination by a law enforcement agency.

- **Forcible Sodomy** is *oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her*

temporary or permanent mental or physical incapacity. **Count one offense per victim.**

- **Sexual Assault With an Object** is *the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity. An object or instrument is anything used by the offender other than the offender's genitalia. Examples are a finger, bottle, handgun, stick, etc.* **Count one offense per victim.**

- **Forcible Fondling** is *the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.* **Count one offense per victim.**

Examples of Forcible Sex Offenses

Scenario 1: A female student reports that she was forcibly raped by an unidentified male while jogging along a campus trail. Classify this as one on-campus Forcible Sex Offense.

Scenario 2: A female student reports that her ex-boyfriend had sex with her in her campus residence hall room while she was unconscious after a night of drinking alcohol. Classify this as one Forcible Sex Offense in the on-campus category and one Forcible Sex Offense in the on-campus student housing facility category.

Scenario 3: A male student reports that another male student fondled him in a campus building. Classify this as one on-campus Forcible Sex Offense if it's determined that the offender's intent was sexual gratification.

Scenario 4: A female student reports to the campus police that she was forcibly raped in her car in a parking lot on her school's campus by students from another college. Classify this as one on-campus Forcible Sex Offense.

Scenario 5: Three female students report that they were each raped by five male students at an off-campus fraternity house owned by the fraternity. Each male raped each of the female students. Classify this as three noncampus Forcible Sex Offenses.

Scenario 6: A female student reports that an unknown male attempted to rape her on a city-owned sidewalk outside a classroom building on campus, but that he was frightened away by another pedestrian before completing the attack. Classify this as one public property Forcible Sex Offense.

Scenario 7: A male student slipped a date rape drug into a female student's drink at a noncampus fraternity house. Before he could lure the victim away from her friends, however, someone noticed what he had done and summoned the police. A police officer found the drug and identified the suspect. He determined that the suspect had administered the date rape drug with the intent to incapacitate the woman and commit a sexual assault. Classify this as one noncampus Forcible Sex Offense.

Scenario 8: A male student slipped a date rape drug into a female student's drink at a noncampus fraternity house. Before he could lure the victim away from her friends, however, someone noticed what he had done and summoned the police. A police officer ascertained that a student had slipped a date rape drug into another student's drink, but the officer was unable to determine the perpetrator's intent. Because the investigating officer was unable to determine intent, the incident cannot be counted as a Forcible Sex Offense. The *UCR* program considers a date rape drug a poison; therefore, classify this as one noncampus Aggravated Assault (defined in criminal offense no. 4 later in this chapter.)

Scenario 9: A woman is walking on a public sidewalk in front of your campus and a male pinches her buttocks as he runs by her. Classify the incident as one Public Property Forcible Sex Offense *if* it's determined that the man's intent was sexual gratification.

b) Sex Offenses—Non-forcible is defined as *unlawful, non-forcible sexual intercourse.*

There are two types of Non-forcible Sex Offenses:

- **Incest** is *non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law*. **Count one offense per victim.**

- **Statutory Rape** is *non-forcible sexual intercourse with a person who is under the statutory age of consent*. **Count one offense per victim.**

  The statutory age of consent differs by state. For example, in Maryland, the statutory age of consent is 14 years of age (which means the victim must be under 14), and the offender must be at least four years older than the victim. In Nevada, a victim is someone under age 16, and an offender is someone 18 or older. We recommend that you consult your state's statutes to determine the statutory age of consent. **Remember, if force was used or threatened, or the victim was incapable of giving consent because of his/her youth or temporary or permanent mental impairment, classify the offense as forcible rape, not statutory rape.** The ability of the victim to give consent must be a

professional determination by a law enforcement agency.

Remember, do not classify as Non-forcible Sex Offenses:

- Date or acquaintance rape. (These are Forcible Sex Offenses.)
- Any offense other than incest or statutory rape.

Examples of Non-forcible Sex Offenses

Scenario 1: A 21-year-old student has sex with a 15-year-old juvenile in the student's on-campus apartment. There is no use of force or threat of force (the statutory age of consent is 16). Classify this as one Non-forcible Sex Offense in the on-campus category and one Non-forcible Sex Offense in the on-campus student housing facility category.

Scenario 2: Campus police respond to a call from the dean reporting that an unknown man exposed himself to a group of female students on campus. Do not include a statistic for this incident in your disclosures as it is not a Clery Non-forcible Sex Offense.

We recommend that you double-check all reports of non-forcible sex offenses to confirm that they fit the *UCR NIBRS* definition. This does not mean that the offense must be investigated by law enforcement before the statistic is disclosed. Just confirm that the description of the offense in the report fits the definition of either incest or statutory rape.

3. Robbery. Robbery is *the taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.* In any instance of Robbery, **count one offense for each distinct operation (i.e., incident), including attempts.** Do not count the number of victims robbed, those present at the robbery or the number of offenders.

Essential Elements of a Robbery:

- Committed in the presence of a victim (usually the owner or person having custody of the property).
- Victim is directly confronted by the perpetrator.
- Victim is threatened with force or put in fear that force will be used.
- Involves a theft or larceny.

Because some type of assault is an element of robbery, do not report an assault as a separate crime as long as it was performed in furtherance of the robbery. However, if the injury results in death, classify the incident as Murder and Non-negligent Manslaughter.

Aids to Classifying Incidents as Robberies

The classification of Robbery includes both armed robbery and robberies where only personal weapons are used. Armed robbery includes incidents commonly referred to as stickups, hijackings, holdups, heists, carjackings, etc. Carjackings are robbery offenses in which a motor vehicle is taken through force or threat of force. In such case, following the Hierarchy Rule, report **only** a robbery, **not** a motor vehicle theft. (The **Hierarchy Rule** is discussed on pages 53 and 54.) Robberies in which only personal weapons, such as hands, arms, fists, feet and teeth are used or threatened to be used, may be referred to as strong-arms or muggings.

The *UCR* considers a weapon to be a commonly known weapon (a gun, knife, club, etc.) or any other item which, although not usually thought of as a weapon, becomes one in the commission of a crime. Robbery also includes crimes involving pretended weapons or those in which the weapon is not seen by the victim, but the robber claims to possess one.

Remember, the use or threat of force is an essential element of robbery. For example, classify a pocket-picking or purse-snatching where force is neither used nor threatened as Larceny-Theft. However, if force or threat of force is used to overcome the active resistance of the victim in a purse-snatching or other such crime, classify the offense as Robbery.

Remember, the use or threat of force is an essential element of robbery.

Example of Robbery

Scenario: Two students returning to campus from a night at a local bar are approached by three armed men on a city sidewalk outside their residence hall and told to hand over their wallets. The students comply, and the three armed men leave without harming the students. Classify this as one Robbery on public property.

4. Aggravated Assault. Aggravated assault is *an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.* **Count one offense per victim.** However, if a number of persons are involved in a dispute or disturbance, and the aggressors cannot be distinguished from the victims, count the number of persons assaulted as the number of offenses.

As stated earlier, the *UCR* considers a weapon to be a commonly known weapon (a gun, knife, club, etc.) or any other item which, although not usually thought of as a weapon, becomes one in the commission of a crime. For example, if an individual intentionally drives a car into another occupied car, classify the incident as an Aggravated Assault regardless of the extent of injury sustained by the victim—the car was used as a weapon. If the victim dies, however, classify the death as Murder and Non-negligent Manslaughter.

Classify as Aggravated Assaults:

- Assaults or attempts to kill or murder.
- Poisoning.
- Assault with a dangerous or deadly weapon.
- Maiming.
- Mayhem.
- Assault with explosives.
- Assault with disease (as in cases when the offender is aware that he or she is infected with a deadly disease and deliberately attempts to inflict the disease by biting, spitting, etc.).
- All assaults by one person upon another with the intent to kill, maim or inflict severe bodily injury with the use of any dangerous weapon. It is not necessary that injury result from an aggravated assault when a gun, knife or other weapon that could cause serious personal injury is used.

- Assault cases that might be categorized as assault and battery, disorderly conduct, domestic violence or simple assault by some local jurisdictions, even though a knife, gun or other weapon was used in the incident.

- Attacks using personal weapons, such as hands, arms, feet, fists and teeth that result in serious or aggravated injury.

Consider the seriousness of the injury as the primary factor in establishing whether the assault is aggravated or simple. Classify the assault as aggravated if the personal injury is serious (broken bones, internal injuries, loss of teeth or stitches required). On the other hand, classify the offense as a Simple Assault if the injuries are not serious (abrasions, minor lacerations or contusions) and require no more than usual first-aid treatment.

Aid for Classifying Assaults

Carefully consider the following factors in classifying assaults:

- The type of weapon used or the use of an object as a weapon;

- The seriousness of the injury; and

- The intent of the assailant to cause serious injury.

Often, the weapon used or the extent of the injury sustained will be the deciding factor in distinguishing aggravated from simple assault. It's only necessary in a limited number of instances to examine the intent of the assailant.

Do not classify an incident as an Aggravated Assault based on prosecutorial policy in a jurisdiction. Examine and classify assaults according to the standard *UCR* definitions, regardless of whether they are labeled misdemeanors or felonies by local definitions.

Examine and classify assaults according to the standard *UCR* definitions, regardless of whether they are labeled misdemeanors or felonies by local definitions.

Examples of Aggravated Assault

Scenario 1: Sarah and Anne had a heated argument at a party at a sorority house owned by the sorority located a mile from the campus. Sarah grabbed a lacrosse stick and repeatedly beat Anne across the back with it, breaking several ribs. Classify this as one Aggravated Assault in the noncampus category.

Scenario 2: Two students are involved in a fist fight in the laundry room in their on-campus dormitory. Both have head injuries and are treated at a hospital. Classify this as two Aggravated Assaults in the on-campus category and two Aggravated Assaults in the on-campus student housing facility category.

Scenario 3: Brad and Tim were involved in a physical altercation in a campus parking lot behind their dormitory. Brad pulled a canister of Mace from his pocket and sprayed Tim in the face, causing him severe burning and discomfort. Tim fled the scene and sought medical attention. Classify this as one on-campus Aggravated Assault.

Scenario 4: Campus police respond to a disturbance call on a public sidewalk in back of the campus and find a fight in progress. Most of the participants escape except for four injured individuals. None of the individuals would cooperate and the campus police could not determine who started the fight. The four individuals suffered from severe knife wounds. Classify this incident as four Aggravated Assaults on public property.

5. Burglary. Burglary is *the unlawful entry of a structure to commit a felony or a theft.* **Count one offense per each distinct operation.**

Classify as Burglary:

- Offenses that are classified by local law enforcement agencies as Burglary (any degree); unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts at these offenses.

- Forcible Entry. All offenses where force of any kind is used to unlawfully enter a structure for the purpose of committing a theft or felony. This rule applies when a thief gains entry by using tools; breaking windows; forcing windows, doors, transoms or ventilators; cutting screens, walls or roofs; and where known, using master keys, picks, unauthorized keys, celluloid, a mechanical contrivance of any kind (e.g., a passkey or skeleton key) or other devices that leave no outward mark but are used to force a lock. This

includes burglary by concealment inside a building followed by exiting the structure.

- Unlawful Entry–No Force. The entry of a structure in this situation is achieved by use of an unlocked door or window. The element of trespass to the structure is essential in this category, which includes thefts from open garages, open warehouses, open or unlocked dwellings (such as dorm rooms) and open or unlocked common basement areas in apartment houses where entry is achieved by someone other than the tenant who has lawful access**.**

- Attempted Forcible Entry. A situation where a forcible entry into a locked structure is attempted but not completed.

Do not classify as Burglary:

- Thefts from automobiles, whether locked or not.

- Shoplifting from commercial establishments.

- Thefts from coin boxes or coin-operated machines.

- Thefts from areas of open access. If a perpetrator steals an item from an area of open access (i.e., there is no unlawful trespass), the incident is classified as Larceny, not Burglary. For example, if a student leaves his backpack under the table in a campus dining hall and another student takes it, it's a Larceny. However, if a student leaves his backpack under the table in a campus dining hall and another student breaks into the building after hours and steals the backpack, that's a Burglary.

If a perpetrator steals an item from an area of open access (i.e., there is no unlawful trespass), the incident is classified as Larceny, not Burglary.

- Robbery. A structure can be burglarized, but it cannot be robbed. It is possible, however, for an attempted burglary to become a robbery. For example, a student returns to her dorm room and surprises a burglar. The burglar physically attacks the student, steals her purse and flees. Because the burglar attacked the student and took her property, classify this incident as a Robbery. If the student had not been physically confronted by the burglar and merely observed the burglar leaving her room, the incident would be classified as a Burglary, even if the burglar left empty-handed.

- A forcible entry or unlawful entry in which no theft or felony occurs, but acts of vandalism, malicious mischief, etc., are committed, provided investigation clearly established that the unlawful entry was for a purpose other than to commit a felony or theft.

An incident must meet **three conditions** to be classified as a Burglary:

1) There must be evidence of unlawful entry (trespass). This means that the person did not have the right to be in the structure at the time the incident occurred.

Examples of lawful access include:

- A student uses her keycard to enter her dorm. She lets five other students who do not have keycards for that dorm into the building. All six of the students have lawful access to the building.

- A student has a party in her dorm room with four guests. All five students have lawful access to the dorm room.

- A faculty member has an office in the science building. Students are in and out of the office while the science building is open. Anyone from the campus community going in the office during this time has lawful access.

Examples of unlawful access include:

- A student uses her keycard to enter a dorm. Without her knowing, a student without a keycard to the building walks in after her. The student without the keycard does not have lawful access to the building.

- A student has a party in her dorm room with four invited guests. When the party is over the host asks everyone to leave. She leaves the door unlocked while she goes to visit another student. One of the students who was at the party opens the door and takes some money off of the desk. That student does not have lawful access to the room.

- A faculty member has an office in the science building. One night when the science building is locked, a maintenance worker who does not have a work order for the building, uses a maintenance key

to unlock the building and then unlock the faculty member's door and steal a computer. The maintenance worker does not have lawful access to the office.

2) The unlawful entry must occur within a **structure,** which is defined as *having four walls, a roof, and a door.*

The *UCR* definition of a structure includes:

- Apartment, barn, cabin, church, condominium, dwelling house, factory, garage, house trailer or houseboat (used as permanent dwelling), mill, office, other building, outbuilding, public building, railroad car, room, school, stable, storage facility, vessel (ship) and warehouse.
- Any house trailer or other mobile unit that is permanently fixed as an office, residence or storehouse.

The *UCR* definition of a structure does not include:

- Motor vehicles.
- Tents, tent trailers, motor homes, house trailers or other mobile units that are being used for recreational purposes.
- A telephone booth.
- A gym locker or cubby.

3) The structure was unlawfully entered to commit a felony or a theft. If the intent was not to commit a felony or a theft, do not classify the incident as Burglary. For example, if someone unlawfully entered a structure to write graffiti on the walls, do not classify the incident as Burglary.

Special rules for counting Burglaries

Burglaries in individual student rooms: Because residents of rooms in student housing facilities are not considered transient, the Burglary of each room is a separate offense. This means that if an offender unlawfully enters five dorm rooms on one floor of a student housing facility for the purpose of taking something, you should count this as five Burglaries.

Burglaries in suites: Each bedroom in a student housing facility suite is considered a separate dwelling. Count the Burglary of four bedrooms and the common room in a suite during a single incident as five Burglaries.

Burglaries in private academic offices: Unlike a student housing facility in which each room is considered to be a separate dwelling, the various rooms within an academic building are typically under the control of a single firm (the college or university). Count the burglary of an academic structure as one offense, regardless of the number of interior rooms entered or items stolen if the rooms were all burglarized during the same time frame. (If, however, the rooms were burglarized within different time frames, for example one office on Monday and a second office the following day, count this as two Burglaries.)

Burglaries in patient rooms in campus or noncampus medical centers: Because residents in patient rooms in hospitals or medical centers are transient, offenses are most likely to be reported to law enforcement by the institution. Count the burglary of a number of patient rooms as a single offense.

Examples of Burglary

Scenario 1: A room in an on-campus dormitory is broken into and a laptop is stolen by a student living down the hall. Because the student unlawfully entered the room, classify the incident as one on-campus Burglary and one on-campus student housing facility Burglary.

Scenario 2: A student living in an on-campus dormitory invites another student into her room. The invited student takes a ring from the top of a dresser when the owner leaves to use the restroom. Because the perpetrator was invited into the room, there is no element of trespass. Classify this incident as a Larceny. Do not include this incident in your Clery statistical disclosures.

Scenario 3: A perpetrator enters five on-campus dorm rooms without permission on the same night looking to steal money. He takes a wallet from one room, but takes nothing from the other four rooms. Classify this as five Burglaries in both the on-campus category and on-campus student housing facility category.

Scenario 4: Someone enters an unlocked dorm room on campus and steals a student's wallet. Investigation determines that the student's roommate did not take the wallet. Because no one else had lawful access to the dorm room at the time the wallet was taken, it had to have been taken by someone who did not have lawful access. Classify this incident as one on-campus Burglary and one on-campus student housing facility Burglary.

Examples of Burglary (Continued)

Scenario 5: A patient in a hospital room in an on-campus medical center reports a stolen watch. Police investigate and cannot determine who took the watch. Because there is no evidence that someone unlawfully entered the room to steal the watch, classify this incident as a Larceny. Do not include this incident in your Clery statistical disclosures.

Scenario 6: A school is bordered by a municipal parking garage that has four walls, a roof and a door. Parking is allowed by permit only. Someone without a permit enters the garage and steals a GPS from a car. Classify this as one public property Burglary.

Scenario 7: A school is bordered by a parking garage that has four walls, a roof and a door. Anyone who pays can park there. Someone enters the garage and steals a GPS from a car. Because the garage has open access there was no element of trespass. Do not include this incident in your Clery statistical disclosures because it is a Larceny.

Scenario 8: After his team practice session a member of the football team breaks into the locker of a teammate and takes his wallet. Because a locker is not a structure, classify this as a Larceny and do not include it in your Clery statistical disclosures.

Scenario 9: A member of the football team climbs through an open window in the campus gym after hours and then breaks into a teammate's locker looking for drugs. He leaves empty-handed. Because the perpetrator trespassed into the gym with the intention of stealing drugs, classify this as one on-campus Burglary.

Scenario 10: The registrar reports that money was taken from her desk while she was out of her office for 15 minutes. Campus police investigate and determine that neither of the other two individuals who have lawful access to the office took the money. The perpetrator is unknown, however, because investigation has determined that no one with lawful access took the money, classify the incident as one on-campus Burglary.

Scenario 11: A maintenance worker with a work order used his keys to enter an on-campus office to fix an air conditioner, and while he was there he decided to steal a laptop. Classify this incident as a Larceny because the maintenance worker had a right to be in the office at the time of the theft. He didn't enter the office with the intent of stealing the laptop. Do not include this incident in your statistical disclosures.

Scenario 12: A maintenance worker without a work order used his keys to enter a locked on-campus office to search for something to steal. Classify this as one on-campus Burglary because the maintenance worker did not have a right to be in the office at the time of the theft. He unlawfully entered the office with the intent to steal something. (Because the intent was to steal something, it's a burglary even if the maintenance worker leaves empty-handed.)

Scenario 13: A maintenance worker unlawfully entered an on-campus office to write graffiti on a wall. Do not classify this as a Burglary because the intent wasn't to commit a felony or a theft.

6. Motor Vehicle Theft. Motor vehicle theft is *the theft or attempted theft of a motor vehicle.* **Count one offense for each stolen vehicle.**

Classify as Motor Vehicle Theft:

- Theft of any self-propelled vehicle that runs on land surface and not on rails, such as: sport utility vehicles, automobiles, trucks, buses, motorcycles, motor scooters, trail bikes, mopeds, all-terrain vehicles, self-propelled motor homes, snowmobiles, golf carts and motorized wheelchairs.

- All incidents where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned. Include joyriding in this category. If a vehicle is stolen in conjunction with another offense, classify the crime using the procedures for classifying multiple offenses (i.e., the Hierarchy Rule, pages 53–54).

Do not classify as Motor Vehicle Theft:

- Theft of any of the following: Farm equipment, bulldozers, airplanes, construction equipment, water craft (motorboats, sailboats, houseboats or jet skis).

- Taking a vehicle for temporary use when prior authority has been granted or can be assumed, such as in family situations, rental car agreements, or unauthorized use by chauffeurs and others having lawful access to the vehicle.

- A forcible or unlawful entry of a building to steal a motor vehicle. Classify this offense as a Burglary.

- Thefts *from* motor vehicles. Theft from a motor vehicle is Larceny, which is not a *Clery Act* crime unless it's motivated by bias (i.e., a hate crime). (More about this in the hate crimes section of this chapter on pages 55–64.)

Examples of Motor Vehicle Theft

Scenario 1: A faculty member's car is reported stolen from a campus parking garage and is later recovered a block off campus. Classify this as one on-campus Motor Vehicle Theft.

Scenario 2: A car stereo and CDs are reported stolen from a car parked along a city-owned street on campus. Do not include a statistic for this crime, because it is theft *from* a motor vehicle, not Motor Vehicle Theft.

Scenario 3: A student's car is stolen from a city street outside a remote classroom five miles from campus. Do not include a statistic for this crime, because it occurred on public property adjacent to a noncampus location.

7. Arson. Arson is *any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.* **Count one offense for each distinct Arson operation originating within the reporting jurisdiction.**

Classify as Arson:

- Only fires *determined through investigation* to have been willfully or maliciously set. Because the *Clery Act* requires institutions to disclose all arsons that occur on their Clery geography, you must have every fire that is not known to be accidental (such as a cooking fire) investigated. An Arson determination must be made by either a fire authority such as a fire marshal, law enforcement personnel or another individual experienced in arson investigation. The latter includes someone at your institution who has received training in arson investigation by a fire authority.
- Attempts to burn.
- Any fire that investigation determines to meet the *UCR* definition of arson regardless of the value of property damage.
- Incidents where an individual willfully or maliciously burns his or her own property.

You must have every fire that is not known to be accidental (such as a cooking fire) investigated.

Do not classify as Arson:

- Fires of suspicious origin.
- Fires of unknown origin.

Cautions in disclosing Arson statistics

- Point of origin:
  - If a fire (determined to be arson) starts in a privately owned house located next to your campus and spreads to a building on your campus, you are not required to disclose the arson statistic because the point of origin for the arson was not your Clery geography.

    If the situation is reversed, and an on-campus fire (determined to be arson) spreads to the house, you **must** include the on-campus arson in your Clery statistical disclosures.
  - If the private home and the on-campus building are burning, and investigators later determined that the cause was arson, but the point of origin could not definitively be determined, your school is responsible for disclosing the arson statistic for the on-campus building only if the building suffers greater fire damage than the private home.
- Classify incidents in which persons are killed as a direct result of arson as both Criminal Homicides and Arson. Similarly, report the number of persons severely injured during an arson as Aggravated Assaults along with the Arson. When multiple reportable offenses are committed during the same distinct operation as the arson offense, report the most serious offense along with the arson. (More about the Hierarchy Rule on pages 53 and 54.)

An important note for institutions that have **on-campus student housing facilities:** Arsons in on-campus student housing facilities must also be disclosed in your fire statistics. This means that in Scenario 5 on the next page, you must also classify the incident as one intentional fire in the on-campus student housing facility in which the fire occurred. (See Chapter 13 for more information on fire statistics.)

Examples of Arson

Scenario 1: A student is killed by what an investigation determines was a deliberately set fire in his campus residence hall room. Classify this as one Murder and Non-negligent Manslaughter and one Arson in the on-campus category and one Murder and Non-negligent Manslaughter and one Arson in the on-campus student housing facility category.

Examples of Arson (Continued)

Scenario 2: A suspicious fire is reported in a campus academic building, but fire authorities cannot determine if it was intentionally set. Do not include this incident as an Arson in your annual crime statistical disclosures.

Scenario 3: A resident of a noncampus Greek house sets fire to his couch on the lawn in front of the house in celebration of a school football victory. Investigators determine that the incident was Arson. Classify this as one Arson in the noncampus category.

Scenario 4: A fire is reported in a campus dormitory. Ten students are killed as a direct result of the flames and asphyxiation. Two more students die from internal injuries when they attempt to jump to safety. Six people are hospitalized with second- and third-degree burns. Investigation determines that the fire was intentional. Classify this as one Arson in the on-campus category and the on-campus student housing facility category and twelve Murder and Non-negligent Manslaughters in the on-campus category and the on-campus student housing facility category.

Scenario 5: A student is seen setting fire to a paper advertisement on an on-campus dormitory bulletin board. Investigation determines that the student willfully set fire to the paper. Classify this as one Arson in the on-campus and the on-campus student housing facility categories.

Beyond the Basics—Additional Rules for Counting and Disclosing Crimes

The Hierarchy Rule

Hierarchy rule citation
34 CFR 668.48(c)(7)

When counting multiple offenses, you must use the FBI's *UCR* Hierarchy Rule. This rule requires you to count only the most serious offense **when more than one offense was committed during a single incident**. A single incident means that the offenses were committed at the same time and place. That is, the time interval between the offenses and the distance between the locations where they occurred were insignificant. Beginning with the most serious offense, the following list shows the hierarchy for *Clery Act* reporting:

- Murder and Non-negligent Manslaughter
- Negligent Manslaughter
- Forcible Sex Offenses
- Non-forcible Sex Offenses
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arrests
- Referrals for Disciplinary Action

Although arrests and referrals are technically not part of the hierarchy, they are shown here to illustrate their place in counting crimes. For example, if a student is arrested for Aggravated Assault and a Drug Abuse Violation, disclose only the Aggravated Assault.

A second example based on the hierarchy rule might be if a student is both forcibly raped and robbed during a single incident. In this case, disclose only the Forcible Sex Offense, because it is classified as the more serious crime in the hierarchy.

There are **exceptions** to using the hierarchy rule when counting offenses. They apply to Arson and Hate Crimes. (See pages 61 and 62 for the rules for counting Hate Crimes.) The rules for counting Arson are as follows:

- Always count Arson regardless of the nature of any other offenses that were committed during the same incident.
- When multiple offenses are committed during the same distinct operation as the Arson offense, report the most serious offense along with the Arson.
- Classify incidents in which persons are killed as a direct result of Arson as Murder and Non-negligent Manslaughter and Arson or Negligent Manslaughter and Arson.

Attempted Crimes

Do not differentiate between attempted and completed crimes. For example, count an incident involving an attempted forcible rape as a Forcible Sex Offense. The only exception to this rule applies to attempts or assaults to murder when the victim does not die. Classify these incidents as Aggravated Assaults rather than murders.

Status of the Victim and Perpetrator

The status of the victim and the perpetrator is irrelevant. Count all *Clery Act* crimes, even if they involve individuals not associated with the institution.

No Personal Identification

When disclosing the number of reported crimes, do not identify the victim or the person accused of committing the crime. The *Clery Act* does not require crimes to be *reported* anonymously. It prohibits personally identifiable information from being *included* in your institution's disclosure of crime statistics. Crime reports made to campus security authorities may include personally identifiable information to aid in crime investigation. However, you must omit this information from the annual security report and the Web-based data collection.

Personally identifiable information prohibition citation
34 CFR 668.46(c)(5)

The *Clery Act* does not require crimes to be *reported* anonymously. It prohibits personally identifiable information from being *included* in your institution's disclosure of crime statistics.

Note that, while unlikely, it is possible that a statistic may identify an individual. This could occur, for example, if your institution has only one disabled individual in its campus community and you report an on-campus hate crime categorized by a disability bias. (See directly below for more information on hate crimes.) For this reason, we recommend that you add a caveat to the entire statistical disclosure section stating that reported crimes may involve individuals not associated with the institution.

Hate Crimes

Hate crimes citation
34 CFR 668.46(c)(3)

The second category of statistics you must disclose after criminal offenses is hate crimes. A **hate crime** is *a criminal offense committed against a person or property which is motivated, in whole or in part, by the offender's bias*. **Bias** is *a preformed negative opinion or attitude toward a group of persons based on their race, gender, religion, disability, sexual orientation or ethnicity/national origin.*

Although there are many possible categories of bias, under Clery, only the following six categories are reported:

- **Race.** *A preformed negative attitude toward a group of persons who possess common physical characteristics (e.g., color of skin, eyes, and/or hair; facial features, etc.) genetically transmitted by descent and heredity, which distinguish them as a distinct division of humankind (e.g., Asians, blacks, whites).*
- **Gender.** *A preformed negative opinion or attitude toward a group of persons because those persons are male or female.*

- **Religion.** *A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being (e.g., Catholics, Jews, Protestants, atheists).*

- **Sexual orientation.** *A preformed negative opinion or attitude toward a group of persons based on their sexual attraction toward, and responsiveness to, members of their own sex or members of the opposite sex (e.g., gays, lesbians, heterosexuals).*

- **Ethnicity/national origin.** *A preformed negative opinion or attitude toward a group of persons of the same race or national origin who share common or similar traits, languages, customs and traditions (e.g., Arabs, Hispanics).*

- **Disability.** *A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments/challenges, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age or illness.*

For Clery purposes, hate crimes include any offense in the following two groups that is motivated by bias.

Figure 5. Categories of hate crime offenses

Group A[2]

- Murder and Non-negligent manslaughter
- Forcible sex offenses
- Non-forcible sex offenses
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson

Group B[2]

- Larceny-theft
- Simple assault
- Intimidation
- Destruction/damage/vandalism of property

[2] The terms "Group A" and "Group B" are used for the purposes of discussion only and are not *HEA*-related terms.

The offenses in Group A include all of the *Clery Act* offenses discussed earlier in this chapter (with the exception of Negligent Manslaughter and Weapons: Carrying, Possessing, Etc., Drug Abuse Violations, and Liquor Law Violations which cannot be classified as hate crimes). In addition to those offenses, the Group B offenses, **i.e., larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property, should only be included in your Clery statistics if they are hate crimes.**

1. **Larceny-Theft** is *the unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. (Larceny and theft mean the same thing in the UCR.)* ***Constructive possession*** *is the condition in which a person does not have physical custody or possession, but is in a position to exercise dominion or control over a thing.*

   Classify as Larceny:

   - Thefts of bicycles or automobile accessories.
   - Shoplifting.
   - Pocket-picking.
   - The stealing of any property or article which is not taken by force and violence or by fraud.
   - Any of the above regardless of the value of the item or items taken. (For example, include the unlawful taking of a parking sticker that is peeled off a car windshield.)
   - Attempted larcenies.

   Do not classify as Larceny:

   - Motor vehicle theft.
   - Attempted motor vehicle theft.
   - Embezzlement.
   - Confidence games.
   - Forgery.
   - Worthless checks.

2. **Simple Assault** is *an unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.*

Include all assaults which do not involve the use of a firearm, knife, cutting instrument or other dangerous weapon and in which the victim did not sustain serious or aggravated injuries.

3. **Intimidation** is *to unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.*

A person is assumed to be placed in "reasonable fear" if he or she reports threatening words or other conduct to law enforcement personnel. To be the victim of intimidation, one doesn't have to be the intended target of the offender. For example, a person who reports seeing anti-gay threats on a bathroom wall to law enforcement is considered a victim. (For the Intimidation to be considered a hate crime there would have to be other supporting evidence of bias as well.) Include in this category cyber-intimidation if the victim is threatened via computer while on your Clery geography.

4. **Destruction/Damage/Vandalism of Property** is *to willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.*

Classify as Destruction/Damage/Vandalism of Property:

A wide range of malicious behavior directed at property, such as:

- Cutting auto tires.
- Drawing obscene pictures on restroom walls.
- Smashing windows.
- Destroying school records.

- Defacing library books.

Do not classify as Destruction/Damage/Vandalism of Property:

Incidents of burning that willfully or maliciously destroy, damage or deface property. Classify such incidents as Arson.

Classifying a crime as a hate crime is sometimes difficult. The following information adapted from the FBI's *Uniform Crime Reporting Hate Crime Data Collection Guidelines* and *Training Guide for Hate Crime Data Collection* should be useful in guiding you.

Before an incident can be classified as a hate crime, sufficient objective facts must be present to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias. **While no single fact may be conclusive, facts such as the following, particularly when combined, are supportive of a finding of bias:**

a. The offender and the victim were of a different race, religion, disability, sexual orientation and/or ethnicity/national origin. For example, the victim was black and the offender was white.

b. Bias-related oral comments, written statements or gestures were made by the offender which indicate his or her bias. For example, the offender shouted a racial epithet at the victim.

c. Bias-related drawings, markings, symbols or graffiti were left at the crime scene. For example, a swastika was painted on the door of a synagogue.

d. Certain objects, items or things which indicate bias were used. For example, the offenders taped a photo of a burning cross to the door of the victim's dorm room.

e. The victim is a member of a racial, religious, disability, sexual-orientation or ethnic/national origin group which is overwhelmingly outnumbered by other residents in the student housing facility where the victim lives and the incident took place. This factor loses significance with the passage of time (i.e., it is most significant when the victim first

moved into the facility, and becomes less and less significant as time passes without incident).

f. Several incidents occurred in the same location at or about the same time, and the victims were all of the same race, religion, disability, sexual orientation or ethnicity/national origin.

g. A substantial portion of the campus community where the crime occurred perceived that the incident was motivated by bias.

h. The victim was engaged in activities promoting his or her race, religion, disability, sexual orientation or ethnicity/national origin. For example, the victim was a member of the NAACP or participated in gay rights demonstrations on campus.

i. The incident coincided with a holiday or a date of particular significance relating to a race, religion, disability, sexual orientation or ethnicity/national origin (e.g., Martin Luther King Day, Rosh Hashanah).

j. The offender was previously involved in a similar Hate Crime or is a hate group member.

k. There were indications that a hate group was involved. For example, a hate group claimed responsibility for the crime or was active on the campus.

l. An historically established animosity existed between the victim's and the offender's groups.

m. The victim, although not a member of the targeted racial, religious, disability, sexual-orientation or ethnic/national origin group, was a member of an advocacy group supporting the precepts of the victim group.

Additional considerations in determining whether an incident is a hate crime:

- **Need for a case-by-case assessment of the facts.** The aforementioned factors are not all-inclusive of the types of objective facts which evidence bias motivation. Therefore, examine each case for facts

which clearly provide evidence that the offender's bias motivated him or her to commit the crime.

- **Misleading facts.** Be alert to misleading facts. For example, the offender used an epithet to refer to the victim's race, but the offender and victim were of the same race.

- **Feigned facts.** Be alert to evidence left by the offenders that is meant to give the false impression that the incident was motivated by bias. For example, students of a religious school, hoping that they will be excused from attending class, vandalize their own school, leaving anti-religious statements and symbols on its walls.

- **Offender's mistaken perception.** Even if the offender was mistaken in his or her belief that the victim was a member of a racial, religious, disability, sexual-orientation or ethnic/national origin group, the offense is still a Hate Crime as long as the offender was motivated by bias against that group. For example, a non-gay student leaving a publicized gay rights meeting in a noncampus fraternity house, is followed back to campus and attacked behind a dorm by six teenagers who mistakenly believed the victim is gay. Although the offenders were mistaken, the offense is a Hate Crime because it was motivated by the offenders' anti-gay bias.

Remember, it is the perception of the offender, not the perception of the victim, that determines whether a crime is classified as a Hate Crime. Also, knowing that an offender is prejudiced is not enough to classify a crime as a Hate Crime. There must be evidence that the offender was motivated by that prejudice to commit the crime.

Rules for Counting Hate Crimes

Hate crimes are counted in the same manner that the offenses are when they are not hate crimes except that the **hierarchy rule does not apply to hate crimes**. This means that:

- You must count all of the offenses committed in a multiple offense incident that are bias-motivated. For example, there is a single reported incident involving an Aggravated Assault and a Motor Vehicle Theft

that were both motivated by bias. Disclose statistics for both crimes.

- You must classify only the crimes that are bias-motivated as hate crimes in a multiple-offense incident. For example, three armed men commit a robbery on the porch of a fraternity house. Two of the offenders go inside the house intending to rob more students. One of them spots a Hispanic woman, grabs her, and rapes her. The two offenders were later arrested and the investigation showed that although the robbery was not bias-motivated, the rape was. Classify only the forcible Sex Offense as a hate crime.

- For any Group A hate crime (see page 56 for the list of Group A hate crimes), your statistics should indicate the offense and also the offense with the category of bias. For example, if an Aggravated Assault is a hate crime, disclose one Aggravated Assault statistic in the general offenses category and one Aggravated Assault motivated by (category of bias) in the hate crime category.

- The exception is when the Aggravated Assault statistic is not disclosed in the general offenses category because of the hierarchy rule. For example, for a single incident involving both a Forcible Sex Offense and an Aggravated Assault that were both hate crimes, disclose only the Forcible Sex Offense in the general offenses category and both the Forcible Sex Offense and the Aggravated Assault in the hate crimes category.

Examples of Hate Crimes

Scenario 1: One night a student with known anti-gay sentiments steals a number of books by gay and lesbian authors from a campus library exhibit. He leaves a note on the exhibit table that reads, “Gay and lesbian books don’t belong in our library.” When he is caught leaving the library with a large bag of books, he starts shouting that gay students have been getting too much attention on campus and he was tired of it. Classify this as one on-campus Larceny-Theft characterized by sexual orientation bias.

Examples of Hate Crimes (Continued)

Scenario 2: A white student causes a disturbance in an on-campus classroom during a discussion on race relations. The student begins shouting racial epithets while pointing at black class members. The instructor calls campus security for assistance. A white security officer and a black security officer arrive. When the black officer tries to subdue the student, the student starts shoving the officer and shouting racial epithets at him. Classify this as one on-campus Simple Assault characterized by racial bias.

Scenario 3: A campus police officer overhears a white student and a black student arguing over a parking space on campus. They are shouting obscenities at one another and the white student shoves the black student who scrapes his hand on the asphalt when he falls. The officer approaches the students and asks for an explanation for the argument. The students tell him that one of them was driving toward the parking space first but didn't use his turn signal to indicate he wanted to park there. The other student drove into the space not knowing that the first student had intended to park there. The officer did not find any evidence that the Simple Assault was motivated by bias. Do not classify this incident as a hate crime.

Scenario 4: During finals week, a gay faculty member gets a series of phone calls in his noncampus office. When he answers, the caller says that she hates gay people and then hangs up. On the third night, the caller says that the faculty member had better be careful because something terrible was about to happen to gay people at the school. The faculty member is afraid and calls the local police to report the threat. Classify this as one noncampus Intimidation based on sexual orientation bias.

Scenario 5: Several students call the campus security office to report swastikas spray-painted on the walls in a hallway of an on-campus student housing facility. Campus security personnel investigate but cannot find conclusive evidence that the markings were bias-motivated. Do not classify this incident as a hate crime.

Scenario 6: Several students call the campus security office to report swastikas spray-painted on the hallway walls of an on-campus student housing facility on the floor where members of a Jewish student group live. The spray-painting follows a week of escalating tension between some Jewish and non-Jewish students over news about the Israeli-Palestinian conflict. Campus security personnel investigate and based on the evidence, conclude that a hate crime was committed. Classify this as one on-campus Intimidation characterized by religious bias and one on-campus student housing facility Intimidation characterized by religious bias.

Examples of Hate Crimes (Continued)

Scenario 7: An on-campus student center features a photo exhibit of famous Muslim-Americans and their achievements. Next to the display case is a second unrelated photo exhibit that features several well-known school alumni. An employee who is prepping the coffee bar for the day notices that there are what appear to be permanent ink markings on the glass over some of the facial features of photos of the Muslim-Americans. There are no markings on the other exhibit case. The employee reports the incident to the school's public safety officer who is on the other side of the campus and in the process of examining defaced posters announcing a meeting of the school's Muslim-American student group. After examining all of the evidence the officer concludes that a hate crime was committed. Classify these defacings as one on-campus Destruction/Damage/Vandalism of Property incident characterized by religious bias.

Arrests and referrals citation
34 CFR 668.46(c)(viii)(A) and (B)

Arrests and Disciplinary Referrals for Violation of Weapons, Drug and Liquor Laws

The third category of crime statistics you must disclose is the **number of arrests** and **the number of persons referred for disciplinary action** for the following law violations:

1. Weapons: Carrying, Possessing, Etc.;
2. Drug Abuse Violations; and
3. Liquor Law Violations.

Disclose statistics for **violations of the law resulting in arrests or persons being referred for disciplinary action**. Do not include violations of your institution's policies that resulted in persons being referred for disciplinary action if there was no violation of the law. For example, if a student of legal drinking age in the state in which your institution is located violates your institution's "dry campus" policy and is referred for disciplinary action, don't include that statistic in your Clery disclosures, because the referral was not the result of a law violation. Because state laws and local ordinances vary widely, you need to ascertain the specific laws and ordinances that apply to your institution.

If an individual is both arrested and referred for disciplinary action for an offense, **disclose only the arrest statistic.**

Arrest for *Clery Act* purposes is defined as *persons processed by arrest, citation or summons.*

Classify as arrests:

- Those persons arrested and released without a formal charge being placed against them. (An arrest has occurred when a law enforcement officer detains an adult with the intention of seeking charges against the individual for a specific offense(s) and a record is made of the detention.)
- Juveniles taken into custody or arrested but merely warned and released without being charged. A juvenile should be counted as "arrested" when the circumstances are such that if the individual were an adult, an arrest would have been counted.
- Any situation where a young person, in lieu of actual arrest, is summoned, cited or notified to appear before the juvenile or youth court or similar official for a violation of the law.
- Only violations by young persons where some police or official action is taken beyond a mere interview, warning or admonishment.

Do not classify as arrests incidents in which:

- Police contact a juvenile who has committed no offense.
- Police take a juvenile into custody for his or her own protection, but no crime was committed.
- Officers make call backs or follow-up contacts with young offenders for the purpose of determining their progress.
- An individual makes a "citizen's arrest."
- The arrest was for something other than a violation of a weapons, drug or liquor law (e.g., an arrest for an Aggravated Assault).
- A civil citation is issued.

Rules for Counting Arrests for Weapons: Carrying, Possessing, Etc., Drug Abuse Violations; and Liquor Law Violations

- Count the number of arrests for Weapons: Carrying, Possessing, Etc., the number of arrests for Drug Abuse Violations and the number of arrests for Liquor Law Violations.
- If a single incident involving a liquor law violation resulted in the arrest of 10 students, count this as 10 arrests.
- If the same person is arrested for multiple incidents in the same calendar year (e.g., one arrest in February and one arrest in March), count this as two arrests. Count this as two arrests even when both arrests are for the same type of violation (e.g., both were Drug Abuse Violations).
- If an individual is arrested for one type of law violation and referred for disciplinary action for a different type of law violation during a single incident (e.g., arrested for a Drug Abuse Violation and referred for a Liquor Law Violation) count only the arrest.
- If a person is both arrested and referred for disciplinary action for a single incident involving a law violation (e.g., a Drug Abuse Violation), count only the arrest.
- If a person is arrested for multiple violations during a single incident (e.g., violations of both drug and liquor laws), law enforcement or security officer discretion should be used to determine which violation to count. We recommend that you document the justification for this determination. Officer discretion is allowed only for weapons, drug and liquor law violation arrests *resulting from a single incident.*

Do not combine statistics for arrests and persons referred for disciplinary action.

Referred for disciplinary action is defined as *the referral of any person to any official who initiates a disciplinary action of which a record is kept and which may result in the imposition of a sanction.*

The disciplinary process at your institution might be called "disciplinary action," "mediation," "judicial process" or some other term. The referral may, but doesn't have to, originate with the police. Regardless of what you call it, if the process involves the following three criteria, it's a disciplinary action under Clery:

- The official receiving the referral must initiate a disciplinary action,
- A record of the action must be kept, and
- The action may, but does not have to, result in a sanction.

Note that a disciplinary action can be initiated in an informal as well as a formal manner. It can include an interview or an initial review of names submitted to an official.

Rules for Counting Referrals for Disciplinary Action for Weapons: Carrying, Possessing, Etc., Drug Abuse Violations; and Liquor Law Violations

- Count the number of persons who were referred for Weapons: Carrying, Possessing, Etc., the number referred for Drug Abuse Violations and the number referred for Liquor Law Violations.
- Do not count the number of persons who were referred for disciplinary action solely for violation of institutional policy. Only count the number of persons referred for violations of the law.
- If a person is referred for disciplinary action for multiple incidents in the same calendar year (e.g., one referral in February and one referral in March), count this as two referrals for disciplinary action. It is counted as two referrals even if both referrals are for the same type of violation (e.g., both were Drug Abuse Violations).
- If an individual is arrested for one type of law violation and referred for disciplinary action for a different type of law violation during a single incident (e.g., arrested for a Drug Abuse Violation and referred for a Liquor Law Violation), count only the arrest.

- If a person is referred for disciplinary action for multiple violations during a single incident (e.g., violations of drug and liquor laws), law enforcement or security officer discretion should be used to determine which violation to count. We recommend that you document justification for this determination. Officer discretion is allowed only for weapons, drug and liquor law violation referrals *resulting from a single incident.*

- If a person is issued a civil citation (e.g., not arrested) and is also referred for disciplinary action for the same violation, count only the disciplinary referral.

How to Classify the Law Violations

1. Weapons: Carrying, Possessing, Etc., is defined as *the violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices or other deadly weapons. This classification encompasses weapons offenses that are regulatory in nature.*

Classify as a Weapons: Carrying, Possessing, Etc., Violation:

- Manufacture, sale, or possession of deadly weapons.
- Carrying deadly weapons, concealed or openly.
- Using, manufacturing, etc., of silencers.
- Furnishing deadly weapons to minors.
- Aliens possessing deadly weapons.
- Attempts to commit any of the above.

This type of violation is not limited to "deadly" weapons; it also applies to weapons used in a deadly manner. For example, if there is a local or state law prohibiting the possession of brass knuckles, and an individual is arrested for possessing them on your Clery geography, the arrest should be included in your Clery statistics.

2. Drug Abuse Violations are defined as *the violation of laws prohibiting the production, distribution and/or use of*

certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing and making of narcotic drugs.

The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics—manufactured narcotics which can cause true addiction (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

Classify as a Drug Abuse Violation:

- All drugs, without exception, that are illegal under local or state law where your institution is located. This means that if you have campuses in different states, the laws may differ for each of them. For example, there are some states in which having a small amount of marijuana is no longer a crime. If a person is given a civil citation for possession under state law, there is no arrest statistic under Clery. However, if a person with marijuana in his or her possession is arrested for violation of the federal *Controlled Substances Act*, this is an arrest statistic for Clery purposes.

- All illegally obtained prescription drugs.

3. Liquor Law Violations are defined as *the violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages, not including driving under the influence and drunkenness.*

Classify as a Liquor Law Violation:

- The manufacture, sale, transporting, furnishing, possessing, etc., of intoxicating liquor.

- Maintaining unlawful drinking places.

- Bootlegging.

- Operating a still.

- Furnishing liquor to a minor or intemperate person.
- Underage possession.
- Using a vehicle for illegal transportation of liquor.
- Drinking on a train or public conveyance.
- Attempts to commit any of the above.

Do not classify as a Liquor Law Violation:

- Drunkenness.
- Driving under the influence.

We recommend that you review your state laws and local ordinances to determine all of the applicable weapons, drug and liquor law violations in your jurisdiction.

Examples of Arrests and Referrals

Scenario 1: In a campus residence hall room three underage students and a nonstudent are found drinking alcohol in violation of state law. The students are referred for disciplinary action, while the nonstudent is given a written citation. Classify this as three referrals for Liquor Law Violations in both the on-campus category and in the on-campus student housing facility category as well as one arrest for a Liquor Law Violation in the on-campus category and in the on-campus student housing facility category.

Scenario 2: A party at an off-campus, university-owned fraternity house is busted, and 30 students are both arrested and referred for disciplinary action for state liquor law violations by campus police. Classify this as 30 noncampus arrests for Liquor Law Violations.

Scenario 3: A 21-year-old student is referred for disciplinary action for possessing a beer at an on-campus fraternity house on a "dry" campus. Do not include a statistic for this incident, because no violation of the law occurred.

Scenario 4: A dozen students are cited for underage drinking by campus police at a popular off-campus bar. Do not include statistics for these violations, as they occurred on private property off campus.

Scenario 5: A student is referred for disciplinary action for smoking a marijuana cigarette in his on-campus dorm room. Because this is his first offense, he is issued a warning and no sanction is given. A record is kept of the action. Classify this as one on-campus referral and one on-campus student housing facility referral.

Examples of Arrests and Referrals (Continued)

Scenario 6: Two nonstudents are arrested during an on-campus football game for possession of cocaine. Classify this as two on-campus arrests for Drug Abuse Violations.

Scenario 7: A student is cited for having a firearm in his or her residence hall room in violation of state law. Classify this as one arrest for Weapons: Carrying, Possessing, Etc., in the on-campus category and one arrest for Weapons: Carrying, Possessing, Etc., in the on-campus student housing facility category.

Scenario 8: A faculty member is referred for disciplinary action for having a firearm in his or her office in violation of school policy. The state in which the campus is located does not have a law against possessing a firearm on campus. Do not disclose a statistic for this referral, because no violation of the law occurred.

Scenario 9: Police respond to an incident at a noncampus, institution-owned sorority house where there are underage students drinking at a party. The officers list all 10 of the students in their report, which is forwarded to the campus Judicial Affairs office. A Judicial Affairs official interviews the students and finds that two of them had not been drinking. Those students are not charged. Judicial Affairs continues the disciplinary process against the eight students who were drinking. Classify this as 10 noncampus referrals for disciplinary action.

Scenario 10: A resident assistant (RA) has the duty of loading disciplinary information into an electronic database. She enters the names of 15 students who were at an on-campus party where there was drinking. The RA's supervisor begins the disciplinary action process by reviewing the information in the database. She determines that five of those students were not involved in the drinking activities and did not violate any liquor laws. Nothing more is done in terms of disciplinary action for those five individuals. The disciplinary process continues for the remaining 10 individuals who were at the party. Classify this as 15 referrals for disciplinary action in the on-campus category.

Scenario 11: Two students are caught smoking marijuana before class in the stairwell they use to access their classroom in a noncampus building. The students are brought before a panel of their peers for a disciplinary hearing. The dean of students is present to monitor the proceedings. The panel of students determines that the two students broke the law and requires them to attend drug abuse counseling sessions at the school health clinic. A record of the disciplinary action is kept by the institution. Classify this as two Drug Abuse Violation referrals in the noncampus category.

Excluded Crimes

There are some crimes that you should not include in your institution's Clery statistical disclosures. They are:

- **Non-Clery crimes.** If you disclose statistics for non-Clery crimes, disclose them in a manner separate

from your Clery statistics. (More about how to present your statistics in Chapter 9.)

- **Unfounded crimes.** If a reported crime is investigated by law enforcement authorities and found to be false or baseless, the crime is "unfounded" and should not be included in your institution's statistics. **Only sworn or commissioned law enforcement personnel may "unfound" a crime.** (This does not include a district attorney who is sworn or commissioned.) Note that the recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with the prosecution or the failure to make an arrest does not "unfound" a legitimate offense. Also, the findings of a coroner, court, jury or prosecutor do not "unfound" offenses or attempts that law enforcement investigations establish to be legitimate.

  If you disclose a crime statistic and the crime is "unfounded" in a subsequent year, you should revise your statistics. Use a caveat to note that the change in a prior year's statistics reflects the "unfounding" of a crime.

- **Crimes not committed in geographic locations specified by the *Clery Act*.** For example, although forcible rape is a *Clery Act* crime, where it was committed is important in determining if the crime must be disclosed in the annual security report and the Web-based data collection. If a student reports being raped over spring break, the statistic for the rape must be disclosed if it occurred on campus, in or on a noncampus building or property or on public property as defined by *Clery Act* regulations. If the rape did not occur in one of these locations, do not include it in your Clery statistics.

A Final Reminder …

Statistics for all *Clery Act* crimes must be disclosed by the type of crime that was committed, the year in which the crime was reported and the geographic location where the crime occurred. If you are uncertain about how to classify a specific incident for Clery reporting, we encourage you to contact law enforcement for assistance.

Collecting Statistics:
Campus Security Authorities and Law Enforcement Agencies

CHAPTER 4

Now that you know what crimes to disclose and how geography fits into compliance with campus safety and security regulations, you need to know how to obtain crime statistics associated with that geography. This requirement involves collecting crime reports from individuals and organizations associated with your institution (i.e., campus security authorities or CSAs), and requesting crime statistics from local law enforcement agencies. We'll begin by discussing campus security authorities.

Although every institution wants its campus community to report criminal incidents to law enforcement, we know that this doesn't always happen. Even at institutions with a police department on campus, a student who is the victim of a crime may be more inclined to report it to someone other than the campus police. For example, a victim of a sexual offense may turn to a resident advisor for assistance, or a student whose car was stolen may report the theft to the school's director. For this reason, the *Clery Act* requires all institutions to collect crime reports from a variety of individuals and organizations that Clery considers to be "campus security authorities."

Under Clery, a crime is "reported" when it is brought to the attention of a campus security authority or local law enforcement personnel by a victim, witness, other third party or even the offender. It doesn't matter whether or not the individuals involved in the crime, or reporting the crime, are associated with the institution. If a campus security authority receives the crime information and believes it was provided in good faith, he or she should document it as a crime report. In "good faith" means there is a reasonable basis for believing that the information is not simply rumor or hearsay. That is, there is little or no reason to doubt the validity of the information.

What you must disclose, therefore, are statistics from reports of alleged criminal incidents. It is not necessary for the crime to have been investigated by the police or a campus security authority, nor must a finding of guilt or responsibility be made to disclose the statistic. If your institution is in doubt

It is not necessary for the crime to have been investigated by the police or a campus security authority, nor must a finding of guilt or responsibility be made to disclose the statistic.

as to whether a crime has been reported, rely on the judgment of law enforcement professionals.

How to Identify Your Institution's CSAs

Campus security authority definition citation
CFR 668.46(a)

"Campus security authority" is a Clery-specific term that encompasses four groups of individuals and organizations associated with an institution.

- *A campus police department or a campus security department of an institution.* If your institution has a campus police or security department, those individuals are campus security authorities. A security department can be as small as one person. (More about this in Chapter 5.)

- *Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department (e.g., an individual who is responsible for monitoring the entrance into institutional property).* Include individuals who provide security at a campus parking kiosk, monitor access into a campus facility, act as event security or escort students around campus after dark.

- *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*. As mentioned in Chapter 1, your institution must publish a number of safety- and security-related policy statements. (These are discussed in Chapters 7 and 8.) If you direct the campus community to report criminal incidents to anyone or any organization in addition to police or security-related personnel, that individual or organization is a campus security authority.

- *An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings.* An **official** is defined as *any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution.*

Because official responsibilities and job titles vary significantly on campuses, a list of specific titles is not provided in the regulations. To determine specifically which individuals or organizations are campus security authorities for your institution, consider the **function** of that individual or office. Look for officials (i.e., not support staff) whose functions involve relationships with students. **If someone has significant responsibility for student and campus activities, he or she is a campus security authority.** Note that whether or not your institution pays an individual is not a factor in determining whether that individual can be a CSA. Be sure to keep your CSA list current so that you do not omit any individual or organization that fits the definition of a CSA.

Be sure to keep your CSA list current so that you do not omit any individual or organization that fits the definition of a CSA.

Examples of individuals who meet the criteria for being campus security authorities include:

- A dean of students who oversees student housing, a student center or student extracurricular activities.
- A director of athletics, a team coach or a faculty advisor to a student group.
- A student resident advisor or assistant or a student who monitors access to dormitories.
- A coordinator of Greek affairs.
- A physician in a campus health center, a counselor in a campus counseling center or a victim advocate or sexual assault response team in a campus rape crisis center if they are identified by your school as someone to whom crimes should be reported or if they have significant responsibility for student and campus activities. However, if these individuals are not identified as people to whom crimes should be reported or do not have significant responsibility for student and campus activities, they would not be considered CSAs.

Examples of individuals who would not meet the criteria for being campus security authorities include:

- A faculty member who does not have any responsibility for student and campus activity beyond the classroom.
- Clerical or cafeteria staff.

The number of CSAs at your institution depends on the number of individuals or organizations involved in security or that have significant responsibility for student and campus activities, not on the size of your school. Even a small school can have a number of CSAs. For example, your school may have a director, a registrar and a faculty advisor who fit the CSA definition. On the other hand, perhaps only the director fits the definition. If your school does not have security personnel, but has one administrator who has all of the responsibility for student and campus activities at the school, that administrator is your only CSA.

Remember, too, that because personnel and job positions at an institution can change, someone who is a CSA one year might not be a CSA the following year or vice versa. For example, suppose that you have a computer science instructor who is teaching at the main campus. She isn't a CSA because she doesn't have any responsibility for student and campus activity beyond the classroom. The following year, this instructor is teaching computer science at one of your institution's **noncampus** locations. Because there aren't any security personnel on site, your institution's security policy identifies this instructor as the person to whom students should report crimes or other emergencies that occur there. This instructor is now a campus security authority.

What Does a Campus Security Authority Do?

The function of a campus security authority is to report to the official or office designated by the institution to collect crime report information, such as the campus police or security department, those allegations of *Clery Act* crimes that he or she concludes were made in good faith.

Examples of Collecting Crime Information

Scenario 1: A resident assistant who has been identified as a CSA is told by a fellow student that she has been raped and is seeking emotional and medical support. The resident assistant should document this information as a crime report. It should be reported regardless of whether the victim chooses to file a report with law enforcement or press charges.

Examples of Collecting Crime Information (Continued)

Scenario 2: A student mentions to her boyfriend that a number of rooms on her dorm floor were broken into during the previous night's football game. Later that day, her boyfriend tells the athletics director what he heard. The AD asks which dorm it was and what, if anything else, the boyfriend knows about the incident. The AD should document the information and forward it to the school's campus security department per the school's crime reporting policy.

Scenario 3: Ms. Jones, director of Student Housing at your school, gets a call from the director of a counseling center in town. The caller wants to let the director know that four students from the school sought assistance at the center and told the center's counselors that they had been sexually assaulted on campus and were seeking emotional support. They did not want police investigations. These are third party reports and Ms. Jones, having no reason to believe that they were not made in good faith, should document all of the information she was given and forward the reports to the person or office responsible for collecting Clery crime reports at her institution.

What Shouldn't a Campus Security Authority Do?

A campus security authority is not responsible for determining authoritatively whether a crime took place—that is the function of law enforcement personnel. A campus security authority should not try to apprehend the alleged perpetrator of the crime. That too is the responsibility of law enforcement. It's also not a CSA's responsibility to try and convince a victim to contact law enforcement if the victim chooses not to do so.

Exemption for Pastoral and Professional Counselors

There are two types of individuals who, although they have significant responsibility for student and campus activities, are not campus security authorities under Clery:

Campus security authority exemptions citation
34 CFR 668.46(a)

- **Pastoral counselor:** *A person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor.*

- **Professional counselor:** *A person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his or her*

license or certification. This definition applies even to professional counselors who are not employees of the institution, but are under contract to provide counseling at the institution.

The pastoral or professional counselor exemption is intended to ensure that these individuals can provide appropriate counseling services without an obligation to report crimes they may have learned about. This is similar to the privilege provided under certain circumstances to doctors, counselors and attorneys when they may learn of crimes from patients or clients. This exemption is intended to protect the counselor-client role. However, even the legally recognized privileges acknowledge some exemptions, and there may be situations in which counselors are in fact under a legal obligation to report a crime.

To be exempt from disclosing reported offenses, pastoral or professional counselors must be acting in the role of pastoral or professional counselors. An individual who is not yet licensed or certified as a counselor, but is acting in that role under the supervision of an individual who meets the definition of a pastoral or professional counselor, is considered to be one for the purposes of the *Clery Act*. An example is a Ph.D. counselor-trainee acting under the supervision of a professional counselor at the institution. However, a dean of students who has a professional counselor's license, but is employed by the institution only as a dean and not as a counselor, is not exempt from reporting. If that same dean is employed by the institution as *both* a professional counselor and an academic counselor, and she learns of a criminal incident while she is engaged in academic counseling, she is not exempt from reporting that incident. Note also, that if your institution has an individual with dual roles, one as a professional or pastoral counselor and the other as an official who qualifies as a CSA, *and the roles cannot be separated*, that individual is considered a campus security authority and is obligated to report Clery crimes of which they are aware.

An individual who is counseling students and/or employees, but who does not meet the Clery definition of a pastoral or professional counselor, is not exempt from being a campus security authority *if* they otherwise have significant responsibility for student and campus activities. This may include the director of the student health center or the director of a counseling or rape crisis clinic at your institution.

Recommendations

The *Clery Act* regulations do not address coordinating your crime reporting process or training your campus security authorities. However, because the role of CSAs is vital to compliance with the law, many schools have requested suggestions for doing so. The following section addresses those requests by providing **recommendations—not requirements—**which your school can adapt to meet its unique configuration and needs. As you read them, please keep in mind that the effort and coordination needed to comply with the requirement to collect crime reports varies significantly depending on several factors, such as the size of your school, the number of individuals or offices that meet the campus security authority definition, whether your school has law enforcement or security personnel and whether you provide student housing.

- **Designate an individual or office to coordinate and oversee your campus security authorities.**

This can be particularly helpful for schools with a large number of CSAs. Assign someone who is knowledgeable about the *Clery Act* to coordinate everything from identifying your institution's CSAs to making sure all crime reports are accounted for.

Rather than assuming that because a CSA hasn't forwarded a crime report to the appropriate individual or office, no crimes were reported to that CSA, a coordinator can be charged with canvassing each CSA to request crime reports from them. CSAs who don't have crimes to report can be asked to document this in writing. This could be as simple as writing a statement that reads, "From _____to _____ I was not aware of, and did not receive, any reports of criminal incidents, arrests or disciplinary actions for Clery crimes." Even if crime reports are submitted online, it's a good idea to ask CSAs to indicate if they have no crimes to report.

- **Make sure your campus security authorities know they're campus security authorities.**

To do this, we suggest that you update the job descriptions of individuals at your institution who fit the definition of a CSA. Make this designation an official part of their job description so that they know what's required of them.

You may also want to contact all CSAs annually in writing to remind them of this obligation. (See sample letter to campus security authorities in Appendix B-1.) Because of turnover, or a change in job descriptions, you may have to notify some individuals mid-year.

- **Provide training.**

CSAs have an important job to do and providing them with training will help to ensure that they do it properly. Training can be provided in a variety of ways ranging from sending materials in an e-mail to face-to-face meetings that include PowerPoint presentations and training manuals. Whatever form your training takes, Figure 6 provides some elements you might want to include.

- **Forward crime reports to your campus police or security department, if you have one.**

Encourage CSAs to immediately forward reports of crimes to your campus police or security department if you have one, or to an individual responsible for collecting the reports if you don't. This is because a CSA crime report may be the basis for determining if there is a serious or continuing threat to the safety of the campus community which would require an alert (i.e., a timely warning). (More about timely warnings in Chapter 6.) Also, if your institution has a campus police or security department and a crime is reported to a non-police/security CSA, the report should be forwarded to your campus police or security department so that it will be entered in your institution's daily crime log in a timely manner. (More about the crime log in Chapter 5.)

- **Keep documentation of all crime reports.**

Keep hard copy or electronic documentation for all CSA-reported crimes and make sure that more than one person knows where it's kept. If there is reason to believe that a crime report was not made in "good faith," and your institution does not disclose a statistic for the reported incident, we strongly suggest that you document the justification for not disclosing the statistic.

Figure 6. Suggested Training Elements for Campus Security Authorities

Describe the role of a CSA—The *Clery Act* is a federal law that requires the institution to identify individuals and organizations that meet the definition of a campus security authority. CSAs have an important role in complying with the law. Explain that CSA crime reports are used by the school to:

- Fulfill its responsibility to annually disclose Clery crime statistics, and
- To issue timely warnings for Clery crimes that pose a serious or continuing threat to the campus community.

If an individual reporting an incident needs assistance, a CSA should explain how to get help. Let a victim know that help is available even if he or she does not want an investigation conducted. The decision to act on this option is the victim's. In the midst of an emergency situation, such as a physical assault, however, a CSA should contact the campus police or call 911, as appropriate.

Provide reporting materials—Good recordkeeping can help minimize the chances of double reporting crimes. Suggested materials are:

- Descriptions, a map, or both, of the school's Clery geography.
- A list of Clery crimes and definitions.
- Hard copy or electronic Crime Report forms for documenting criminal incidents. (See sample forms in Appendices B-2 and B-3.)

Discuss the importance of documentation—Explain that if CSAs are unsure whether an incident is a Clery crime, or even if it's criminal in nature, they should report it.

- Stress the importance of providing as much information about a criminal incident as possible to aid law enforcement and to categorize the crime.
- Explain that CSA crime reports should include personally identifying information if available. This is important for law enforcement purposes and to avoid double counting crimes. The Clery statistical disclosures based on those reports, however, must be kept anonymous; no personally identifying information will be disclosed.
- If a victim doesn't want the report to go any further than the CSA, the CSA should explain that he or she is required to submit the report for statistical purposes, but it can be submitted without identifying the victim.

Emphasize the need for timely report submission—Explain that if a crime is reported to a CSA, but goes no further than that, the school won't have fulfilled its obligation under the law, and the campus community might not have the information they need to stay safe on campus. Instruct CSAs:

- How to submit their crime reports in a timely manner, and
- To whom reports should be submitted.

Requesting local police statistics citation
34 CFR 668.46(c)(9)

Requesting Statistics From Local Law Enforcement Agencies

In addition to collecting crime *reports* from campus security authorities, Clery requires that every institution make a "reasonable, good-faith effort" to obtain Clery crime *statistics* from local law enforcement agencies that have jurisdiction over the school's Clery geography. Local law enforcement agencies do not include your campus police or security department (if you have one). Those are campus security authorities. **Local law enforcement refers to outside law enforcement agencies or departments with jurisdiction over some or all of your Clery geography.** There may be several agencies involved, for example, city police, tribal police, the county or parish sheriff's office and state police. You don't need to request statistics from local agencies that only provide court security, administer the jail, transport prisoners or serve papers, etc.

You must ask for law enforcement statistics for Clery crimes that occurred on all of your institution's Clery geography: on campus, public property and noncampus, if you have any.

You must ask for law enforcement statistics for Clery crimes that occurred on **all of your institution's Clery geography**: on campus, public property and noncampus, if you have any. It doesn't matter what the institution's relationship is with local law enforcement, nor does it matter if you've requested Clery statistics from them and haven't gotten a response for the past several years; you are required to make the request annually. If your institution has multiple campuses, each campus must make this request. And remember, if your institution has an additional campus in a foreign country, that campus also has an obligation to make a good-faith effort to obtain statistics from local law enforcement authorities there.

Good-faith Effort

Clery doesn't require local law enforcement agencies to provide institutions with crime statistics. If you make a reasonable, good-faith effort to obtain the statistics, your institution is not responsible for the failure of the local or state police agency to supply them. The law states that an institution "may rely on the information supplied" by a local or state police agency. The phrase "may rely on" means that an institution is not required to verify the accuracy of the statistics that are provided. Remember, you are requesting crime statistics, not the actual law enforcement reports.

That said, you should be aware of **red flags** that alert you to the possibility that an agency misunderstood your request. In such a case, you should contact the agency for clarification. Red flags include:

You should be aware of red flags that alert you to the possibility that an agency misunderstood your request.

- Statistics for burglaries on public property: A burglary is the unlawful entry of a structure to commit a felony or a theft. A structure has four walls, a roof and a door. To be a burglary on public property, there must be an element of trespass into a public structure on public land within your campus or immediately bordering your campus. For most institutions, public property is the public sidewalk, street and opposite sidewalk bordering the campus. Some institutions may also have public parking facilities in their public property category. A burglary in this category is a rare event.

- Large numbers of crimes on public property: Public property is narrowly defined by the *Clery Act*. Large numbers may indicate statistics for private homes and businesses or for an entire police jurisdiction.

- Missing geography: The statistics you received are only for crimes that occurred on public property; however, you are certain that there were on-campus Clery crimes that were reported to the local police department. This indicates that the police did not understand that you wanted statistics for all of your Clery geography: on campus, public property and noncampus, if you have any.

- Statistics for non-forcible sex offenses: Under Clery, only incest and statutory rape are classified as non-forcible sex offenses. Because one doesn't expect many of these crimes on Clery geography, it's very likely that either the crimes were committed in locations other than your Clery geography, or that other crimes, such as voyeurism or indecent exposure, were mistakenly included.

How Do You Obtain Statistics From Local Law Enforcement?

Other than making "a good-faith effort," the *Clery Act* doesn't specify how to obtain the statistics. For those individuals who are not experienced in these matters, we offer the following suggestions:

- **Determine the correct law enforcement authorities and contact them.**

  You should request statistics from every law enforcement agency that has jurisdiction in your institution's Clery geographic areas. If you are unsure where to begin, call your local area information number (generally 411), and give your institution's address to the operator. He or she can give you the telephone number of the local police who respond to calls for your location. You can also find this information on the Internet by searching for "law enforcement" along with the zip code in which your institution is located.

  Call that agency, and ask to speak with a supervisor or public affairs office. They should be able to point you to the appropriate person. Ask that individual what other law enforcement agencies have concurrent jurisdiction in the area where your institution is located. Be sure to include state law enforcement agencies. Remember to provide addresses for noncampus buildings or property if your institution has any. If you have an out-of-state noncampus location, you need to ask for the local law enforcement agency number for that zip code as well. (A sample letter to a law enforcement agency is included in Appendix B-4.)

- **Contact local law enforcement early in the year.**

  Contact agencies at the start of the calendar year. Agencies, particularly those with extensive jurisdictions or those with a very small number of personnel, need time to collect the information you request. Providing them adequate advance notice may increase your chances of getting the requested statistics in a timely manner.

- **Document your good-faith effort to obtain the statistics.**

  After you know who or what department to contact at each agency, we suggest that you write a letter, on your institution's official letterhead, if possible, explaining the following:

What you need. Ask for statistics for all Clery crimes for:

- Your campus.
- On-campus student housing facilities, if you have any.
- Public property.
- Noncampus buildings or property, if you have any.

Provide a list of the applicable crimes and addresses for your buildings and property. Be very specific about what constitutes public property for *Clery Act* reporting purposes. For example, ask for "crime statistics for the sidewalk, street and opposite sidewalk between the 1200 and 1400 blocks on Elm Street," rather than "crime statistics for public property around the school." State that you cannot use statistics pertaining to private homes or businesses. If your institution uses a map to identify its Clery geography, include the map with your request.

Why you need it. State that the information is required by the federal *Clery Act* for disclosure in an annual security report and a Web-based data collection.

The format in which you need it provided—preferably in writing (either paper or electronic). Ask for statistics for crimes classified according to the *UCR*. If *UCR* classifications are not used, and can't be provided, ask what classifications are used (e.g., state crime classifications).

When you need it. Explain that you must disclose the statistics by Oct. 1 and suggest a reasonable deadline that will allow you some leeway. It may take considerable time and effort to review the statistics to prevent double counting the crimes reported by your institution's CSAs and the crime statistics reported by local law enforcement agencies.

Where it should be sent. Provide your institution's mailing or e-mail address.

To whom it should be sent. Provide the name and title of the person who is responsible for collecting these data for your institution.

Even if you make a phone call asking for this information, we suggest that you follow up with a letter or an e-mail for the purpose of documenting your good-faith effort. Also document any response, or lack of response, from each agency that you contact. If your deadline for disclosing the crime statistics is fast approaching and you haven't heard from an agency, contact them again and inquire about the status of your request.

What to Do if You Are Directed to a Website

In some jurisdictions, local law enforcement statistics are available on a public access website. In this case, the police may instruct you to visit the site to obtain the statistics. If you can separate the statistics for your school's Clery geography from the non-Clery statistics, and you can confirm that the website is up-to-date, this is an acceptable means of meeting the requirement. You are still however, required by law to make an initial request for statistics annually directly to the agency.

What to Do if an Agency Requests Payment for the Statistics

If an agency requests payment in return for providing your institution with statistics, you may pay the agency, but you are not required to do so.

What to Do if You Obtain Non-*UCR* Statistics

The *Clery Act* requires the use of the FBI's *Uniform Crime Reporting* definitions when disclosing crimes, but not all law enforcement agencies use these definitions. If you know that the statistics you obtained aren't classified according to *UCR* definitions, and you have campus police personnel familiar with *UCR* definitions, they might be able to reclassify the crimes. For example, if under the robbery classification you received statistics for "robbery of an apartment" or "safe robbery," the *UCR* equivalent would be "Burglary." (See "Burglary" in Chapter 3.) An incident classified by some agencies as "breaking and entering with intent to commit a larceny," is also classified as "Burglary" in the *UCR*. If you cannot reclassify the statistics, include them in your disclosures with an explanation that *UCR* classifications were not used for crimes reported to local law enforcement agencies.

What to Do if You Obtain Statistics That You Can't Attribute to Your Clery Geography

In some jurisdictions, local law enforcement agencies cannot provide a breakdown of statistics specific to *Clery Act* geographic areas. For example, the police may provide your institution with statistics for the entire jurisdiction or the entire city, or they may include statistics for private residences and businesses. If the statistics are all zeros, that isn't a problem. If not, we suggest that you request addresses for the statistics to help you determine if any statistics are for crimes that occurred on your Clery geography. If you can determine that some of the statistics are for your Clery geography, but you can't break them down as to on-campus or public property, disclose those statistics in an additional table or in a caveat explaining why they are separated from your other Clery statistics.

If you cannot determine whether any of the statistics are for your Clery geography, provide a caveat in your annual security report explaining that the statistics were requested but were not available in a usable format for Clery reporting. (More about how to disclose statistics in your annual security report and in the Web-based survey in Chapter 9.)

What to Do if Your Request for Statistics Is Denied

If any of the law enforcement agencies that you contact do not comply with your request to provide you with statistics, document both your request for the statistics and the response, or lack of response, from the agencies. If some of the agencies provide you with statistics and others don't, be sure to include the statistics you did receive in your statistical disclosures. Add an explanation to tell the reader that not all of the agencies responded to your request for statistics, or that not all of the agencies could provide the statistics as requested.

Remember, requesting Clery crime statistics from local law enforcement agencies is an institutional obligation. This means that if you assign someone the responsibility to request and review the statistics, and that person for whatever reason is unable to do so, your institution is still responsible for complying with the law. You must make this effort in time to include the statistics in your annual security report which must be published by Oct. 1. The same statistics must also be entered in the Web-based data collection in the fall.

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The Daily Crime Log:
Recording Crimes Reported To Campus Police or Security Personnel

CHAPTER 5

Does your institution have a campus police or security department? Any institution, regardless of whether it's public or private, that has a campus police or security department, **must** create, maintain and make available a daily crime log.

Daily crime log citation
34 CFR 668.46(f)

For Clery purposes, there are various arrangements that constitute a campus police or security department. For example, some institutions choose not to provide such services with institution staff, and instead contract with a private company to handle campus security. Others have agreements with municipal, county or state law enforcement agencies for security services. It doesn't matter if your security staff is paid by your institution or by a contractor, or if you have one security officer or a police department. Any of these arrangements put your institution in the category of "having a security department."

On the other hand, your institution is not considered to have a security department and, therefore, is not required to maintain a crime log if you only have:

- Local law enforcement personnel who patrol on or near your campus, but who do not have a written agreement or contract with your institution for these services.
- An individual or individuals with limited responsibility for campus security (e.g., someone monitoring access to a campus building by checking student IDs) but who do not constitute a police or security department.
- Security personnel employed or contracted by a landlord from whom your institution rents classroom space.

Note that the determination of whether or not your institution's security personnel constitute a campus police or security department should be consistent with the campus security policy statement you disclose in your annual security report (more about this in Chapter 7).

Purpose of the Daily Crime Log

The purpose of the daily crime log is to record criminal incidents, and alleged criminal incidents, that are reported to the campus police or security department.

The purpose of the daily crime log is to record **criminal incidents** and **alleged criminal incidents** that are reported to the campus police or security department. For example, if a student tells your security office that he lost his wallet in the parking lot behind a dorm, it is not a criminal incident, and you aren't required to record it in the log. However, if a student tells your security office that his wallet was stolen from his dorm room, this is an alleged criminal incident which must be recorded in the log.

Some traffic violations are criminal in nature, and if reported, must be recorded. They are driving under the influence (DUI), driving while intoxicated (DWI), hit-and-run (of a person) and vehicular manslaughter. However, you are not required to record violations that aren't considered "crimes" (i.e., citations for moving violations).

What to Do if Your Institution Already Maintains a State Crime Log

Many institutions are also required by state law to maintain a log. If your institution maintains such a log, you may use it for your daily crime log as well, providing it meets all *Clery Act* requirements. However, if the state crime log requires the victims' names to be listed, for Clery purposes those names must be redacted for public inspection. The federal *Clery Act* regulations state that a disclosure may not jeopardize the confidentiality of the victim. This takes precedence over state crime log laws.

Combining the Daily Crime Log and the Fire Log

If your institution has any on-campus student housing facilities, you are required to maintain a fire log. You may, but are not required to, use one log to meet the crime log and the fire log requirements if you label the log accordingly. To learn

what information must be contained in the fire log, please see Chapter 12.

How the Crime Log Differs From Other Campus Safety and Security Disclosures

The crime log differs from other disclosure requirements in some important ways:

- Crime log entries include *all* crimes reported to the campus police or security department for the required geographic locations, not just *Clery Act* crimes.
- The crime log discloses specific information about criminal incidents, not crime statistics.
- The log is designed to disclose crime information on a timelier basis than the annual statistical disclosures. A crime is entered into the log as soon as it is reported to the campus police or security department. This includes crimes that are reported directly to the campus police or security department, as well as crimes that are initially reported to another campus security authority or to a local law enforcement agency who subsequently reports them to the campus police or security department.
- The *UCR* hierarchy rule does not apply to the crime log. If multiple criminal offenses are committed during a single incident, all of the offenses must be recorded in the log.
- The log has a more specific location focus than the statistical disclosures. For example, the location might be recorded as "on the second floor of the administration building" rather than "on campus."
- There is an **additional geographic location that applies exclusively to the crime log**. In addition to recording reported crimes that occurred on campus, in or on noncampus buildings or property or on public property within the campus or immediately adjacent to and accessible from the campus, reports of **crimes that occurred within the patrol jurisdiction of the campus police or security department** are also entered into the crime log.

Crime log entries include *all* crimes reported to the campus police or security department for the required geographic locations, not just *Clery Act* crimes.

A patrol jurisdiction is any property that does not meet any of the Clery geographic area definitions, but which is regularly provided with police or security patrol services by the campus agency.

A patrol jurisdiction is any property that does not meet any of the Clery geographic area definitions, but which is regularly provided with police or security patrol services by the campus agency. These services are typically pursuant to a formal agreement with the local police jurisdiction, a local civic association or other duly constituted public entity. Your institution should be able to verify the patrol jurisdiction. For example, you may have a map of the patrol jurisdiction, a standard operating procedure (SOP) or a general order (GO) that addresses the patrol jurisdiction.

Creating Your Log

As with all aspects of *Clery Act* compliance, documentation is vital. Begin by clearly identifying your log as a Daily Crime Log. One method of formatting a crime log is shown in the following example.

Figure 7. Sample Daily Crime Log With Required Elements

Daily Crime Log
Calendar Year 2010

Nature (classification)	Case Number	Date/Time Reported	Date/Time Occurred	General Location	Disposition
Larceny	2010-0003	01/20/10 1505hrs	01/10/10 0800hrs	Admin. Building	Closed 05/24/10
Vandalism	2010-00010	01/27/10 1231hrs	01/17 - 01/22/10	Jacobson Hall	Closed 05/24/10
Vandalism	2010-00035	04/12/10 1937hrs	04/12/10 1930hrs	Lester Hall	Open
Liquor Law Violation	2010-0040	04/23/10 0300hrs	04/23/10 0300hrs	South Parking Lot	Judicial Referral

Required Crime Log Elements

The sample log above is meant to be illustrative, not prescriptive. The law requires you to have a written log that can be easily understood. It also mandates specific categories of information that you must include. If you omit a category, your institution is not in compliance with the crime log requirement. The daily crime log is not intended to be a general, catch-all incident log. You may include other data elements or columns in your crime log in keeping with internal campus security record-keeping procedures, but such additional information is not required by the *Clery Act*. For example, the sample log includes a column for case numbers, which aids in recording and tracking a crime report.

The Date the Crime Was Reported

Enter a crime into the log by the date it was reported to the campus police or security department. A reported crime must be logged *regardless of how much time has passed* since it occurred.

The Date and Time the Crime Occurred

Enter the date and the time that the crime occurred. If the exact date and time are not known, use a range or indicate that it is unknown. You may use either military time as shown in the sample log, or standard time.

The Nature of the Crime

Enter a description of the reported criminal incident. This can be a brief description such as "simple assault," or a more detailed description such as "simple assault— non-student victim involved in domestic encounter with student offender." Use an easy-to-understand text definition as opposed to using a code, "agency assist" or initials for the crime. You can use state crime classifications (i.e., non-*UCR* classifications) for the crime log.

The General Location of the Crime

Record any crime that occurs on your Clery geography: on campus, in or on noncampus buildings or property, on public property or within the patrol jurisdiction of your campus police or security department. Enter the general location of the crime using a description that will mean something to the campus community, such as North Campus Hall rather than "in a dormitory." However, do not use a location that will lead to the identification of the victim such as Room 407, North Campus Hall. You may also use landmarks in describing a location.

The Disposition of the Complaint, if Known

Include the current status of each complaint in the log, if known; for example, "pending," "judicial referral" or "criminal arrest." Do not delete an entry once it's been made; update the disposition instead.

Again, anyone reading a log entry should be able to readily understand the information provided.

Maintaining Your Log

An entry, an addition to an entry or a change in the disposition of a complaint, must be recorded within two business days of the reporting of the information to the campus police or the campus security department.

An entry, an addition to an entry or a change in the disposition of a complaint, must be recorded within **two business days** of the reporting of the information to the campus police or the campus security department. For example, if the disposition of a crime is "pending" and you later receive word that an arrest has been made, you have two business days to update the disposition on the original entry to reflect the arrest. A business day is Monday through Friday, except for days when the institution is closed. The only exceptions to this rule are:

- If the disclosure is prohibited by law; or
- If the disclosure would jeopardize the confidentiality of the victim.

We suggest that you have more than one person responsible for making entries in your log in case of personnel changes or work absences. Note that your institution is no longer required to update the disposition of a crime log entry if the disposition changes after 60 days have passed. This means 60 days after the entry was made in the log—not 60 days after the crime occurred. You may temporarily withhold information *only if* there is clear and convincing evidence that the release of information would:

- Jeopardize an ongoing investigation;
- Jeopardize the safety of an individual;
- Cause a suspect to flee or evade detection; or
- Result in the destruction of evidence.

Your institution may withhold only that information that could cause an adverse effect, and you must disclose such information once the adverse effect is no longer likely to occur. This means that if it is determined that information you would normally include in the crime log would cause a harmful effect, you may withhold that information temporarily until the information is no longer likely to prove harmful. The individual making the judgment to withhold information should document the reason for doing so. If your institution

does not have a campus police department we suggest that you consult with local law enforcement with regard to withholding crime log information.

If a reported crime is investigated by law enforcement personnel, and they determine that a crime did not occur, the log should indicate that the disposition of the crime is "unfounded." Only sworn or commissioned law enforcement authorities that investigate the crime can make this determination. A campus security authority who is not a sworn or commissioned law enforcement authority cannot unfound a crime. (See Chapter 3, under "Excluded Crimes," for a more detailed discussion of unfounded crimes.)

If your institution does not have a campus police department we suggest that you consult with local law enforcement with regard to withholding crime log information.

Making Your Log Available

Your log must be accessible on-site. This means if you have an additional campus with a campus police or security department, a separate log must be available at, or accessible from, that campus as well.

- **Format:** Your log may be either hard copy or electronic. If your institution has an electronic log and there are technical problems that make it unusable, use a hard copy log as a temporary replacement until the problems are resolved.

- **Publicize Availability:** Let students and employees know that the log is available, what it contains and where it is. You may post a notice on your website, in your security office, in your student and employee handbooks or anywhere else it's likely to be seen.

- **Accessibility:** The crime log for the most recent 60-day period must be open to public inspection, upon request, during normal business hours. You cannot require a written request. Anyone may have access to the log, whether or not they are associated with your institution. This includes the media. Make any portion of the log that is older than 60 days available within two business days of a request for public inspection.

Entries in the crime log should be used, along with additional information, to gather the statistics that are required for inclusion in the annual security report and the annual Web-based data collection. Use only *Clery* crimes that occur in the

geographic locations described in Chapter 2 of the handbook for this purpose. Archived logs should be kept for seven years in a location where they can be accessed if necessary. You may be required to produce logs during an ED program review. (See "Retaining Records" in Chapter 9 for more information regarding records retention.)

Emergency Notification And Timely Warnings:
Alerting Your Campus Community

Chapter 6

HEA has specific requirements intended to help you keep your students and employees informed about threats to their safety and health in a manner that allows them to protect themselves. This chapter discusses two different types of alerts and when and why you are required to issue them. The first part of the chapter provides a breakdown of the emergency response and evacuation procedures requirement. The second part discusses the timely warning requirement. The third part describes the differences between emergency notification and the timely warning and provides sample scenarios to help you understand when it's appropriate to use one or the other.

Emergency Response and Evacuation Procedures

Disclosure of emergency response and evacuation procedures citation
34 CFR 668.46(b)(13)

The *Clery Act* requires every Title IV institution, without exception, to have and disclose emergency response and evacuation procedures in response to a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus. (See "How to Identify Your On-campus Geography" in Chapter 2 for a definition of "on campus.") This requirement does not apply to emergency situations in or on noncampus buildings or property. If, however, your institution has emergency response and evacuation procedures for noncampus buildings or properties as well, make certain that your disclosures are very clear regarding which Clery geographic area specific procedures address.

The emergency response and evacuation regulations are intended to ensure that your institution has sufficiently prepared for an emergency situation on campus, that you are testing these procedures to identify and improve weaknesses and that you have considered how you will inform the campus community and other individuals, such as parents and guardians. In other words, you must **have an emergency plan, test it, evaluate it and publicize it**.

Clery requires you to disclose a statement of policy regarding your procedures in your annual security report along with your other security-related policy statements. (See Chapter 9 for a discussion on publishing and distributing the annual security report.) In disclosing your procedures be sure to address the who, what, when and how elements. For example, who makes decisions and initiates procedures, what is the procedure for reporting an emergency, when is information released, how is information provided, etc.? There is no prescribed manner in which to present the information as long as it's accurate, complete and understandable. You can use lists, flow charts, maps or other means to describe what you do in emergency situations. The important thing is that you **say what you do and do what you say**.

When is an emergency response necessary?

Under Clery, your institution is required to immediately notify the campus community upon 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. An **"immediate" threat** as used here encompasses an imminent or impending threat, such as an approaching forest fire, as well as a fire currently raging in one of your buildings.

Some other examples of significant emergencies or dangerous situations are:

- Outbreak of meningitis, norovirus or other serious illness.
- Approaching tornado, hurricane or other extreme weather conditions.
- Earthquake.
- Gas leak.
- Terrorist incident.
- Armed intruder.
- Bomb threat.
- Civil unrest or rioting.
- Explosion.

- Nearby chemical or hazardous waste spill.

Examples of situations that would not necessitate an emergency response under Clery:

- Power outage.
- Snow closure.
- String of larcenies.

These are situations for which your institution might choose to alert the campus community; however, they do not meet the threshold of a significant emergency or dangerous situation for the purposes of this regulation. (If your institution has a policy that requires issuing an emergency alert for similar events, however, you must follow that policy.)

Your emergency response and evacuation procedures statement must include:

Requirements for emergency response and evacuation procedures statement citation
34 CFR 668.46(g)

1. **The procedures the institution will use 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.**

What does this mean?

Inherent in this requirement is a statement that your institution *will* immediately notify the campus community upon confirmation of an emergency or dangerous situation. **Confirmation** means that an institution official (or officials) has verified that a legitimate emergency or dangerous situation exists. Confirmation doesn't necessarily mean that all of the pertinent details are known or even available.

Provide a description of the procedures your institution will use in a significant emergency or a dangerous situation. You aren't required to publish in great detail how your institution would respond to specific emergencies (i.e., do not compromise safety). For example, you can say that you will "secure the residence halls" without saying how you will do this, or you can say that "students and employees will be directed to a safe location," without naming the location.

Include all of your procedures and describe them in a manner that lets the campus community and others know what

you will do and who or what office or organization will be responsible for each step along the way. Be sure to provide information about how to report an emergency.

The regulations don't require your institution to use a particular mode of communication. For example, in the case of a gas leak, your institution may determine that the most effective mode of communication is a fire alarm, whereas in other situations, it might be best to use a text message system. We do encourage you to consider overlapping means of communication in case one method fails or malfunctions. Make a complete disclosure of whatever methods will be used (or will potentially be used depending on the situation): a public address system, text messaging, e-mail messaging, electronic signboards, emergency phone lines, phone trees, bulletins posted on building entrances and exits, etc. If any of the emergency notification services require the campus community to sign up, include information on how to do this.

Figure 8. Example of Emergency Notification via Text Message

Note that you must describe your procedures for **both response and evacuation** in emergency or dangerous situations. If you don't have a campus police or security department, or personnel trained in emergency management, we suggest that you consult with local law enforcement or

emergency management personnel regarding how to appropriately design procedures for your institution.

Figure 9. Sample Announcement for Student E-Mail Sign-up for Emergency Notification

In the event of an actual emergency the campus community will be notified through phone mail, e-mail, and the McDaniel College Web site. Students should take responsibility for regularly checking their e-mail. In order to receive campus-wide e-mail announcements, students must have a College e-mail account, which may be obtained from the Office of Information services in the middle level of Decker Center. Instructions for automatic forwarding of e-mail messages from a College account to another account are available from Information Services or on the College Web site.

2. A description of the process the institution will use to—

a. Confirm that there is a significant emergency or dangerous situation as described in no. 1 above. (See page 99 for no. 1.)

What does this mean?

This part of your statement describes how your institution will confirm that there is an emergency or dangerous situation. Saying, for example, that "the school will size up the situation to determine whether there's an emergency" is not adequate. You have to describe the *process* your school will use. For example, is the director of your school solely responsible for confirming an emergency, or are there multi-layers of information gathering? If there are multiple people or offices involved, what is the relationship? Do you rely on outside resources for certain types of emergencies or for all emergencies? How is this process coordinated?

b. Determine the appropriate segment or segments of the campus community to receive a notification.

What does this mean?

You have the flexibility to alert only the segment of the population that you determine to be at risk. For example, in the case of a gas leak, you may choose to only notify individuals in the building that has the leak, whereas, for a meningitis outbreak, you may choose to notify the entire campus community.

Describe **how** you will make the decision to notify or not notify specific segments of the campus community. For example, you may state that the entire campus community will be notified when there is at least the potential that a very large segment of the community will be affected by a situation, or when a situation threatens the operation of the campus as a whole. You may also indicate that there will be a continuing assessment of the situation and that additional segments of the campus community may be notified if a situation warrants such action.

c. Determine the content of the notification.

What does this mean?

Describe **how** your institution will determine what information will be contained in a notification. For example, you might state that your campus police department will determine how much information is appropriate to disseminate at different points in time. Depending on what segments of the community your notification targets, the content may differ. In the case of an approaching tornado, you may want to tell dorm residents to take shelter in the basement but you may want to tell commuter students to stay away from the campus.

d. Initiate the notification system.

What does this mean?

Describe **how** your institution initiates notifying the campus community that there's an emergency or dangerous situation. For example, does your institution have first responders who are alerted before anyone else? Will you use fire alarms or public address systems to alert the campus community and follow up with text messages and posted bulletins as more specific information becomes available? Who is responsible for initiating the system?

3. A statement that the institution 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.

What does this mean?

This statement is mandatory. You must tell the campus community that as soon as your institution has confirmed that a significant emergency or dangerous situation exists, you will:

- Take into account the safety of the campus community,
- Determine what information to release about the situation, and
- Begin the notification process.

You also must state that the only reason your institution would not immediately issue a notification for a confirmed emergency or dangerous situation is if doing so will compromise efforts to:

- Assist a victim,
- Contain the emergency,
- Respond to the emergency, or
- Otherwise mitigate the emergency. An example of not compromising efforts to mitigate the emergency might be agreeing to a request of local law enforcement or fire department officials.

The law doesn't specify who may or may not be a "responsible authority" except to qualify that they use "professional judgment." Your institution is responsible for identifying these authorities.

4. **A list of the titles of the person or persons or organization or organizations responsible for carrying out the actions described in nos. 2(a) through 2(d) above.** (See pages 101–102 for 2(a) through 2(d).

What does this mean?

Provide a list of individuals (by title or position) or organizations (by name) responsible for carrying out the procedures you describe. If different people or organizations will be responsible for different procedures or for responding to different types of emergency or dangerous situations, make this clear. For example, you might indicate that the Rockville

Public Health Department will be asked to confirm a serious virus outbreak. A campus located in a strip mall might call upon the Rockville Mall Security Office to confirm a significant emergency situation. When designating individuals and organizations for your plan, avoid potential conflicts of responsibilities. For example, if the individual responsible for issuing an emergency notification is also responsible for containing the emergency, efforts to mitigate the emergency may be compromised.

5. The institution's procedures for disseminating emergency information to the larger community.

What does this mean?

This part of your statement addresses **how** your institution disseminates emergency information to individuals and/or organizations outside of the campus community. You can use different methods to target different segments of the community. For example you might want to send cell phone alerts to parents and guardians, and use radio and/or TV alerts for the neighboring community. If the procedures differ depending on the situation, explain this. Include information about who or what office is responsible for developing the information to be disclosed, and who or what office is responsible for disseminating the information to the larger community.

Figure 10. Sample Emergency Response and Evacuation Procedures Statement

Emergency Response
The University's Incident Manual includes information about Incident Teams, University operating status parameters; incident priorities and performance expectations; shelter-in-place and evacuation guidelines; and local contingency and continuity planning requirements. University Departments are responsible for developing contingency plans and continuity of operations plans for their staff and areas of responsibility. The University conducts numerous emergency response exercises each year, such as table top exercises, field exercises, and tests of the emergency notification systems on campus. These tests are designed to assess and evaluate the emergency plans and capabilities of the institution.

GW Police officers and supervisors have received training in Incident Command and Responding to Critical Incidents on Campus. When a serious incident occurs that causes an immediate threat to the campus, the first responders to the scene are usually the GWPD, MPD and the D.C. Fire and Emergency Medical Services (DCFEMS) Department, and they typically respond and work together to manage the incident. Depending on the nature of the incident, other GW departments and other local or federal agencies could also be involved in responding to the incident.

Figure 10. Sample Emergency Response and Evacuation Procedures Statement (Continued)

General information about the emergency response and evacuation procedures for GW are publicized each year as part of the institution's Clery Act compliance efforts and that information is available on the GWPD web site. Detailed information about and updates to the GW Incident Manual, and Departmental Contingency and Continuity Plans are available on the Campus Advisories web site at http://www.CampusAdvisories.gwu.edu**.**

All members of the GW Community are notified on an annual basis that they are required to notify the GW Police Department (GWPD) of any situation or incident on campus that involves a significant emergency or dangerous situation that may involve an immediate or ongoing threat to the health and safety of students and/or employees on campus. GWPD has the responsibility of responding to, and summoning the necessary resources, to mitigate, investigate, and document any situation that may cause a significant emergency or dangerous situation. In addition, the GW Police Department has a responsibility to respond to such incidents to determine if the situation does in fact, pose a threat to the community. If that is the case, Federal Law requires that the institution immediately notify the campus community or the appropriate segments of the community that may be affected by the situation.

Notification to the GW Community about an Immediate Threat

The Office of Public Safety and Emergency Management (OPSEM) and the External Relations Office receive information from various offices/departments on campus, such as the GW Police Department, the Office of Environmental Health and Safety (EHS), and Radiation Safety, etc. If GWPD or OPSEM confirms that there is an emergency or dangerous situation that poses an immediate threat to the health or safety of some or all members of the GW Community, OPSEM and External Relations will collaborate to determine the content of the message and will use some or all of the systems described below to communicate the threat to the GW Community or to the appropriate segment of the community, if the threat is limited to a particular building or segment of the population. OPSEM and External Relations 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 judgment of the first responders (including, but not limited to: GWPD, MPD, and/or the DC Fire and Emergency Medical Services), compromise the efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

In the event of a serious incident that poses an immediate threat to members of the GW community, the University has various systems in place for communicating information quickly. Some or all of these methods of communication may be activated in the event of an immediate threat to the GW campus community. These methods of communication include network emails, emergency text messages that can be sent to a phone or PDA (individuals can sign up for this service on the Campus Advisories web site), and emergency messages that scroll across computer screens when logged into the University system. The University will post updates during a critical incident on the GW Campus Advisories web site at http://www.CampusAdvisories.gwu.edu. Individuals can call GW's recorded information telephone line at (XXX) XXX-XXXX for updates.

Figure 10. Sample Emergency Response and Evacuation Procedures Statement (Continued)

GWPD 4-RIDE vans are equipped with Public Address Systems and these vans can be strategically placed throughout the campus to facilitate communication through the PA System. Members of the larger community who are interested in receiving information about emergencies on campus should sign up for the emergency text message system and should use the Campus Advisories website and the XXX-XXXX line for obtaining updates in the event of an emergency on campus.

6. The institution's procedures to test the emergency response and evacuation procedures on at least an annual basis, including—

a. Tests that may be announced or unannounced.

What does this mean?

The Clery regulations define a **test** as *regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities.* You must conduct at least one test a year and you can choose to announce it or not announce it. To comply with the Clery requirement the test must meet all of the criteria in the definition. It must:

- Be scheduled. You cannot say that an actual emergency situation or a false emergency alarm served as a test of your institution's procedures.
- Contain drills. A drill is an activity that tests a single procedural operation (e.g., a test of initiating a cell phone alert system or a test of campus security personnel conducting a campus lockdown).
- Contain exercises. An exercise is a test involving coordination of efforts (e.g., a test of the coordination of first responders, including police, firefighters and emergency medical technicians).
- Contain follow-through activities. A follow-through activity is an activity designed to review the test (e.g., a survey or interview to obtain feedback from participants).
- Be designed for assessment of emergency plans and capabilities. This means that your test should have measureable goals. For example, "Everyone involved

in the emergency response and notification procedures will understand his or her role and responsibility."

- Be designed for evaluation of emergency plans and capabilities. Design the test so that, using the assessments, you can judge whether or not the test met its goals. For example, "The evacuation process accounted for/did not account for the diverse needs of all members of the campus community."

You have **flexibility** in designing tests. For example, you may conduct a tabletop exercise (i.e., a simulated scenario) or conduct a live test. Whichever method you use, your test must **address** emergency response and evacuation on a campuswide scale. "Campuswide" scale means that tests must address your plan for evacuating all of your campus buildings. This does not mean that your plan must involve evacuating the entire campus at once. Just have a plan for each building. We recognize that a shelter-in-place contingency might be the best procedure to use in certain circumstances when evacuation is not a reasonable option.

b. Publicizing its emergency response and evacuation procedures in conjunction with at least one test per calendar year.

What does this mean?

This part of your statement addresses **how** your institution "gets the word out" about its emergency procedures. Time the publication to coincide with one test every calendar year. You may conduct more tests and you may publicize your procedures along with other tests, but you aren't required to do so. Use a method that will attract attention to the information you're disseminating; don't make people search for it. Sending a "blast" e-mail or text message containing a link to your institution's procedures would suffice; however, simply posting a notice on your school's website would not. Determine the appropriate means of reaching different target audiences. You may use a combination of methods. For example, you might want to include parents and guardians on a blast e-mail, but issue a press release to the local media. Another method might be informing parents and guardians that they can sign up for e-mail alerts. The alert can direct them to a website or radio station for details.

c. Documenting, for each test, a description of the exercise, the date, time and whether it was announced or unannounced.

What does this mean?

This part of your statement describes how your institution will document each test. (Although the law requires only one test each year, if you have multiple tests in a year, you're required to document each one.) Be sure to address each component:

- A description of the exercise (i.e., the test).
- The date the test was held.
- The time the test started and ended.
- Whether the test was announced or unannounced.

As with all other Clery-related documentation, your institution is required to keep emergency test documentation for seven years.

Figure 11. Sample Procedures for Testing Emergency Response and Evacuation Procedures

An evacuation drill is coordinated by GWPD each semester for all residential facilities on both the Foggy Bottom and Mount Vernon campuses. A second drill is coordinated each semester for some first year Residence Halls and the more densely populated halls. Thus, the emergency response and evacuation procedures are tested at least twice each year and, for some of the buildings, four times a year. Students learn the locations of the emergency exits in the buildings and are provided guidance about the direction they should travel when exiting each facility for a short-term building evacuation. GWPD does not tell residents in advance about the designated locations for long-term evacuations because those decisions are affected by time of day, location of the building being evacuated, the availability of the various designated emergency gathering locations on campus, and other factors such as the location and nature of the threat. In both cases, GWPD and Housing Programs staff on the scene will communicate information to students regarding the developing situation or any evacuation status changes.

Figure 11. Sample Procedures for Testing Emergency Response and Evacuation Procedures (Continued)

The purpose of evacuation drills is to prepare building occupants for an organized evacuation in case of an emergency. At GW, evacuation drills are used as a way to educate and train occupants on issues specific to their building. During the drill, occupants 'practice' drill procedures and familiarize themselves with the location of exits and the sound of the fire alarm. Palm cards with educational information are distributed to residents re-entering a facility immediately after an evacuation drill. In addition to educating the occupants of each building about the evacuation procedures during the drills, the process also provides the University an opportunity to test the operation of fire alarm system components.

Evacuation drills are monitored by the GWPD, EHS, and the Housing Programs Department to evaluate egress and behavioral patterns. Reports are prepared by participating departments which identify deficient equipment so that repairs can be made immediately. Recommendations for improvements are also submitted to the appropriate departments/offices for consideration.

Students receive information about evacuation and shelter-in-place procedures during their first floor meetings and during other educational sessions that they can participate in throughout the year. The House Staff members are trained in these procedures as well and act as an on-going resource for the students living in residential facilities.

OPSEM conducts numerous announced and unannounced drills and exercises each year and conducts follow-through activities designed for assessment and evaluation of emergency plans and capabilities. GWPD coordinates announced and unannounced evacuation drills each semester, as described above, to test the emergency response and evacuation procedures, and to assess and evaluate the emergency evacuation plans and capabilities. GW will publish a summary of its emergency response and evacuation procedures in conjunction with at least one drill or exercise each calendar year.

Shelter-in-Place Procedures—What it Means to "Shelter-in-Place"
If an incident occurs and the buildings or areas around you become unstable, or if the air outdoors becomes dangerous due to toxic or irritating substances, it is usually safer to stay indoors, because leaving the area may expose you to that danger. Thus, to "shelter-in-place" means to make a shelter of the building that you are in, and with a few adjustments this location can be made even safer and more comfortable until it is safe to go outside.

Figure 11. Sample Procedures for Testing Emergency Response and Evacuation Procedures (Continued)

Basic "Shelter-in-Place" Guidance

If an incident occurs and the building you are in is not damaged, stay inside-seeking an interior room-until you are told it is safe to come out. If your building is damaged, take your personal belongings (purse, wallet, GWorld card, etc.) and follow the evacuation procedures for your building (close your door, proceed to the nearest exit, and use the stairs instead of the elevators). Once you have evacuated, seek shelter at the nearest University building quickly. If police or fire department personnel are on the scene, follow their directions.

How You Will Know to "Shelter-in-Place"

A shelter-in-place notification may come from several sources, including the GWPD, Housing Staff members, other University employees, the federal or DC government, MPD, or other authorities utilizing the University's emergency communications tools.

How to "Shelter-in-Place"

No matter where you are, the basic steps of shelter-in-place will generally remain the same. Should the need ever arise, follow these steps, unless instructed otherwise by local emergency personnel:

1. If you are inside, stay where you are. Collect any emergency shelter-in-place supplies and a telephone to be used in case of emergency. If you are outdoors, proceed into the closest building quickly or follow instructions from emergency personnel on the scene.
2. Locate a room to shelter inside. It should be:
    -An interior room;
    -Above ground level; and
    -Without windows or with the least number of windows. If there is a large group of people inside a particular building, several rooms maybe necessary
3. Shut and lock all windows (tighter seal) and close exterior doors.
4. Turn off air conditioners, heaters, and fans.
5. Close vents to ventilation systems as you are able. (University staff will turn off ventilation as quickly as possible.)
6. Make a list of the people with you and ask someone (House Staff, faculty, or other staff) to call the list in to GWPD so they know where you are sheltering. If only students are present, one of the students should call in the list.
7. Turn on a radio or TV and listen for further instructions.
8. Make yourself comfortable.

The Timely Warning

All of us want to be alerted promptly to potentially dangerous criminal situations near our homes or workplaces so that we have both the time and the information necessary to take appropriate precautions. Apply this to your institution, and you have the concept of the "timely warning." The *Clery Act* requires you to alert the campus community to certain crimes in a manner that is **timely and will aid in the prevention of similar crimes**. Although Clery doesn't define "timely," because **the intent of a warning regarding a criminal incident(s) is to enable people to protect themselves** this means that **a warning should be issued as soon as the pertinent information is available.** This is critical; it's expected that even if you don't have all of the facts surrounding a criminal incident or incidents, you will issue a warning. You can then follow up with additional information as it becomes available.

A warning should be issued as soon as the pertinent information is available.

Timely Warning Policy

All Title IV institutions, without exception, are subject to the timely warning regulation. You are required to disclose a policy statement in your annual security report that accurately reflects the timely warning procedures currently utilized by your institution. (See policy statement 1a in Chapter 7 for more information about this policy statement.)

Timely warning citation
34 CFR 668.46(e)

Crimes Subject to a Timely Warning

You must issue a timely warning for any *Clery Act* crime (remember Chapter 3?) that occurs on your Clery geography that is:

- Reported to campus security authorities or local police agencies; and
- Is considered by the institution to represent a serious or continuing threat to students and employees.

Timely warnings are not limited to violent crimes or crimes against persons so you should not have a timely warning policy that contains this restriction. Timely warnings can be issued for threats to persons or to property. For example, it's possible to have a rash of dormitory burglaries or motor vehicle thefts that merit a warning because they present a continuing threat to your campus community. A number of

incidents involving the possession of "date rape" drugs may also trigger the need for a warning.

Although your timely warning policy should not be limited to certain types of Clery crimes, it may include non-Clery crimes. That is, although the *Clery Act* mandates timely warnings only for Clery crimes, nothing in the law prohibits timely warnings for other crimes that may pose a serious or continuing threat to the campus community (e.g., a kidnapping on campus or a rash of robberies in a public parking lot across the street from the shopping plaza where your school is located). If your policy states that you also will issue timely warnings for these or similar types of situations, you are required to follow that policy.

Crimes Exempt From the Timely Warning Requirement

Your institution is not required to provide a timely warning for non-Clery crimes or for crimes reported to a pastoral or professional counselor. (See "Exemption for Pastoral and Professional Counselors" in Chapter 4 for definitions of pastoral and professional counselors.) There are no other exemptions.

Making the Decision to Issue a Timely Warning

Whether you issue a timely warning must be decided on a **case-by-case basis** in light of all the facts surrounding a crime, including factors such as:

- **The nature of the crime.** This means that you should consider the type of crime that was reported. Was it a Clery crime? Did two students get drunk and attempt to steal a golf cart from the campus one night, or does it appear that professional car thieves are preying on your campus?

- **The continuing danger to the campus community.** This means that after a Clery crime is reported you should consider whether your students and employees are at risk of becoming victims of a similar crime. For example, if a rape is reported on campus and the alleged perpetrator has not been caught, the risk is there. If the alleged perpetrator was apprehended, there is no continuing risk. Does a criminal incident appear to be a one-time occurrence

or does it fall into a pattern of reported crimes? For example, if your students set some posters on fire after your school's team lost the homecoming football game, the arsons are probably a one-night event. If an unknown person is randomly setting fires on campus, there is a continuing threat.

- **The possible risk of compromising law enforcement efforts.** This factor does not mean that in the event of a serious or continuing threat to your students or employees you should decide not to issue a timely warning. It means that you should take law enforcement efforts into consideration *when* you issue a warning. For example, you should warn students if there is a serial rapist preying on female joggers along the bike paths running through campus; you should not compromise law enforcement efforts by disclosing that two undercover female officers have been assigned to patrol the bike path.

We recommend that your institution meets beforehand with its security personnel and with local and state law enforcement authorities to discuss what is reasonable in terms of issuing timely warnings. And although there is no requirement to do so, we also recommend that your institution request that local law enforcement keep you informed on an immediate basis of crimes that may require timely warnings. This request may be made as part of your annual letter to law enforcement agencies requesting crime statistics. (See "Requesting Statistics From Local Law Enforcement Agencies" in Chapter 4 for more information about this letter.)

Determining the Content of a Timely Warning

Clery Act regulations do not specify what information should be included in a timely warning. However, because the intent of the warning is to enable members of the campus community to protect themselves, the warning should include all information that would promote safety and that would aid in the prevention of similar crimes. Issuing a warning that cautions the campus community to be careful or to avoid certain practices or places is not sufficient. You must include information about the crime that triggered the warning. Your institution's policy regarding timely warnings should specify what types of information will be included.

The intent of the warning is to enable members of the campus community to protect themselves.

Issuing a Timely Warning

Although the format for the warning has not been mandated, the warning must be reasonably likely to reach the entire campus community. Therefore, timely warnings must be issued in a manner that gets the word out quickly communitywide. They may be e-mailed, posted around campus, provided as text messages or otherwise **distributed according to your institution's policy**. A combination of dissemination methods may be used.

Timely warnings may not be issued in a manner or posted in a location that requires the campus community to make requests for them or to search for them. The responsibility for getting the warning out rests solely with the institution.

The Family Educational Rights and Privacy Act (*FERPA*) and the Timely Warning Requirement

FERPA and the Timely Warning citation
34 *CFR* 99.31(b)(6) and 99.36

The *Clery Act* does not require confidential reporting of crimes. Although personally identifiable information is generally precluded from disclosure, such information may be released in an emergency situation. Our May 1996 Dear Colleague Letter on Campus Security Issues reads in part:

FERPA does not preclude an institution's compliance with the timely warning provision of the campus security regulations. *FERPA* recognizes that information can, in case of an emergency, be released without consent when needed to protect the health and safety of others. In addition, if institutions utilize information from the records of a campus law enforcement unit to issue a timely warning, *FERPA* is not implicated as those records are not protected by *FERPA*.

Figure 12-A. Sample Timely Warning

UWPD CAUTIONS STUDENTS ABOUT DATE RAPE DRUGS

April 11, 2002

by (name deleted), (title), UW Police Department

The University of Wyoming Police Department received reports of two possible sexual assaults over the weekend of April 5. The circumstances of these assaults suggest the involvement of date rape drugs.

In both cases, the victims reported symptoms consistent with the use of these substances: a rapid onset of intoxication out of proportion to what they may have had to drink, and reported memory loss. In one case the victim declined to pursue a criminal investigation, and the UW Police Department is actively investigating the other.

The phenomenon of drugs being used to facilitate sexual assault has been widely reported across the country. Although no confirmed cases have previously been reported on-campus, the UW Police Department urges the Laramie community to be alert to the possibility and take steps to protect themselves. Date rape drugs, commonly Rohypnol, GHB, and Ketamine, can be slipped into an unsuspecting person's drink. Rapid and severe intoxication follows, along with dramatically reduced inhibitions and memory loss. In this condition, anyone can be extremely vulnerable to sexual assault.

To protect yourself, do not leave drinks unattended and be wary of accepting drinks from people you do not know well. To be even more careful, make sure that you open and pour your own drink, and don't share drinks with others. It is also wise to use the buddy system while socializing - when you go out with friends, agree to keep an eye on one another and to go home together. If a friend starts to exhibit symptoms of date rape drug ingestion, seek medical help immediately. Signs to look for include: dizziness and/or nausea, memory loss, breathing or motion difficulties, and acting disproportionately intoxicated relative to the amount of alcohol consumed.

The UW Police Department urges anyone who believes they or a friend have been the victim of a date rape drug to immediately contact their local law enforcement agency. On-campus, the UWPD can be reached at XXX-XXXX. Victims of any form of sexual assault are encouraged to seek confidential support at the University Counseling Center, 340 Knight Hall, XXX-XXXX.

Figure 12-B. Sample Timely Warning

JMU Case 2004-000668

TIMELY NOTIFICATION BULLETIN
Possible Threat to the Community
"Your Right to Know"
January 26, 2004

In compliance with the "Timely Notice" provisions of the federal **Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998** the University Police are giving notice of a disturbing act of violence reported to have occurred near the Tri-Sigma Sorority House, Greek Row/"Tree House" Residences, on the campus of James Madison University.

REPORTED OFFENSE: Reported Assault & Battery, constituting a Forcible Sexual Offense, was reported to have occurred on the university's residential area known as Greek Row at approximately 12:45a.m., early Saturday morning January 24, 2004. This location is on the campus of James Madison University just to the south of the Newman Drive railroad track crossing and the university's power (steam) plant.

SUSPECTS: Both described as "college" age males; race unreported; the first attacker of "average" build, approximately 5'10" in height, about 140 lbs.; wearing a black hooded garment and blue jeans; the second attacker shorter than the first, of "medium" build; wearing a grey hooded garment and blue jeans.

The complainant reported that she was returning to her residence hall very early Saturday morning, unaccompanied. As she walked south along Greek Row she stated that two male subjects approached from behind and threw her to the ground. They then attempted to remove her clothing. Both subjects fled on foot after the victim screamed.

It can be assumed that conditions continue to exist that may pose a threat to members and guests of the community. It is the duty of the institution to warn of possible "dangerous conditions" on or near its campus, and at affiliate organizations off campus; an "affirmative duty" exists to warn persons associated with this university of possible peril at the hands of some third party or parties. Consider carefully whether your presence at or near this complex while unaccompanied could place you in danger.

Please forward this notice to your colleagues and post it on appropriate bulletin boards in your area. If you have any information that might be helpful in this investigation, contact the University Police by telephone at (XXX)XXX-XXXX; in person at Shenandoah Hall, Patterson and South Main; or, if you wish, anonymously through "Silent Witness," at http://www.jmu.edu/pubsafety/silent.htm.

Figure 12-C. Sample Timely Warning

Emergency Notification and Timely Warnings: Sorting Out the Differences

Emergency Notification

Scope: Wide focus on any significant emergency or dangerous situation (may include Clery crimes).

Why: Emergency notification is triggered by an event that is currently occurring on or imminently threatening the campus. Initiate emergency notification procedures for **any significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees** occurring on the campus.

Where: Applies to situations that occur on your campus.

When: Initiate procedures immediately upon confirmation that a dangerous situation or emergency exists or threatens.

Timely Warning

Scope: Narrow focus on Clery crimes.

Why: Timely warnings are triggered by crimes that have already occurred but represent an ongoing threat. Issue a timely warning for any **Clery crime** committed on your Clery geography that is reported to your campus security authorities or a local law enforcement agency and is considered by the institution to represent a serious or continuing threat to students and employees.

Where: Applies to crimes that occur anywhere on your Clery geography.

When: Issue a warning as soon as the pertinent information is available.

The law specifies that "an institution that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances; however, the institution must provide adequate follow-up information to the community as needed."

Consider the following scenarios and whether a timely warning is warranted.

Figure 13. Sample Scenarios Regarding Emergency Notification and the Timely Warning

Scenario 1: In a single night there are several random arsons in unoccupied classrooms and basements of buildings on campus. Upon confirmation that there is an arsonist on campus, you follow your emergency notification procedures. There is no need to issue a timely warning for the arsons as well. As soon as it's available, disseminate pertinent follow-up information to the campus community.

Scenario 2: An employee spots an armed intruder in a classroom building. The employee alerts a campus police officer who is present in the building and who confirms the situation. Following your emergency notification procedures, the officer alerts the campus police chief who initiates campus-wide emergency notification procedures. In the course of trying to apprehend the intruder, the intruder shoots and wounds two people trying to flee the building. Although emergency notification procedures were initiated, the circumstances have changed, and you must issue a timely warning for the shootings (i.e., the crimes of aggravated assault).

Policy Statements:
Disclosing What You Do And How You Do It

CHAPTER 7

A major requirement of *Clery Act* compliance is to disclose policy statements in your annual security report. Due to the number and nature of the statements, this handbook devotes two chapters to the subject.

Annual security report policy statements citation
34 CFR 668.46(b)

This chapter focuses on policies regarding:

- How students and others should report criminal actions or other emergencies occurring on campus;
- Security of and access to campus facilities;
- Crime prevention;
- Campus law enforcement/security; and
- Alcohol and drugs.

Chapter 8 discusses policies regarding:

- Sex offenses; and
- Obtaining registered sex offender information.

Regardless of which policy you're addressing there are some general guidelines to keep in mind:

- **Language.** Use language that will be understood by the general public (i.e., avoid heavily legal language).
- **Accuracy.** Your statements or descriptions of policies must accurately reflect your institution's current procedures and practices. If your institution does not have a policy or program responding to one or more of the categories listed in the regulations, you must disclose this fact. If you are compiling security reports for **multiple campuses**, make sure your policy statements accurately reflect the current policies and practices of each separate campus.

If you are compiling security reports for multiple campuses, make sure your policy statements accurately reflect the current policies and practices of each separate campus.

- **Required components.** Pay close attention to the requirements of each policy statement. In general, the law does not prescribe policies and procedures for schools to follow; however, both the law and the regulations set minimum requirements for specific information that must be addressed in your institution's annual security report.

- **Missing policies.** Failure to have a required policy or to disclose all of the required policy statements means that your school is not in compliance with the law. As always, please consult our Campus Safety and Security Help Desk if you have questions that are not answered by the policy chapters in this handbook.

The required policy statements are presented in the following section. Where applicable, the statements are broken down into components to emphasize the content you must include. Explanations of statements are preceded by "What does this mean?" and are followed by sample statements, many of which were provided by various postsecondary institutions. We stress that these are *samples,* as opposed to templates.[3] **Your institution's policy statements must reflect your institution's unique security policies, procedures and practices.**

Your institution's policy statements must reflect your institution's unique security policies, procedures and practices.

Present your policy statements in any order. You may also combine statements. For example, if your institution has a combined alcohol and drug policy, you may present it that way.

Categories of Campus Security Policies That Must Be Addressed in the Annual Security Report

1. Provide 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, and must specifically address the following areas:

a. Policies for making timely warning reports to members of the campus community regarding the occurrence of *Clery Act* crimes.

[3] Please note that many of these statements were modified for the purposes of this handbook.

What does this mean?

As discussed in the latter part of Chapter 6, your institution must have a policy regarding its timely warning report system. We suggest that your policy include the:

- Circumstances for which a warning will be issued;
- Individual or office responsible for issuing the warning; and
- Manner in which the warning will be disseminated.

Figure 14. Sample Policy Statement Addressing Issuing Timely Warnings

In the event that a situation arises, either on or off campus, that, in the judgment of the Chief of University Police, constitutes an ongoing or continuing threat, a campus wide "timely warning" will be issued. The warning will be issued through the college e-mail system to students, faculty, staff and the campus' student newspaper, *The Breeze*.

Depending on the particular circumstances of the crime, especially in all situations that could pose an immediate threat to the community and individuals, the Office of Public Safety may also post a notice on the campus-wide electronic bulletin board on the University Police web site at: http://www.jmu.edu/pubsafety/IncidentListings.shtml, providing the university community with more immediate notification. In such instances, a copy of the notice is posted in each residence hall, at the front door of each on-campus fraternity and sorority house, and in the Center for Off-Campus Living. The electronic bulletin board is immediately accessible via computer by all faculty, staff and students. Anyone with information warranting a timely warning should report the circumstances to the University Police office, by phone (XXX-XXXX) or in person at the dispatch center within Public Safety, Shenandoah Hall, the southwest corner of Patterson and South Main Streets.

b. Policies for preparing the annual disclosure of crime statistics.

What does this mean?

This refers to how the annual security report is prepared. Include a brief description explaining the purpose of the report, who prepares it and how and from what sources the crime statistics are collected.

Figure 15. Sample Policy Statement Addressing Preparation of Disclosure of Crime Statistics

The University Police prepares this report to comply with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act. The full text of this report can be located on our web site at www.police.sdsu.edu. You will also be able to connect to our site via the SDSU Home page at www.sdsu.edu. This report is prepared in cooperation with the local law enforcement agencies surrounding our main campus and alternate sites, Housing and Residential Services, the Judicial Affairs Officer, the Division of Business Affairs, and the Division of Student Affairs. Each entity provides updated information on their educational efforts and programs to comply with the Act.

Campus crime, arrest and referral statistics include those reported to the SDSU Police, designated campus officials (including but not limited to directors, deans, department heads, designated HRLO staff, judicial affairs, advisors to students/student organizations, athletic coaches), and local law enforcement agencies. These statistics may also include crimes that have occurred in private residences or businesses and is not required by law. California law (11160 of the California Penal Code) requires prompt, mandatory reporting to the local law enforcement agency by health care practitioners (such as those at Student Health Services) when they provide medical services to a person they know or reasonably suspects is suffering from wounds inflicted by a firearm or is a result of assaultive or abusive conduct. Department of Counseling and Psychological Services staff inform their clients of the procedures to report crime to the University Police on a voluntary or confidential basis, should they feel it is in the best interest of the client. A procedure is in place to anonymously capture crime statistics disclosed confidentially during such a session.

Each year, an e-mail notification is made to all enrolled students that provides the web site to access this report. Faculty and staff receive similar notification with their paycheck. Copies of the report may also be obtained at the University Police Department Headquarters located at Student Services Building Room #1410 or by calling (XXX) XXX-XXXX. All prospective employees may obtain a copy from Human Resources in Administration Room 326 or by calling (XXX) XXX-XXXX, and the web site address will be attached to SDSU employment applications. A partial version of this report is located in the class schedule.

c. A list of titles of each person or organization to whom students and employees should report criminal offenses described in the law for the purpose of making timely warning reports and the annual statistical disclosure. This statement must also disclose whether the institution has any institutional policies or procedures that allow victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual security report.

What does this mean?

The first part of this statement asks you to list the titles of each individual or organization your institution has designated for students and employees to report *Clery Act* crimes. This need not be a list of all your campus security authorities. Although students and employees *may* report crimes to any campus security authority, the people and/or organizations you list in this policy statement are those to whom your institution *would prefer* crimes to be reported. Examples are the campus police department and the dean of students.

Figure 16. Sample Policy Statement Addressing How to Report Criminal Offenses

To report a crime:

Contact University Police at XXX-XXXX (non-emergencies), dial 9-1-1- (emergencies only), or by using the Code Blue telephones located in the Residential Halls, Parking Lots or by some buildings. You may also use the red button on the pay telephones, which are marked Police Access. Any suspicious activity or person seen in the parking lots or loitering around vehicles, inside buildings or around the Residential Halls should be reported to the police department. In addition you may report a crime to the following areas:

1. Associate Vice-President for Student Services	XXX-XXX-XXXX Brotman Hall 377
2. Director, Counseling and Psychological Services	XXX-XXX-XXXX Brotman Hall 226
3. Director, Student Health Center	XXX-XXX-XXXX Student Health Center
4. Director, Staff Personnel Services	XXX-XXX-XXXX Brotman Hall 335
5. Director, Equity and Diversity	XXX-XXX-XXXX Student Union 301
6. Director, Judicial Affairs	XXX-XXX-XXXX Brotman Hall 377
7. Director, Women's Resource Center	XXX-XXX-XXXX LA3-105
8. Director, Housing and Residential Life	XXX-XXX-XXXX Parkide Commons

For off-campus options you may refer to the 2002-2003 CSULB catalog. University Police and the Long Beach Police department have a mutual aid and working agreement. Each department augments the other within their jurisdictions during mutual investigations, arrest, and prosecutions. University Police personnel attend monthly meetings with local law enforcement agencies to exchange ideas and problems which may be of concern for the University community.

The second part of the statement asks you to disclose whether your institution has policies or procedures allowing voluntary, confidential crime reporting. Some states do not allow this. If your institution does not allow voluntary, confidential reporting, provide a statement disclosing this fact.

Figure 17. Sample Policy Statement Addressing Voluntary Confidential Reporting

If you are the victim of a crime and do not want to pursue action within the University System or the criminal justice system, you may still want to consider making a confidential report. With your permission, the Chief or a designee of UCIPD can file a report on the details of the incident without revealing your identity. The purpose of a confidential report is to comply with your wish to keep the matter confidential, while taking steps to ensure the future safety of yourself and others. With such information, the University can keep an accurate record of the number of incidents involving students, determine where there is a pattern of crime with regard to a particular location, method, or assailant, and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual crimes statistics for the institution.

Figure 18. Sample Policy Statement Addressing Limited Voluntary Confidential Reporting

The UNM Police Department encourages anyone who is the victim or witness to any crime to promptly report the incident to the police. Because police reports are public records under state law, the UNM Police Department cannot hold reports of crime in confidence. Confidential reports for purposes of inclusion in the annual disclosure of crime statistics can generally be made to other UNM campus security authorities as identified below. Confidential reports of crime may also be made to UNM Crime Stoppers at XXX-STOP (XXX-XXXX).

2. Provide a statement of **current policies** concerning:

a. Security of and access to campus facilities, including campus residences; and

b. Security considerations used in the maintenance of campus facilities.

What does this mean?

Part (a) of this statement addresses the security of campus facilities, including campus residences, and access to campus facilities, including campus residences. If your institution does not have any campus residences, your policy statement should note this. Address such topics as what your institution does to keep its facilities secure and how individuals

gain access or are prevented from gaining access to these facilities. For example, do you issue keycards for student housing facilities? Do you have individuals monitoring access to your campus buildings?

Part (b) of this statement addresses security considerations in maintaining campus facilities. For example, your institution may have someone who regularly checks to make sure pathways are well lighted and egress lighting is working in hallways and stairwells.

Figure 19. Sample Policy Statement Addressing Security and Access

During business hours, the College (excluding certain housing facilities) will be open to students, parents, employees, contractors, guests, and invitees. During non-business hours access to all College facilities is by key, if issued, or by admittance via the Department of Campus Safety or Residence Life staff. In the case of periods of extended closing, the College will admit only those with prior written approval to all facilities.

Residence halls are secured 24 hours a day. Over extended breaks, the doors of all halls will be secured around the clock, and will be equipped with a lock separate from the regular key issued to resident students. Some facilities may have individual hours, which may vary at different times of the year. Examples are the Physical Education Learning Center, the Library, and Decker College Center. In these cases, the facilities will be secured according to schedules developed by the department responsible for the facility.

Emergencies may necessitate changes or alterations to any posted schedules. Areas that are revealed as problematic have security surveys conducted of them. Administrators from the Dean's Office, Physical Plant, Residence Life, and other concerned areas review these results. These surveys examine security issues such as landscaping, locks, alarms, lighting, and communications. Additionally, during the academic year, the Directors of Facilities Management, Housing, Residence Life, Campus Safety, and Maintenance meet bi-weekly to discuss issues of pressing concern.

3. Provide a statement of **current policies concerning campus law enforcement,** including:

a. The law enforcement authority of campus security personnel.

What does this mean?

Your statement must describe the scope of the enforcement authority of your school’s security personnel. For example, do you have any sworn or commissioned law enforcement personnel? Can any security personnel make arrests? The term “security personnel” encompasses anyone

who meets the description in Chapter 5, page 89. If your institution does not have any security personnel, you must state this.

Figure 20. Sample Policy Statement Addressing Campus Law Enforcement Authority (For Institutions Whose Police Have Arrest Authority)

UTC Campus Police have complete police authority to apprehend and arrest anyone involved in illegal acts on-campus and areas immediately adjacent to the campus. If minor offenses involving University rules and regulations are committed by a University student, the campus police may also refer the individual to the disciplinary division of Student Affairs.

Major offenses such as rape, murder, aggravated assault, robbery, and auto theft are reported to the local police and joint investigative efforts with investigators from UTC and the city police are deployed to solve these serious felony crimes. The prosecution of all criminal offenses, both felony and misdemeanor, are conducted at either Municipal, General Sessions, or Federal Court of Hamilton County.

Campus Police personnel work closely with local, state, and federal police agencies and have direct radio communication with the City Police Department on the city police radio network. The University Police Department is also a part of the Hamilton County 911 Emergency System.

By mutual agreement with state and federal agencies, The University Police Department maintains an NLETS terminal (National Law Enforcement Telecommunications Network). Through this system police personnel can access the National Crime Information Computer system as well as the Tennessee Information Enforcement System. These computer databases are used for accessing criminal history data, nationwide police records, driver/vehicle identification information, as well as other local, state and federal law enforcement information.

Per agreement with the Chattanooga Police Department, the University Police Department's jurisdiction extends west bounded by Houston Street, east to Central Avenue, south to East Eighth Street, and north to the Manker Patton Tennis Complex and Scrappy Moore Field. Any University owned or leased property in outlying areas is patrolled jointly by both University and City Police.

Through coordination with local law enforcement agencies, any criminal activity engaged in by students at off-campus locations of student organizations, is monitored and recorded. This information is provided to the Dean of Students for any action or follow-up that may be required.

Figure 21. Sample Policy Statement Addressing Campus Law Enforcement Authority (For Institutions Whose Police Do Not Have Arrest Authority)

Montgomery College Safety and Security offices have the authority to ask persons for identification and to determine whether individuals have lawful business at Montgomery College. Montgomery College security officers have the authority to issue parking tickets, which are billed to financial accounts of students, faculty, and staff. Safety and Security officers do not possess arrest power. Criminal incidents are referred to the local police who have jurisdiction on the campus. The Safety and Security Office at Montgomery College maintains a highly professional working relationship with the Montgomery County Police Department, Rockville City Police, and Takoma Park Police. All crime victims and witnesses are strongly encouraged to immediately report the crime to campus Safety and Security Office and the appropriate police agency. Prompt reporting will assure timely warning notices on-campus and timely disclosure of crime statistics.

b. The working relationship of campus security personnel with state and local law enforcement agencies, including whether the institution has agreements with such agencies, such as written memoranda of understanding, for the investigation of alleged criminal offenses.

What does this mean?

Describe the working relationship of your campus security personnel with state law enforcement agencies *and* with local law enforcement agencies. Be specific about whether or not your institution has any written memorandum of understanding (MOU) or any other type of written agreement, such as a memorandum of agreement (MOA), with any law enforcement agencies for the investigation of alleged criminal offenses. You do not have to include a copy of your MOU in your policy statement; just disclose whether you have one. A sample MOU is found in Appendix C.

Figure 22. Sample Statement for an Institution That Has an MOU

The College recognizes that laws and rules are necessary for society to function and supports the enforcement of law by governmental agencies and rules by officials of the College. All persons on the campus are subject to these laws and rules at all times. While the College is private property, and Constitutional protections apply, law enforcement officers may enter the campus to conduct business as needed. Additionally, the officers are invited to patrol the campus to assist DoCS in deterring crime. All law enforcement agencies are expected to check in with DoCS when on campus. DoCS is recognized by the State of Maryland as a law enforcement agency.

DoCS enjoys an especially good relationship with the Westminster Police Department (WPD). The response time of the police department to campus averages less than two minutes for emergency calls. Several members of DoCS are special police officers with law enforcement and arrest authority on campus. The exercise of that authority is described in a "memorandum of understanding" (MOU) between WPD and DoCS that outlines which law enforcement agency will have jurisdiction over which types of offenses. Other campus safety officers have no arrest authority beyond that of an ordinary citizen. These safety officers may make an arrest in the event a felony is committed in his or her presence. However, as a matter of course, serious crimes are the responsibility of the WPD.

Safety officers are expected to render all possible assistance provided such assistance can be given without significantly endangering the officer or others not involved in the crime.

As noted in the introduction and the emergency policies, WPD is notified of all serious crime on campus, and is immediately notified of major crimes via the telephone or two-way radio. The College relies on the telephone or two-way radio to contact the county emergency dispatch center for fire and emergency medical needs. All victims are offered an opportunity to report crimes to WPD where appropriate under the MOU.

Annually, the Chief of Police in Westminster is provided with a summary of all crime occurring on campus. Frequent meetings or telephone conversations between the chief of police (or his designee) and the director of campus safety allow for exchanges of routine information on a timely basis. Additionally, special needs are communicated between agencies as they occur. Instances where state police resources are needed are determined jointly between the Chief of Police and the Director of Campus Safety. Crimes committed at off campus facilities under the control of Mcdaniel College will be disclosed in these statistics if they come to the attention of DoCS.

Figure 23. Sample Statement for an Institution That Does Not Have an MOU

The GW Police Department maintains a close working relationship with the Metropolitan Police Department (MPD). The GWPD staff occasionally works with other law enforcement agencies in DC, including the FBI, Metro Transit Police, the Park Police and the U.S. Secret Service. Meetings are held between the leaders of these agencies on both a formal and informal basis. The officers of GWPD and MPD communicate regularly on the scene of incidents that occur in and around the campus area. The GW Police Investigators work closely with the investigative staff at MPD when incidents arise that require joint investigative efforts, resources, crime related reports and exchanges of information, as deemed necessary. There is no written memorandum of understanding between GWPD and MPD.

c. Policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate law enforcement agencies.

What does this mean?

You must have a policy that encourages people to report all crimes in an accurate and timely manner to the campus police, if you have a campus police department, *and* to law enforcement agencies for your institution's jurisdiction. If your institution does not have campus police, you must state this.

Figure 24. Sample Policy Statement Addressing the Encouragement of Accurate and Prompt Crime Reporting

Community members, students, faculty, staff, and guests are encouraged to report all crimes and public safety related incidents to the University Police Department (UPD) in a timely manner. This publication focuses on UPD because it patrols the majority of the Foggy Bottom campus and the Mount Vernon-campus. However, Hospital Security should be contacted when incidents, emergencies, or crimes occur in the Hospital.

To report a crime or an emergency on the Foggy Bottom campus, call UPD at extension X-XXXX or, from outside the University phone system, XXX-XXX-XXXX. To report a non-emergency security or public safety related matter, call UPD at extension X-XXXX or, from outside the University phone system, XXX-XXX-XXXX.

To report a crime or emergency on the Mount Vernon-campus, call UPD at X-XXXX or, from outside the University phone system, XXX-XXX-XXXX. To report a non-emergency security or public safety related matter call UPD at X-XXXX or, from outside the phone system, XXX-XXX-XXXX.

Figure 24. Sample Policy Statement Addressing the Encouragement of Accurate and Prompt Crime Reporting (Continued)

If a crime or emergency occurs in the Hospital, call Hospital Security at XXX-XXX-XXXX.

Dispatchers are available at these respective telephone numbers 24 hours a day to answer your call. In response to a call, UPD or Hospital Security will take the required action, dispatching an officer or asking the victim to report to UPD to file an incident report.

All UPD incident reports are forwarded to the Dean of Students office for review and potential action by the Office of Student Judicial Services. UPD Investigators will investigate a report when it is deemed appropriate. Additional information obtained via the investigation will also be forwarded to the Office of Student Judicial Services.

If assistance is required from the Metropolitan Police Department or the District of Columbia Fire Department, UPD will contact the appropriate unit. If a sexual assault or rape should occur, staff on the scene, including UPD, will offer the victim a wide variety of services. GW has a Sexual Assault Crisis Consultation Team that has trained members who are available to assist a victim 24 hours a day.

This publication contains information about on-campus and off campus resources. That information is made available to provide GW community members with specific information about the resources that are available in the event that they become the victim of a crime. The information about "resources" is not provided to infer that those resources are "reporting entities" for GW.

Crimes should be reported to the University Police Department to ensure inclusion in the annual crime statistics and to aid in providing timely warning notices to the community, when appropriate. For example, a crime that was reported only to the DC Rape Crisis Center would not be included in the GW crime statistics.

d. A description of procedures, if any, that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

What does this mean?

Disclose if your institution has any procedures that encourage both pastoral and professional counselors, at their discretion, to inform those they counsel of procedures for reporting crimes voluntarily and confidentially for inclusion in the institution's annual security report and Web-based report to ED. This includes verbal or written encouragement. If your institution does not have these procedures, state this.

Note that this policy differs from the policy statement under 1c regarding reporting all crimes. That statement does not specifically address pastoral and professional counselors.

Figure 25. Sample Policy Statement Addressing Counselors and Confidential Crime Reporting (For Institutions With Confidential Reporting Procedures)

As a result of the negotiated rulemaking process which followed the signing into law, the 1998 amendments to 20 U.S.C. Section 1092 (f), clarification was given to those considered to be campus security authorities. Campus "Pastoral Counselors" and Campus "Professional Counselors", when acting as such, are not considered to be a campus security authority and are not required to report crimes for inclusion into the annual disclosure of crime statistics. As a matter of policy, they are encouraged, if and when they deem it appropriate, to inform persons being counseled of the procedures to report crimes on a voluntary basis for inclusion into the annual crime statistics.

The rulemaking committee defines counselors as:

Pastoral Counselor
An employee of an institution who is associated with a religious order or denomination, recognized by that religious order or denomination as someone who provides confidential counseling and who is functioning within the scope of that recognition as a pastoral counselor.

Professional Counselor
An employee of an institution whose official responsibilities include providing psychological counseling to members of the institution's community and who is functioning within the scope of his or her license or certification.

Figure 26. Sample Policy Statement Addressing Counselors and Confidential Crime Reporting (For Institutions Without Confidential Reporting Procedures)

All reports will be investigated. The University does not have procedures for voluntary, confidential reporting of crime statistics. Violations of the law will be referred to law enforcement agencies and when appropriate, to the University Disciplinary Committee for review. When a potentially dangerous threat to the University community arises, timely reports or warnings will be issued through e-mail announcements, the posting of flyers at local campuses, in-class announcements, or other appropriate means.

4. Provide a statement that **describes the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.**

What does this mean?

Your statement should describe both the **type** and the **frequency** of two categories of programs for students and employees: programs dealing with security procedures and practices, and programs encouraging the campus community to look out for themselves and one another. You do not have to list every program, but be sure to address all of the statement's components (i.e., type, frequency, students and employees).

Figure 27. Sample Policy Statement Addressing Security Awareness Programs for Students and Employees

During orientation in September (Medford/ Somerville) or August (Boston and Grafton), students are informed of services offered by the Tufts Police. Video and slide presentations outline ways to maintain personal safety and residence hall security. Students are told about crime on-campus and in surrounding neighbor-hoods. Similar information is presented to new employees. Crime Prevention Programs and Sexual Assault Prevention Programs are offered on a continual basis.

Periodically during the academic year the Tufts Police, in cooperation with other university organizations and departments, present crime prevention awareness sessions on sexual assault (rape and acquaintance rape), Rohypnol abuse, theft, and vandalism, as well as educational sessions on personal safety and residence hall security.

A common theme of all awareness and crime prevention programs is to encourage students and employees to be aware of their responsibility for their own security and the security of others.

In addition to seminars, information is disseminated to students and employees through crime prevention awareness packets, security alert posters, displays, videos, and articles and advertisements in university and student newspapers.

When time is of the essence, information is released to the university community through security alerts posted prominently throughout campus, through computer memos sent over the university's electronic mail system and a voice mail broadcasting system.

5. Provide a description of **programs designed to inform students and employees about the prevention of crimes.**

What does this mean?

This statement specifically addresses all programs designed to inform students and employees about crime prevention. You must describe the programs, not just list the titles. If there are programs specifically targeted to students and others targeted to employees, state this. If you do not have any programs of this nature, provide a statement disclosing this fact.

Figure 28. Sample Policy Statement Addressing Crime Prevention Programs for Students and Employees

Crime Prevention Programs on personal safety and theft prevention are sponsored by various campus organizations throughout the year. University Police personnel facilitate programs for student, parent, faculty, and new employee orientations, student organizations, community organizations, in addition to quarterly programs for Housing Services Resident Advisers and residents providing a variety of educational strategies and tips on how to protect themselves from sexual assault, theft and other crimes. Starting in the fall we will be offering Rape Aggression Defense System (RAD) training. It is a comprehensive course that begins with awareness, prevention, risk reduction and avoidance, while progressing on to the basics of hands-on defense training. Certified RAD instructors will teach the courses provided.

Tip: To enhance personal safety, and especially after an evening class, walk with friends or someone from class that you know well, or call the Eagle Patrol Services for an escort.

6. Provide 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, including student organizations with off-campus housing facilities.**

What does this mean?

This statement addresses whether or not your institution uses local police to monitor and document criminal activity by your students at **off-campus locations of student organizations.** This includes student organizations that have off-campus housing facilities. Note that this concerns only those student organizations that are officially recognized by your institution. If you do not have any officially recognized student organizations with off-campus locations you must disclose this.

Figure 29. Sample Policy Statement Addressing Criminal Activity Off Campus (For Institutions Whose Police Monitor Off-campus Activity)

When a Vanderbilt student is involved in an off-campus offense, police officers may assist with the investigation in cooperation with local, state, or federal law enforcement. Metro Nashville police routinely work and communicate with campus officers on any serious incidents occurring on-campus or in the immediate neighborhood and business areas surrounding campus. Vanderbilt University operates no off-campus housing or off-campus student organization facilities. However, many graduate students and some undergraduate students live in the neighborhoods surrounding Vanderbilt. While Metro Nashville police have primary jurisdiction in all areas off campus, Vanderbilt officers can and do respond to student-related incidents that occur in close proximity to campus. Vanderbilt officers have direct radio communications with the city police, fire department, and ambulance services to facilitate rapid response in any emergency situation.

Figure 30. Sample Policy Statement Addressing Criminal Activity Off Campus (For Institutions Whose Police Do Not Monitor Off-campus Activity)

Student Affairs maintains contact with recognized fraternity and sorority organizations through the efforts of the Greek Affairs Advisor. University Police members do not provide law enforcement service to off-campus residences of recognized fraternity and sorority organizations nor are activities off-campus recognized by university authority. Criminal activity at recognized fraternity and sororities residences is monitored and recorded by the Fresno Police Department's Northeast Policing District. Student Affairs and University Police members enjoy a close working relationship with the Northeast Policing District's Neighborhood Policing, Problem Oriented Policing, and Tactical teams when violations of federal, state, or local laws surface. This cooperative team approach addresses situations as they arise as well as future concerns.

7. Provide a statement of **policy regarding the possession, use and sale of alcoholic beverages and enforcement of state underage drinking laws.**

What does this mean?

There are two parts to this statement. The first part addresses your policy concerning the possession, use and sale of alcohol. The second part addresses your policy on the enforcement of state laws relating to underage drinking.

Figure 31. Sample Policy Statement Addressing Alcoholic Beverages

The possession, sale or the furnishing of alcohol on the University campus is governed by UCSD Alcohol Policy and California state law. Laws regarding the possession, sale, consumption or furnishing of alcohol is controlled by the California Department of Alcohol and Beverage Control (ABC). However, the enforcement of alcohol laws on-campus is the primary responsibility of the UCSD Police Department. The UCSD campus has been designated "Drug free" and only under certain circumstances is the consumption of alcohol permitted. The possession, sale, manufacture or distribution of any controlled substance is illegal under both state and federal laws. Such laws are strictly enforced by the UCSD Police Department. Violators are subject to University disciplinary action, criminal prosecution, fine and imprisonment. It is unlawful to sell, furnish or provide alcohol to a person under the age of 21. The possession of alcohol by anyone under 21 years of age in a public place or a place open to the public is illegal. It is also a violation of the UCSD Alcohol Policy for anyone to consume or possess alcohol in any public or private area of campus without prior University approval. Organizations or groups violating alcohol/substance policies or laws may be subject to sanctions by the University.

8. Provide a statement of **policy regarding the possession, use and sale of illegal drugs and enforcement of federal and state drug laws.**

What does this mean?

There are two parts to this statement. The first part addresses your policy concerning the possession, use and sale of illegal drugs. The second part addresses your policy for the enforcement of federal *and* state drug laws.

Figure 32. Sample Policy Statement Addressing Illegal Drug Possession

The UCSD campus has been designated "Drug free" and only under certain circumstances is the consumption of alcohol permitted. The possession, sale, manufacture or distribution of any controlled substance is illegal under both state and federal laws. Such laws are strictly enforced by the UCSD Police Department. Violators are subject to University disciplinary action, criminal prosecution, fine and imprisonment.

9. Provide a **description of any drug or alcohol abuse education programs as required under Section 120(a) through (d) of *HEA*. For the purpose of meeting this requirement, an institution may cross-reference the materials it uses to comply with Section 120(a) through (d) of *HEA*.**

What does this mean?

To participate in any Title IV student aid program, an institution must verify that it has a drug and alcohol abuse prevention program available to students and employees. *Clery Act* regulations ask for a description of these programs and allow you to cross-reference the materials your institution uses to comply with *HEA*. This is the only policy statement in the annual security report for which you can cross-reference materials. Note that Section 120 was amended by *HEOA*, Section 107. The text for Section 120(a)–(d) is in Appendix D of this handbook.

Figure 33. Sample Policy Statement Addressing Substance Abuse Education

PREVENTION PROGRAMS
The College has developed a program to prevent the illicit use of drugs and the abuse of alcohol by students and employees. The program provides services related to drug use and abuse including dissemination of informational materials, educational programs, counseling services, referrals and college disciplinary actions.

Cayuga's Health Services Office provides an overall coordination of the Drug-Free School Program. However, many services are the responsibility of other areas of the institution. These include:

Alcohol and Drug Education: College Health Services, Employee Assistance Program, College Health Class.

Counseling Services: Student Development Counselors, College Nurse, Employee Assistance Program.

Referral Services: Student Development Counselors, College Nurse, Employee Assistance Program.

College Disciplinary Actions: Faculty/Student Judicial Review Committee. Director of Student Development.

LOCAL, STATE & FEDERAL LEGAL SANCTIONS
Legal Sanctions – Laws Governing Alcohol

The State of New York sets 21 as the minimum age to purchase or possess any alcoholic beverage. Specific ordinances regarding violations of alcohol laws, including driving while intoxicated, are available from the Office of Public Safety. Effective January 1, 1990, a package of state laws was passed regarding alcohol. They include the following:

1. Persons under age 21 found possessing alcohol may be given a maximum fine of $50.
2. Anyone convicted of fraudulently using a driver's license to buy or attempt to buy alcohol may have his/her driver's license suspended for up to 90 days.
3. Persons convicted of buying alcohol through fraudulent means face a possible $100 fine and/or being required to do up to 30 hours of community service work.

A violation of any law regarding alcohol is also a violation of the College's Student Code of Conduct and will be treated as a separate disciplinary matter by the College.

Disciplinary proceeding results for violent crime or non-forcible sex offense citation
HEOA Sec. 493(a)(1)(A)

10. Provide a statement that **the institution will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in section 16 of title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.**[4]

What does this mean?

This statement addresses disclosure procedures for a student disciplinary proceeding for any **violent crime or non-forcible sex offense.** You must disclose results upon written request to a victim's next of kin in cases where the crime resulted in the victim's death.

Figure 34. Sample Policy Statement Addressing Disclosures to Alleged Victims of Crimes of Violence or Non-forcible Sex Offenses

Rockville College will, upon written request, disclose to the alleged victim of a crime of violence, or a non-forcible sex offense, the results of any disciplinary hearing conducted by the college against the student who is the alleged perpetrator of the crime or offense. If the alleged victim is deceased as a result of the crime or offense, Rockville College will provide the results of the disciplinary hearing to the victim's next of kin, if so requested.

11. Provide a statement of policy **regarding your institution's emergency response and evacuation procedures.**

This statement of policy is multi-faceted and requires the disclosure of a number of procedures. "Emergency Response and Evacuation procedures" in Chapter 6 discusses this requirement in detail.

Additional policy statement for institutions with on-campus student housing facilities:

If your institution has any on-campus student housing facilities as described in "Definition of an On-campus Student Housing Facility" in Chapter 2, you must include an additional

[4] The 2008 *HEOA* added this procedure to the Program Participation Agreement requirements. It applies to any applicable disciplinary proceeding that your institution conducted on or after Aug. 14, 2009. (See Appendix A-4 for more information about this requirement.)

policy statement in your annual security report that addresses **missing student notification.** This policy statement is explained in detail in Chapter 10. If your institution has multiple campuses, **this policy statement applies only to those campuses that have on-campus student housing facilities.**

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Policy Statements:
Sex Offenses and Offenders

CHAPTER 8

As mentioned in Chapter 7, the *Clery Act* requires you to include statements of policy in your annual security report that address sex offenses and access to information on registered sex offenders in the campus community. For the most part, you have discretion in your statement wording and how the policies and procedures are put into practice; however, there are some obligatory parts. This chapter breaks down the statement's components and indicates where specific procedures are mandatory and where you have flexibility. As always, your policy statement must accurately reflect what your institution currently does to prevent sex offenses and the procedures it follows when a sex offense or alleged sex offense occurs.

Sex offense policy statement citation
34 CFR 668.46(b)(11)

Your policy statement must accurately reflect what your institution currently does to prevent sex offenses and the procedures it follows when a sex offense or alleged sex offense occurs.

Sex Offense Policy, Procedures and Programs

The FBI's *National Incident-Based Reporting System (NIBRS)* edition of the *UCR* defines a ***sex offense*** as *any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.* (See "Sex offenses" in Chapter 3 for information on classifying and counting sex offenses.)

With this definition in mind, your statement must address your institution's campus sexual assault programs to prevent sex offenses and procedures to follow when a sex offense occurs. The statement *must* include:

a. A description of educational programs to promote the awareness of rape, acquaintance rape and other forcible and non-forcible sex offenses.

What does this mean?

This part of your statement addresses programs you have that are intended to educate people about preventing sex offenses. Such programs are required by Section 485(f) of

HEA. We encourage your institution to contract with experts in the area of sex offense education to help determine the content of such programs and to provide training to students and employees. Experts in this field include rape crisis intervention specialists, local law enforcement officials and social services personnel.

b. Procedures students should follow if a sex offense occurs, including:

- **Procedures concerning who should be contacted;**
- **The importance of preserving evidence for the proof of a criminal offense; and**
- **To whom the alleged offense should be reported.**

What does this mean?

This part of your statement addresses what students should do in the case of a sex offense. "Who should be contacted" refers to any person or organization that can assist the victim, such as a rape crisis counselor. Although you must have procedures concerning who should be contacted, it is up to your institution to decide who those people or organizations are. Next you must include information about the importance of preserving evidence. Again, we encourage you to consult law enforcement about the specific information to provide. The last part of this component tells students to whom they should report a sex offense, for example, your campus police or a local law enforcement agency. Provide the appropriate contact information.

c. Information on a student's option to notify appropriate law enforcement authorities, including:

- **On-campus and local police; and**
- **A statement that institutional personnel *will* assist the student in notifying these authorities, if the student requests the assistance of these personnel.**

What does this mean?

You must let students know that they have the option to notify law enforcement authorities about the offense. Provide specific contact information. Tell them what is involved in making a police report. The statement that your institution will comply with a student's request for assistance in notifying authorities is **mandatory**.

d. Notification to students of existing on- and off-campus counseling, mental health or other student services for victims of sex offenses.

What does this mean?

Your statement should provide specific information identifying the appropriate available services for victims. Be sure to include both on- and off-campus services, as applicable. If there are no on-campus services or no off-campus services, state this.

e. Notification to students that the institution will change a victim's academic and living situations after an alleged sex offense, and the options for those changes if those changes are requested by the victim and are reasonably available.

What does this mean?

State that your institution is **obligated** to comply with a student's request for a living and/or academic situation change following an *alleged* sex offense. Identify all of the available options.

Note that this requirement allows your institution flexibility in terms of what is reasonable. For example, your institution could permit a victim to break a housing contract with the institution so that the student may seek off-campus housing. But, it would not be reasonable to expect the institution to pay for the rental of a private apartment for the student.

f. Procedures for campus disciplinary action in cases of an alleged sex offense, *including a clear statement that:*

i. The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and

ii. Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding that is brought alleging a sex offense. Compliance with this paragraph does not constitute a violation of the *Family Educational Rights and Privacy Act* (*FERPA*). For the purpose of this paragraph, the outcome of a disciplinary proceeding means only the institution's final determination with respect to the alleged sex offense and any sanction that is imposed against the accused.

What does this mean?

In this statement you must disclose your institution's procedures for campus disciplinary action for alleged sex offenses.[5] In addition to your institution-specific procedures, you must include items (i) and (ii). You are required to follow these procedures **regardless of where the alleged sex offense occurred** (i.e., on or off your institution's Clery geography). This is an unconditional disclosure; a victim cannot be required to sign a nondisclosure agreement or to otherwise agree to a prohibition from discussing the case. Notification of the final results to both the victim and the accused should be made in the same manner and the same time frame.

g. Sanctions the institution may impose following a final determination of an institutional disciplinary proceeding regarding rape, acquaintance rape or other forcible or non-forcible sex offenses.

What does this mean?

List all of the sanctions that may be imposed following a sex offense-related disciplinary proceeding. Do not simply state that sanctions may be imposed.

[5] The 2008 *HEOA* added a related requirement concerning disciplinary hearing disclosures to alleged victims of crimes of violence or non-forcible sex offenses. Please see Chapter 7, "Categories of Campus Security Policies That Must Be Addressed in the Annual Security Report," statement no. 10, for this important information.

Figure 35. Sample Policy Statement Addressing Preventing and Responding to Sex Offenses

The University educates the student community about sexual assaults and date rape through mandatory freshman orientations each fall. The Police Department offers sexual assault education and information programs to University students and employees upon request. Literature on date rape education, risk reduction, and University response is available through the Office of Housing and Residential Education.

If you are a victim of a sexual assault at this institution, your first priority should be to get to a place of safety. You should then obtain necessary medical treatment. The University Police Department strongly advocates that a victim of sexual assault report the incident in a timely manner. Time is a critical factor for evidence collection and preservation. An assault should be reported directly to a University officer and/or to a Housing and Residential Education representative. Filing a police report with a University officer will not obligate the victim to prosecute, nor will it subject the victim to scrutiny or judgmental opinions from officers. Filing a police report will:

- ensure that a victim of sexual assault receives the necessary medical treatment and tests, at no expense to the victim;
- provide the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later (ideally a victim of sexual assault should not wash, douche, use the toilet, or change clothing prior to a medical/legal exam);
- assure the victim has access to free confidential counseling from counselors specifically trained in the area of sexual assault crisis intervention.

When a sexual assault victim contacts the Police Department, the Metro Police Sex Crimes Unit will be notified as well. A representative from the Office of Housing and Residential Education will also be notified. The victim of a sexual assault may choose for the investigation to be pursued through the criminal justice system and the University Conduct Council, or only the latter. A University representative from the Police Department or the Office of Housing and Residential Education will guide the victim through the available options and support the victim in his or her decision. Various counseling options are available from the University through the Student Health Center, the Women's Center, University Ministries, Employee Assistance, and the Psychological and Counseling Center. Counseling and support services outside the University system can be obtained through the Rape and Sexual Abuse Center and the Victim Intervention Program of the Metro Police Department.

University disciplinary proceedings, as well as special guidelines for cases involving sexual misconduct, are detailed in the *Student Handbook*. The *Handbook* provides, in part, that the accused and the victim will each be allowed to choose one person who has had no formal legal training to accompany them throughout the hearing. Both the victim and accused will be informed of the outcome of the hearing. A student found guilty of violating the University sexual misconduct policy could be criminally prosecuted in the state courts and may be suspended or expelled from the University for the first offense. Student victims have the option to change their academic and/or on-campus living situations after an alleged sexual assault, if such changes are reasonably available.

Sex offender registration information citation
34 CFR 668.46(b)(12)

Advising the Campus Community About Sex Offenders

Your institution must provide a statement **advising the campus community where law enforcement agency information provided by a state concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus or a computer network address.**

What does this mean?

Upon release from prison, individuals convicted of sex crimes may be required to register with law enforcement agencies (under laws referred to as "Megan's Laws"). If registered sex offenders are **enrolled at,** or **employed at** a postsecondary institution, the offenders also must provide this information to the state. The state then provides the information to campus police departments or to other law enforcement authorities in the jurisdiction where the institution is located.

Your institution is not required to request this information from the state; rather, the state must provide this information to the campus police department or other law enforcement authorities in your school's jurisdiction. In turn, **your institution is required to advise the campus community how to access this information**. The law doesn't, however, require you to disseminate additional information about the offenders. You are responsible for notifying the campus community if there is a change in how the data can be obtained. For example, if you were directing people to a local law enforcement agency for information and the agency tells you that they are now using a website to maintain the data, you must then provide the URL for the site to the campus community.

FERPA guidance on disclosing information about registered sex offenders citation
20 U.S.C. 1232g(b)(7)

How *FERPA* Affects This Policy

Nothing in *FERPA* prohibits an educational institution from disclosing information about registered sex offenders. This includes the disclosure of personally identifiable, nondirectory information without prior written consent or other consent from the individual. You also have authority to disclose information about registered sex offenders that may otherwise become available to your institution through the

operation of state sex offender registration and community notification programs. State laws, however, could limit disclosure of such information. We advise you to contact your state authorities for guidance on this issue.

If the state in which your institution is located does not currently register sex offenders, or does not provide campus police or your local law enforcement agency with this information, include a statement to this effect in your annual security report. However, you would be required to advise the campus community about obtaining registered sex offender information should the state provide it at a future date.

Figure 36. Sample Policy Statement Addressing Sex Offender Registration (For Institutions Maintaining a List of Registered Sex Offenders On-Site)

The Campus Sex Crimes Prevention Act (CSCPA) of 2000 is a federal law that provides for the tracking of convicted sex offenders enrolled at, or employed at, institutions of higher education. The CSCPA is an amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Act. The federal law requires state law enforcement agencies (in Kansas, it is the Kansas Bureau of Investigation) to provide Dodge City Community College with a list of registered sex offenders who have indicated that they are either enrolled, employed or carrying on a vocation at Dodge City Community College.

Dodge City Community College is required to inform the campus community that a KBI registration list of sex offenders will be maintained and available at two campus locations: the Office of Campus Safety and Security in Shelden Hall and the Office of the Associate Dean of Students, located [in] room 103 of the Student Union.

In addition, a list of all registered sex offenders in Kansas is available from the Kansas Bureau of Investigation at http://www.accesskansas.org/kbi/ro.htm. Dodge City is located in Ford County and the zip code is 67801.

The CSCPA further amends the Family Educational Rights and Privacy Act of 1974 (FERPA) to clarify that nothing in the Act can prohibit an educational institution from disclosing information provided to the institution concerning registered sex offenders.

This statement is provided in compliance with the Campus Sex Crimes Prevention Act of 2000 and the Kansas Offender Registration Act (KORA) of 2003, KSA 22-4902.

Figure 37. Sample Policy Statement Addressing Sex Offender Registration (For Institutions Providing an Electronic Link to Registered Sex Offender Information Maintained by an Outside Law Enforcement Agency)

In accordance to the "Campus Sex Crimes Prevention Act" of 2000, which amends the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, the Jeanne *Clery Act* and the Family Educational Rights and Privacy Act of 1974, the Virginia Tech Police Department is providing a link to the Virginia State Police Sex Offender Registry. This act requires institutions of higher education to issue a statement advising the campus community where law enforcement information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders already required to register in a State to provide notice of each institution of higher education in that State at which the person is employed, carries a vocation, or is a student. In the Commonwealth of Virginia, convicted sex offenders must register with the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police.

The Sex Offender and Crimes Against Minors Registry (SOR) for VIOLENT SEX OFFENDERS is available via Internet pursuant to Section 19.2-390.1, (D), of the Code of Virginia. Registry information provided under this section shall be used for the purposes of the administration of criminal justice, screening of current or prospective employees, volunteers or otherwise for the protection of the public in general and children in particular. **Unlawful use of the information for purposes of intimidating or harassing another is prohibited and willful violation shall be punishable as a Class 1 misdemeanor.**

The Virginia State Police is responsible for maintaining this registry. Follow the link below to access the Virginia State Police website.

http://sex-offender.vsp.state.va.us/cool-ICE

The Annual Security Report: Publishing Policy Statements and Crime Statistics

CHAPTER 9

You have a lot of information and may be wondering, "Now what do I do with this?" This chapter walks you through the steps necessary to comply with the regulations concerning the publication and distribution of your Clery-mandated annual security report.

Specifically, you must:

- Publish the report by the deadline;
- Include the required policy statements;
- Include three year's worth of Clery crime statistics;
- Determine who gets the report;
- Distribute the report; and
- Retain records associated with the report.

When is the deadline? You must **publish and distribute your annual security report by Oct. 1** each year. This is a firm deadline. There is **no grace period** and there are **no exemptions**. Every postsecondary institution that participates in any Title IV federal student financial assistance program must publish an annual security report.

Annual security report requirement citation
34 CFR 668.41(e)

What should the publication look like? Whether you produce the report as a separate publication or as part of another publication, it must be **contained within a single document**. You cannot publish it in sections or multiple volumes. If you post the report on your institution's website, clearly identify it as a single, separate part of the site. You may include the report in a publication such as a campus directory that is given to all students and employees, provided the report appears in its entirety within that publication. You don't have to provide the report to both students and employees in the same publication, however.

If your institution has **multiple campuses** remember that *Clery Act* requirements must be met individually for each separate campus. (See bullet no. 6 under "Other On-campus Considerations" in Chapter 2 for more information on separate campuses.) You may publish a single document covering all campuses as long as you clearly identify the policy statements and crime statistics that are associated with each campus.

Presenting Your Policy Statements in the Annual Security Report

Disclosure of policy statements in annual security report citation
34 CFR 668.46(b)(2)–(14)

As you compile the section on policy statements, keep the focus of the requirement in mind: disclosure of the procedures, practices and programs your institution uses to keep students and employees safe and its facilities secure. Present your statements in an accurate, concise, readable and organized manner.

The required policy statements are discussed in detail in Chapters 7 and 8. They may precede or follow the crime statistics in your report.

Presenting General Crime Statistics and Arrest and Disciplinary Referral Statistics

Disclosure of crime statistics in annual security report citation
34 CFR 668.46(b)(1)

Present all statistics other than those for hate crimes in a **tabular format**. You may use a single table or multiple tables. Use clear and consistent labeling to make the information presented easy to read. Include caveats as necessary to explain the data in the table. For example, if your institution housed students in an on-campus dormitory for the first time last year, it would be helpful to provide a caveat explaining why crime statistics for the "on-campus student housing facilities" category were included for only the most recent year. If you are including **non-Clery statistics** in your annual security report (i.e., non-Clery crimes and/or crimes that occurred outside of your Clery geographic locations), present those statistics in a separate table or in a caveat.

Use the following guidelines when presenting your crime statistics. (See Chapter 3 for information on categorizing and counting crimes.)

- **Year reported.** Include statistics for the three most recent calendar years. Enter statistics for each year separately. For example, for your 2011 report, enter statistics separately for 2008, 2009 and 2010.

- **Geographic category.** Include categories for all required geographic locations (on-campus, public property and noncampus) that pertain to your institution. If your institution has on-campus student housing facilities include that category as well. Remember that statistics for on-campus student housing facilities should be combined with on-campus statistics and also disclosed separately in the on-campus student housing facility category. If your institution does not have any on-campus student housing facilities or any noncampus buildings or property, include a caveat stating this.

- **Crime category.** Include all required crime categories and list each one separately as shown in the sample table on the next page.

  Although it is not required, you may provide a more detailed breakout of offenses. For example, Forcible Sex Offenses may be subcategorized as Forcible Rape, Forcible Sodomy, Sexual Assault with an Object and Forcible Fondling.

- **Categories with no crimes.** 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.

- **Required sources.** Include all Clery crimes reported to campus police or security (if applicable), other campus security authorities and local law enforcement agencies (if the agencies have complied with your request for statistics). You may enter these statistics separately or in a combined manner. For example, one option is to combine statistics for crimes reported to campus police/security and other campus security authorities in one column and enter the statistics from local law enforcement agencies in another column.

A sample table follows; however, there is no prescribed format for how your table or tables should look.

Figure 38. Sample Crime Statistics Reporting Table

OFFENSE	YEAR	ON-CAMPUS PROPERTY	ON-CAMPUS STUDENT HOUSING FACILITIES	NONCAMPUS PROPERTY	PUBLIC PROPERTY
MURDER / NON-NEGLIGENT MANSLAUGHTER					
NEGLIGENT MANSLAUGHTER					
SEX OFFENSES, FORCIBLE					
SEX OFFENSES, NON-FORCIBLE					
ROBBERY					
AGGRAVATED ASSAULT					
BURGLARY					
MOTOR VEHICLE THEFT					
ARSON					
ARRESTS: WEAPONS: CARRYING, POSSESSING, ETC.					
DISCIPLINARY REFERRALS: WEAPONS: CARRYING, POSSESSING, ETC.					
ARRESTS: DRUG ABUSE VIOLATIONS					
DISCIPLINARY REFERRALS: DRUG ABUSE VIOLATIONS					
ARRESTS: LIQUOR LAW VIOLATIONS					
DISCIPLINARY REFERRALS: LIQUOR LAW VIOLATIONS					

Presenting Hate Crime Statistics in the Annual Security Report

You may present hate crime data in either a **tabular format** or in a **narrative or descriptive format**. Either way, use the following bulleted guidelines when presenting the statistics. (See Chapter 3 for information on categorizing and counting hate crimes.)

- **Year.** Disclose statistics for the three most recent calendar years.
- **Geographic category.** Disclose statistics by geographic location. (For more information on geographic locations, see Chapter 2.)
- **Crime category.** Include all *Clery Act* offenses that are classified as hate crimes as well as incidents of larceny-theft, simple assault, intimidation and destruction/damage/vandalism of property that are classified as hate crimes. For Clery reporting purposes negligent manslaughter, arrests and referrals for disciplinary action for weapons: carrying, possessing, etc., drug abuse violations or liquor law violations should not be categorized as Hate Crimes. (For more information on crime categories, see Chapter 3.)
- **Bias category.** Include the category of bias for each hate crime. (For more information on categories of bias, see "Hate Crimes" in Chapter 3.)

Figure 39. Examples of Descriptive Hate Crime Reporting

Example 1: Hate Crimes

2010: One on-campus intimidation incident characterized by religious bias.
2009: One noncampus robbery characterized by ethnicity/national origin bias, and one public property aggravated assault characterized by sexual orientation bias.
2008: No hate crimes reported.

Example 2: Hate Crimes

There were no reported hate crimes for the years 2008, 2009 or 2010.

Distributing the Annual Security Report

Who gets the annual security report? You must distribute the report to all **currently enrolled students** (including those attending less than full time and those not enrolled in Title IV programs or courses) and all **employees** by Oct. 1 each year. You also must provide the report to any prospective student or prospective employee upon request. A **prospective student** is defined as *an individual who has contacted an eligible institution requesting information about admission to that institution.* A **prospective employee** is defined as *an individual who has contacted an eligible institution requesting information concerning employment with that institution.*

If you have students who are enrolled in your institution but are currently only taking courses at another school, you are still required to provide them with your annual security report.

How should the report be distributed? You must distribute the report to all enrolled students and current employees in one of two ways:

1. **Directly by publications and mailings. You may accomplish this by giving a copy of your annual security report directly to each individual or by direct mailing the report to each individual through:**
   - The United States Postal Service;
   - Campus mail;
   - E-mail; or
   - A combination of these methods.
2. **Posting the annual security report on an Internet or intranet website that is reasonably accessible to enrolled students and to current employees.** You may use this method *only* if you distribute an individual notice about the annual security report to each student and employee by Oct. 1. Do not bury the notice in another document where a student or employee may be unlikely to read it. The notice should include:
   - A statement of the report's availability.

- A list and brief description of the information contained in the report.
- The exact address (URL) of the Internet or intranet website at which the report is posted. This means that you must provide a direct link to the annual security report. It is not acceptable simply to give the URL for the institution's website.

  This does not mean that all of your *Clery Act*-related items must be located at this URL. You may provide links from this URL to such items as your crime log, additional annual security reports for your separate campuses, etc.
- A statement that the school will provide a paper copy of the annual security report upon request. This request does not have to be made in writing. You may not charge fees to individuals for copies of the annual security report, nor can you include the annual security report in any publication for which you charge a fee.

Figure 40. Sample Notice of Annual Security Report Availability

(Name of institution's) annual security report is now available. This report is required by federal law and contains policy statements and crime statistics for the school. The policy statements address the school's policies, procedures and programs concerning safety and security, for example, policies for responding to emergency situations and sexual offenses. Three years' worth of statistics are included for certain types of crimes that were reported to have occurred on campus, in or on off-campus buildings or property owned or controlled by the school and on public property within or immediately adjacent to the campus. This report is available online at (web URL). You may also request a paper copy from the (name of office).

Important note for institutions with on-campus student housing facilities:

If your institution has any on-campus student housing facilities you must also publish an annual fire safety report as described in Chapter 14. You may publish both reports together as long as the title of the document clearly states that it contains both the annual security report and the annual fire safety report. If you choose to publish the two reports separately, you must include information in each of the two reports about how to **directly access** the other report. Do not simply state that the other report is available.

Figure 41. Sample Notice of Combined Annual Security Report and Annual Fire Safety Report Availability

GW is committed to assisting all members of the GW community in providing for their own safety and security. The annual security and fire safety compliance document is available on the UPD website at http://gwired.gwu.edu/upd/compliance.

If you would like to receive the combined Annual Security and Fire Safety Report which contains this information, you can stop by the University Police Department at 2033 G. Street, NW, Woodhull House, Washington, DC, 20052 or you can request that a copy be mailed to you by calling (XXX) XXX-XXXX.

The website and booklet contain information regarding campus security and personal safety including topics such as: crime prevention, fire safety, university police law enforcement authority, crime reporting policies, disciplinary procedures and other matters of importance related to security and safety on campus. They also contain information about crime statistics for the three previous calendar years concerning reported crimes that occurred on campus; in certain off-campus buildings or property owned or controlled by GW; and on public property within, or immediately adjacent to and accessible from the campus.

This information is required by law and is provided by The George Washington University Police Department.

Providing the Annual Security Report to Prospective Students and Employees

As stated previously, you must also make the report available to prospective students and employees. Do this by providing prospective students and prospective employees with a notice containing:

- A statement of the report's availability;
- A description of its contents;
- The opportunity to request a copy.

You may provide this notice to prospective students and prospective employees along with other information your institution provides to them. If your institution solicits applications for a faculty or an adminstrative position through an advertisement, the institution is required to provide a notice of the availability of the annual security report to those individuals it interviews. However, you are not required to include notification in the job advertisement, nor are you required to notify an individual to whom you simply sent a

rejection letter based on his or her unsolicited employment application.

If you choose to provide your annual security report to prospective students and prospective employees by posting the report on an Internet site, the notice provided to each individual must include:

- The exact URL where the report is posted;
- A brief description of the report; and
- A statement that the institution will provide a paper copy of the report upon request.

Note that you may not use an *intranet* site to make disclosures to prospective students and employees.

Retaining Records

Be sure to retain the annual security report and all supporting records used in compiling the report for three years from the latest publication of the report to which they apply. For example, the 2011 annual security report should contain statistics for 2008, 2009 and 2010. The 2008 statistics and supporting records must be kept until Oct. 1, 2014—in effect, seven years.

Records to be kept include, but are not limited to, copies of crime reports; the daily crime logs; records for arrests and referrals for disciplinary action; timely warning and emergency notification reports; documentation, such as letters to and from local police having to do with *Clery Act* compliance; letters to and from campus security authorities; correspondence with us regarding *Clery Act* compliance; and copies of notices to students and employees about the availability of the annual security report. Make sure to date all documentation, and keep it easily retrievable. If you scan paper documents for archival purposes, be sure to scan complete records. We suggest that you have more than one person at your school who knows where the documentation is kept.

Submitting Crime Statistics to ED

Although you are not required to send us your annual security report, you must send us the crime statistics from the report. In late summer we conduct the annual Campus Safety

and Security Survey. This Web-based survey is used to collect the statistical data from your annual security report and your annual fire safety report (if your institution has any on-campus student housing facilities).[6] The data are then posted on our public website for use by higher education consumers. The site is located at http://www.ope.ed.gov/security.

Each year a few weeks prior to the collection, we send a letter and a registration certificate to your institution's chief executive officer. The letter explains this important *Clery Act* requirement. The certificate contains the following information necessary to access the survey and enter data:

- Institution's User ID—Typically, this ID consists of an uppercase letter plus an eight-digit number. For example: C21370001. We issue a new User ID every year.
- Institution's Password—The password is a combination of nine letters, numbers and symbols. For example: Ab3y22*Z4. We issue a new password every year.
- Survey address—https://surveys.ope.ed.gov/security.
- Campus Safety and Security Help Desk telephone number—(800) 435–5985.
- Campus Safety and Security Help Desk e-mail address—campussafetyhelp@westat.com.
- Data collection dates—Aug. __ to Oct. __ 20__.

Detailed step-by-step screen instructions for the survey are provided in the User's Guide for the Campus Safety and Security Data Collection. The user's guide is located online at https://surveys.ope.ed.gov/security.

Note that if **your institution became Title IV eligible after Jan. 31**, your institution is exempt from participating in the Web-based data collection (i.e., the Campus Safety and Security Survey) for a specified period of time. The regulations require you to disclose crime and fire statistics each year for the previous three years.[7] However, if for example, your institution became Title IV eligible in July 2009, you would

[6] The *HEA* requirement to collect statistics for fires in on-campus student housing facilities went into effect on Aug. 14, 2008. The 2010 data collection is the first data collection to which this requirement applied.

[7] Only schools that have on-campus student housing facilities must disclose fire statistics.

not have collected any *HEA* crime and fire statistics prior to that date. Because the online survey collects statistics for an entire calendar year, your institution would not participate in the survey until you had an entire year of statistics. In this case, you would participate in the 2011 survey for the collection of 2010 statistics. This exemption applies *only* to the online data collection.

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Missing Students:
The Twenty-four Hour Rule

CHAPTER 10

Missing student notification policy disclosure citation
34 CFR 668.46(b)(14)

If your institution has any on-campus student housing facilities, you are required to comply with *HEA* missing student notification regulations. (Please see "Definition of an On-campus Student Housing Facility" in Chapter 2.) ***HEA* missing student regulations apply only to students who reside in on-campus housing.** They do not address students living in any noncampus student housing your institution might own or control. If you have **multiple campuses**, only those that have on-campus student housing facilities must comply with these regulations. If your institution has any **foreign campuses** with on-campus student housing facilities, those campuses also must comply with *HEA* missing student notification regulations. Note that these regulations do not apply to students who normally live in your on-campus student housing, but who are **temporarily residing off campus** in study abroad programs.

What you must do is:

- Issue a policy statement that addresses missing student notification for students residing in on-campus student housing, and
- Include procedures that your institution will follow if any of those students is determined to be missing for 24 hours.

The essence of the requirement is that if a student who lives in on-campus student housing is determined to have been missing for 24 hours, you have only 24 hours after receiving the report in which to initiate specific notification procedures. **This requirement does not preclude your institution from making a determination that a student is missing before the student has been missing for a full 24 hours, or from initiating notification procedures as soon as it determines that the student is missing.** In other words, you *must* initiate *HEA*-related procedures if a student has been determined to be missing for 24 hours; however, you *may* act sooner.

Include your policy and procedures statement in your institution's annual security report. You can include it with

your institution's other campus security policy statements, in any order that you choose. Make sure that you clearly state that this policy focuses on students residing in on-campus student housing. If your institution has a policy that applies to all missing students regardless of whether they live on campus or off campus, you may issue a single missing student policy statement providing it fully and clearly addresses each of the required *HEA* components for students living in on-campus housing.

Requirements for missing student notification policy statement citation
34 CFR 668.46(h)

Policy Statement

Your missing student policy statement must:

1. **Indicate a list of titles of the persons or organizations to which students, employees or other individuals should report that a student has been missing for 24 hours.**

What does this mean?

You must provide a list of individuals or organizations that people should contact if they have reason to believe a student who lives in on-campus student housing has been missing from campus for 24 hours. Use complete titles, such as "Dean of Housing" rather than "the Dean," and "City of Rockville Police Department" rather than "the police." Include contact information for each listing.

2. **Require that any missing student report must be referred immediately to the institution's police or campus security department, or, in the absence of an institutional police or campus security department, to the local law enforcement agency that has jurisdiction in the area.**

What does this mean?

This component addresses what your institution is obligated to do when a missing student report is received. Missing student reports include reports made by anyone, even individuals not affiliated with your school.

If your institution has a campus police or security department, your policy must state that anyone receiving a missing student report should *immediately* bring it to that department's attention. If your institution does not have a

campus police or security department, the report should *immediately* be brought to the attention of the local law enforcement agency that has jurisdiction in your area. Include contact information for that agency. (For help in determining the law enforcement agency or agencies that have jurisdiction in your area, see "How Do You Obtain Statistics From Local Law Enforcement?" in Chapter 4.) Every report must be forwarded to the appropriate entity regardless of how long the student is believed to have been missing.

3. Contain an option for each student to identify a contact person or persons whom the institution shall notify within 24 hours of the determination that the student is missing, if the student has been determined missing by the institutional police or campus security department, or the local law enforcement agency.

What does this mean?

This component addresses your institution's obligation to advise every student who lives in on-campus student housing, *regardless of age*, that he or she may register one or more individuals to be a contact **strictly for missing persons purposes**. The contact person can be anyone. You must give students this option even if they have already identified a general emergency contact. A student may identify the same individual for both purposes, but your institution may not assume that a general emergency contact is also the missing person contact. Offer students this option annually regardless of whether they chose to register a contact the previous year. If any students move into on-campus student housing mid-year, you must give them the option to name a contact person as well. Include information about how to register a contact or contacts.

To protect confidentiality, general emergency contact information and missing student contact information must be kept separate, even if the student has registered the same person for both purposes.

4. Advise students that their contact information will be registered confidentially, that this information will be accessible only to authorized campus officials, and that it may not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation.

What does this mean?

This component addresses how a student's contact person information will be maintained and who is allowed access to it. Inform students that the information will be kept confidential. To protect confidentiality, general emergency contact information and missing student contact information must be kept separate, even if the student has registered the same person for both purposes. Because *HEA* requires the information to be kept confidential, it has greater privacy protections than the *Family Educational Rights and Privacy Act* (*FERPA)* provides.

State that contact information may be accessed only by authorized campus officials. Although your policy statement does not have to contain the names or titles of the authorized officials, you should document this information for your records. Those officials may disclose the contact information *only* to law enforcement officials and *only* for the purpose of a missing student investigation. In issuing this policy statement, you are letting students know that if they register a contact person, they are, in effect, also providing permission for law enforcement personnel to contact the identified individual for the purpose of a missing student investigation.

5. Advise students that if they are under 18 years of age and not emancipated, the institution must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student.

What does this mean?

This part of your statement addresses students who are under the age of 18 and are not emancipated, that is, not legally independent of their parents. State that if it has been determined that such a student has been missing for 24 hours, the institution will notify both the student's custodial parent or guardian and the student's contact person, if he or she has registered one, that the student is missing.

6. **Advise students that the institution will notify the local law enforcement agency within 24 hours of the determination that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing.**

What does this mean?

Include a statement that once a determination has been made that a student living in on-campus student housing is missing, your institution will notify local law enforcement of the situation within 24 hours. The **only exception** is when it was the law enforcement agency that made the determination. This statement addresses *any* missing student who lives in on-campus student housing regardless of age or status, and regardless of whether he or she registered a confidential contact person.

Procedures

Your institution's missing student notification procedures **must** go into effect within 24 hours of the determination that a student who lives in on-campus student housing has been missing for 24 hours. Again, this doesn't preclude initiating notification procedures as soon as your institution determines that a student is missing.

Your institution's missing student notification procedures must go into effect within 24 hours of the determination that a student who lives in on-campus student housing has been missing for 24 hours.

Your policy statement must include the procedures that will be followed in the case of a missing student report. In addition to any other steps your institution might take, you must include the following:

1. **If the student has designated a contact person, notifying that contact person within 24 hours that the student is missing.**

What does this mean?

State that if a student has registered a contact person, the institution will notify him or her no later than 24 hours after it's been officially determined that the student is missing. This does not have to be an in-person contact. If a student identifies multiple contacts, they can be contacted in an order determined by the institution. If a student registers multiple contact persons and the first person contacted confirms that the student is not missing, the institution must contact each additional contact person in turn, unless the student in question is contacted by

the institution or contacts the institution. If your institution is unsuccessful in contacting the named individual or individuals, document your attempts.

The official determination that the student is missing can be made **at any time** by the campus police or security department (if the campus has one) or by the local law enforcement agency that has jurisdiction where the campus is located. For example, suppose a student goes to your campus security office at 10:00 on a Monday morning and reports that a student living in her dorm left the campus at 9:00 p.m. Sunday evening and didn't return for her Monday 8:00 a.m. class. The student has been missing for 11 hours. Campus security investigates and comes to the conclusion at 11:15 a.m. that the student is missing. If the missing student has identified a confidential contact, campus security has 24 hours (i.e., until 11:15 Tuesday morning) to notify that contact person.

2. If the student is under 18 years of age and is not emancipated, notifying the student's custodial parent or guardian and any other designated contact person within 24 hours that the student is missing.

What does this mean?

These procedures address students under 18 who are not legally independent of their parents. If it's determined that such a student has been missing for 24 hours, the institution has only 24 hours in which to contact (in no required order):

- The custodial parent or guardian, and
- The confidential contact person, if the student has identified one.

These regulations do not preclude the institution from contacting the student's contact person or the custodial parent or guardian immediately upon determination that the student is missing.

3. **Regardless of whether the student has identified a contact person, is above the age of 18 or is an emancipated minor, informing the local law enforcement agency that has jurisdiction in the area within 24 hours that the student is missing.**

What does this mean?

You must state that your institution will notify the local law enforcement agency when **any** student who lives in on-campus student housing has been determined to be missing for 24 hours. You must do this even if your school has a campus police or security department.

Note that this procedure differs from no. 2 under the Policy Statement section which requires missing student *reports* to be forwarded to a local law enforcement agency if your school does not have a campus police or security department. Procedure no. 3 directly above, requires your institution to forward the information that a student has been *determined* to be missing.

Figure 42. Sample Statement Addressing Missing Student Notification Policy and Procedures

If a member of the University community has reason to believe that a student who resides in on-campus housing is missing, he or she should **immediately** notify GWPD at XXX-XXXX. GWPD will generate a missing person report and initiate an investigation.

In addition to registering a general emergency contact, students residing in on-campus housing have the option to identify confidentially an individual to be contacted by GW in the event the student is determined to be missing for more than 24 hours. If a student has identified such an individual, GW will notify that individual no later than 24 hours after the student is determined to be missing. A student who wishes to identify a confidential contact can do so through the GW Housing web site. A student's confidential contact information will be accessible only by authorized campus officials and law enforcement in the course of the investigation.

After investigating a missing person report, should GWPD determine that the student has been missing for 24 hours, GW will notify MPD and the student's emergency contact no later than 24 hours after the student is determined to be missing. If the missing student is under the age of 18 and is not an emancipated individual, GW will notify the student's parent or legal guardian immediately after GWPD has determined that the student has been missing for 24 hours.

Figure 43. Sample Missing Student Contact Registration Form

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Fire Safety Disclosures: Requirements and Definition of a Fire

CHAPTER 11

HEA fire safety regulations **apply only to institutions with on-campus student housing facilities and focus exclusively on those facilities.** (See "How to Identify Your On-campus Geography" in Chapter 2 for the definition of "on campus.") They do not apply to other buildings on your campus or to any noncampus student housing facilities your institution might own or control. If you have **multiple campuses**, only those that have on-campus student housing facilities must comply with these regulations. If your institution has any **foreign campuses** with on-campus student housing facilities, those campuses also must comply with *HEA* fire safety regulations.

Institutional fire safety regulations citation
34 CFR 668.49

An institution with on-campus student housing facilities is required to:

- Maintain a **log** of all reported fires that occur in those on-campus student housing facilities,
- Publish an annual **fire safety report** that contains fire safety policies and fire statistics for each of those facilities, and
- Submit the **fire statistics** from the fire safety report annually to ED.

Fire log requirement citation
34 CFR 668.49(d)

Annual fire safety report requirement citation
34 CFR 668.49(b)

Fire statistics disclosure requirement citation
34 CFR 668.49(c)

The fire log is discussed in Chapter 12, fire statistics are discussed in Chapter 13 and the annual fire safety report is discussed in Chapter 14. First, though, to comply fully and accurately with the requirements found in those chapters, you need to understand how *HEA* defines a fire.

Definition of a Fire

For the purposes of fire safety reporting, *HEA* defines a **fire** as *any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner.*

Fire definition citation
34 CFR 668.49(a)
definitions

This definition contains two descriptions of fire. The first is "any instance of open flame or other burning in a place not intended to contain the burning." Some examples are:

- Trash can fire.
- Oven or microwave fire.
- Burning oven mitt on a stove.
- Grease fire on a stovetop.
- Flame coming from electric extension cord.
- Burning wall hanging or poster.
- Fire in an overheated bathroom vent fan.
- Couch that is burning without any flame evident.

The second type of fire is "any instance of open flame or other burning **in an uncontrolled manner**." Some examples are:

- Chimney fire.
- Gas stove fire.
- Fuel burner or boiler fire.

Include:

- All fires that meet the *HEA* definition regardless of:
  - Size.
  - Cause.
  - Whether the fire results in injury, death or property damage.
  - Your institution's fire safety policies. Even if your institution prohibits the burning of candles in dorms, a lit candle doesn't meet the definition of a fire. If drapes catch on fire due to brushing against a lit candle, the burning drapes meet the definition.
- Fires on the roof or the outside walls of a building even if the fire doesn't reach the inside.

- An incident where there is evidence that there *was* burning, for example, a singed electrical cord.

- Fires in parking facilities and dining halls that are **physically attached to and accessed directly from,** on-campus student housing facilities. "Accessed directly from" means that an individual can enter the parking area directly from the housing area without leaving the building. Note that if there is a vehicle fire (i.e., a fire that is confined to a vehicle) in a student housing facility parking garage, this is not a student housing facility fire. However, if there is a fire in the garage that spreads to a vehicle, or if a vehicle fire spreads to the garage, this is a student housing facility fire.

- Fires reported to any official at your institution (e.g., to a residence life officer), not just campus fire authorities or campus security authorities.

Do not include:

- Sparks or smoke where there is no open flame or other burning.

- Such incidents as burnt microwave popcorn that trigger fire alarms or smoke detectors but there are no open flames or other burning.

- *Attempted* arson in cases where there is no open flame or burning. (Attempted arson must be included along with statistics for completed arson in your Clery crime statistics, however. See "Types of Criminal Offenses," no. 7 in Chapter 3 for more information about arson.)

- Fires in parking facilities and dining halls that are **not physically attached to and accessed directly from** on-campus student housing facilities, even if the facilities are reserved for the use of residents in those housing facilities.

- Incidents that violate your institution's fire safety policies but that do not meet the *HEA* definition of a fire. For example, if your institution prohibits fires in fireplaces in on-campus student housing, and a student lights a fire in the fireplace, this is not a reportable fire under *HEA*. However, if the fire began

burning in an uncontrollable manner and ignited the chimney or flue, that would be a reportable fire.

Before moving on to the discussion of the fire log, please note that the fire safety regulations do not override your institution's legal obligation to maintain the confidentiality of certain information and records under *FERPA* or other federal laws.

The Fire Log:
Recording Fires in On-campus Student Housing Facilities

CHAPTER 12

Fire log citation
34 CFR 668.49(d)

Your institution must maintain a written, easily understood fire log that records, by the date reported, **any fire that occurs in an on-campus student housing facility.** You are not required to record fires that occur anywhere else on your campus in this log. Nor are you required to record fires that occur in any noncampus student housing that your school might own or control. You may, however, include other fires in the log for your institution's internal record keeping, but such information is not required by *HEA.*

You may use either a hard copy log or an electronic format. Either format must be accessible on-site. This means that if you have separate campuses that have on-campus student housing facilities, a fire log must be available at, or accessible from, each campus. Information from the log should be used in determining statistics to include in the annual fire safety report and the fire statistics submitted to ED.

What Are Reported Fires?

Reported fires include fires that were already extinguished as well as those discovered while still burning. They include emergency situations involving fires that necessitated a call to 911 for fire department assistance, as well as minor fires, such as a small trash can fire that was easily extinguished without assistance. Fires can be reported by anyone, regardless of the individual's association with your institution.

Reported fires include fires that were already extinguished as well as those discovered while still burning.

Unlike Clery crime reporting, in which a crime is "reported" when it's brought to the attention of a campus security authority or a local law enforcement agency, there are no such restrictions with fire reporting. Any student housing fire that is reported to any official at your institution must be documented in your fire log. An **official** is *any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution.* To help ensure that fire reports get entered into your fire log, your institution

Any student housing fire that is reported to any official at your institution must be documented in your fire log.

must have and disclose a policy and procedures informing students and employees of the individuals or organizations to whom fires should be reported. (More about this in Chapter 14.)

Figure 44. Examples of Reported Fires

Scenario 1: A student calls a resident assistant from his cell phone to report a small fire in a dorm laundry room. When the RA gets to the laundry room there is no evidence or indication of a fire. He asks the student who made the report where the fire was and the student tells him that a paper had been set on fire on the bulletin board by someone on his way out of the room. The student extinguished the burning paper immediately and then called the RA. The RA must document the report and forward it to the director of Student Housing for entry in the fire log.

Scenario 2: A maintenance worker is repairing a kitchen sink at a Greek house on campus. He notices that the stove is scorched and asks a couple of students what happened. They tell him that several months ago they had a fire while making dinner. The maintenance worker asks the students if they reported the fire and they tell him that they didn't because they were able to extinguish it themselves. The maintenance worker forwards the report to the director of Student Housing who enters the report into the fire log.

Scenario 3: The city of Rockville's fire department responds to an active fire alarm set off by a smoke detector in a student dormitory on campus. Fire personnel investigate but do not find evidence of a fire. The RFD determines that workmen using power tools to repair a bathroom fan set off the smoke detector. They call the school's security department to report their findings. The security department documents the report in the department's incident log but does not enter it into the fire log.

Creating a Fire Log

Required Fire Log Elements

The law allows flexibility in how you design your fire log as long as you include the required elements. For each fire, the log must include:

- The date the fire was reported.
- The nature of the fire.
- The date and time of the fire.
- The general location of the fire.

You may include other data elements or columns in your log for internal record-keeping procedures, but such additional

information is not required by *HEA*. You also may include entries for fires other than those in on-campus student housing facilities, but you are not required to do so. If you record such fires, do not include statistics for them in your *HEA*-mandated annual fire safety report unless they are presented in a separate table or in a caveat.

The Date the Fire Was Reported

Use the date that the fire was initially reported. For example, if the fire was reported to a campus dean on a Friday and the dean reported it the following Monday to the office maintaining the log, Friday's date would be entered in the log. Enter the date the fire was reported *regardless* of how much time has passed since the fire occurred.

Enter the date the fire was reported *regardless* of how much time has passed since the fire occurred.

The Nature of the Fire

For this category you may simply use the causes listed under "Cause of Fire" in Chapter 13, or you may elaborate on them. Whatever you choose to do, enter a description that allows the reader to know what type of fire occurred. For example, instead of "accidental" or "arson," enter "room fire caused by electrical malfunction" or "bulletin board intentionally set on fire." Use descriptions that anyone reading the log can understand. Don't use codes, acronyms or abbreviations.

The Date and Time of the Fire

Enter the date the fire occurred *and* the time it started. If you do not know the time the fire started, enter the time it was first noticed. If this information is not available, enter an approximation or a range, or enter "unknown."

The General Location of the Fire

Enter the location of the fire but do not provide personally identifying information. For example, enter "Fourth Floor, North Campus Hall" rather than "Room 404, North Campus Hall."

Figure 45. Sample Fire Log With Required Elements

Fire Log
March 2010

Date reported	Case Number	Nature of fire	Date and Time of Fire	Location
03/12/2010	2010F-1200	Cigarette thrown in trash can	03/11/2010 Approx. 5:30 p.m.	North Campus Hall lounge
03/25/2010	2010F-1201	Flyer set on fire	03/25/2010 Btw. 2:00 a.m. – 6:00 a.m.	Third floor hall in Theta Chi house

Maintaining the Fire Log

Your institution must make an entry or an addition to an entry to the log within two business days of receiving the information. A business day is any day Monday through Friday, except for days when the institution is closed. If you have an electronic log, and you experience a software or computer problem, use a hard copy log as a temporary replacement. Make the fire log for the most recent 60-day period open to public inspection, upon request, during normal business hours. Make any portion of the log older than 60 days available within two business days of a request for public inspection. Anyone may have access to the log, whether or not they are associated with your institution. This includes the media.

Provide students and employees with a description of the log, noting its location and availability. Your institution may decide who or what department is responsible for maintaining the log and where it should be kept if it's a hard copy log. Keep your archived fire logs for three years following the publication of the last annual fire safety report to which it applies (in effect, seven years).

Combining Your Fire Log With Your Daily Crime Log

If your institution has a campus police or security department and is required to maintain a daily crime log for Clery reporting (see Chapter 5), you may use that same log for your fire log. Label it in a manner that lets people know that it

is both a crime and a fire log. Make sure that it contains the required elements for both logs. You also may keep separate crime and fire logs.

Note that if you have separate logs, they should differ as follows in terms of reporting fires: The **fire log** records all reported fires, including arson, in on-campus student housing facilities. The **crime log** records all arsons and attempted arsons reported to the campus police or security department that occur on campus (including student housing facilities), on public property, in noncampus buildings or property or within the patrol jurisdiction of that department.

Reporting to the Campus Community

The law states that an institution must make an annual report to the campus community on the fires recorded in the fire log. This requirement may be satisfied by the annual fire safety report. This report is described in detail in Chapter 14.

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Fire Statistics:
Classifying and Counting Fires in On-campus Student Housing Facilities

CHAPTER 13

Fire statistics disclosure citation
34 CFR 668.49(c)

In addition to the disclosure of your institution's fire safety-related policies and procedures, your annual fire safety report must contain **statistics for reported fires in on-campus student housing facilities.** This chapter discusses in detail the various categories of required statistics.

You must collect and disclose statistics for **each** on-campus student housing facility **separately** for the three most recent calendar years (i.e., Jan. 1 through Dec. 31) for which data are available.[8] You may treat a group of attached buildings, such as a row of townhouses, as a single student housing facility if they share a name and have the same fire safety policies and systems. All other student housing facilities must be reported separately.

If there were no reported fires in *any* of your on-campus student housing facilities for the reporting year, you may simply list the name and address of each facility in your annual fire safety report and state that there were no reported fires in the facilities for the reporting year. You will, however, be required to enter 0 for each on-campus student housing facility in your Web-based survey. (More about the survey in Chapter 14.)

Required Fire Statistics

Identify each facility by name and street address, and for each facility disclose:

1. The number of fires and the cause of each fire.

A **fire,** for the purposes of *HEA* regulations, is defined as *any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner.*

[8] The fire safety disclosure provisions in *HEA* went into effect on Aug. 14, 2008. Regulations were issued on Oct. 29, 2009.

(For more information about what is and isn't a fire, please see Chapter 11.)

Cause of fire is defined as *the factor or factors that give rise to a fire. The causal factor may be, but is not limited to, the result of an intentional or unintentional action, mechanical failure, or act of nature.*

Use the following guide, Classifications of Fire and Examples, to help identify the cause of a fire:

Figure 46. Classifications of Fire and Examples

Unintentional Fire. (A fire that does not involve an intentional human act to ignite or spread fire into an area where the fire should not be.)

Cause	Example
Cooking	Grease fire on stove top, oven or microwave fire
Smoking Materials	Discarded lit cigarette butt
Open flames	Candles
Electrical	Electrical arcing, overheated electrical motor
Heating equipment	Heating stoves, space heaters, fireplaces, furnaces, water heaters
Hazardous products	Spontaneous combustion; chemical reaction
Machinery/Industrial	Heat from friction, (e.g., fan belts); cutting and welding
Natural	Fires that result from a natural phenomenon, such as lightning, tornadoes and earthquakes
Other	Fireworks (including sparklers), paper caps, party poppers and firecrackers; sunlight (usually magnified through glass or a bottle); fires that start in a building that is not an on-campus student housing facility and spread to an on-campus student housing facility

Intentional Fire. (**A fire that is ignited, or that results from a deliberate action, in circumstances where the person knows there should not be a fire.)**

Example: Fire in a dorm restroom has been investigated by fire authorities and determined to be arson. Perpetrator used matches to ignite paper towels.

NOTE: Provide a description of all intentional fires. (For more information on intentional fires, see "Arson" in Chapter 3.)

Undetermined Fire. (A fire in which the cause cannot be determined.)

Example: Investigators cannot determine whether a couch was smoldering because someone accidentally dropped a lighted cigarette behind a cushion, or because someone intentionally set it on fire.

2. The number of persons who received fire-related injuries that resulted in treatment at a medical facility, including at an on-campus health center.

HEA defines a **fire-related injury** as *any instance in which a person is injured as a result of a fire, including an injury sustained from a natural or accidental cause, while involved in fire control, attempting rescue, or escaping from the dangers of the fire. The term "person" may include students, employees, visitors, firefighters, or any other individuals.*

Include:

- Individuals who are transported to a medical facility (even if they refuse treatment at the facility).
- Individuals who are treated at a temporary medical facility that is set up at the fire site.
- Individuals who are treated in an ambulance.

Do not include:

- Individuals who appear to be injured but refuse to be treated or transferred to a medical facility.
- Individuals more than one time for a single fire. If an individual is treated at a medical facility, and is later transferred to a different medical facility, count this as one person with fire-related injuries.

3. The number of deaths related to a fire.

HEA defines a **fire-related death** as *any instance in which a person—*

(1) Is killed as a result of a fire, including death resulting from a natural or accidental cause while involved in fire control, attempting rescue, or escaping from the dangers of a fire; or

(2) Dies within one year of injuries sustained as a result of the fire.

Examples of natural causes of fire-related death:

- Lung damage due to smoke inhalation.
- Heart problems due to stress or exertion.

Examples of accidental causes of fire-related death:

- Getting struck by a falling object.
- Getting burned by fallen wires.
- Being killed by jumping out of a window.

Disclose the number of fire-related deaths for **each** fire. Although the regulations don't require your school to track every individual who has a fire-related injury for the purpose of documenting fire-related deaths, you must make a reasonable effort to ascertain the number of deaths that occur in a one-year period following a fire. A reasonable effort includes:

- Tracking individuals who are hospitalized a few miles from your school.
- Tracking individuals who are still in contact with the school following the fire.
- Documenting deaths that you learn of via other individuals or the media.

4. The value of property damage caused by a fire.

HEA defines **value of property damage** as *the estimated value of the loss of the structure and contents, in terms of the cost of replacement in like kind and quantity. This estimate should include contents damaged by fire, and related damages caused by smoke, water, and overhaul; however, it does not include indirect loss, such as business interruption.*

Disclose the value of property damage for **each** fire. Include the value of all property damage, even to property not owned or controlled by your institution. (If you want to make an *additional* disclosure to separate out institutional property damage and damage to the personal property of others, you may do so.) Your estimate for structural damage should be based on replacement value, not market value. Make sure to include the value of property destroyed during overhaul. **Overhaul** is *the practice of searching a fire scene to detect hidden fires or sparks which may rekindle, and to note the possible point of origin and cause of ignition.*

Do not include any indirect losses. In addition to business interruption, indirect losses include the cost of

emergency housing, personnel costs associated with subsequent cleanup and restoration and lost tuition.

Use the following ranges listed in Value Ranges for Estimated Property Damage Due to Fire to report the value of property damage if you use estimates rather than actual amounts:

Figure 47. Value Ranges for Estimated Property Damage Due to Fire	
$0 – 99	$50, 000 – 99,999
$100 – 999	$100,000 – 249,999
$1,000 – 9,999	$250,000 – 499,999
$10,000 – 24,999	$500,000 – 999,999
$25,000 – 49,999	>$1,000,000

How to Determine the Value of Property Damage

Property damage can be determined by the property owner or an insurance adjuster. If there is no property damage—for example a brief fire in a trash can that only destroyed discarded cigarette butts—indicate that the damage was in the $0–$99 range.

Fires in On-campus Student Housing Facilities That Are Physically Attached to Facilities Not Owned or Controlled by the Institution

Perhaps you have a student housing facility located on the edge of your campus that is attached along one wall to a privately owned establishment, such as a restaurant. A fire that originates in the restaurant kitchen spreads from the restaurant to the student housing facility. Disclose this as a student housing fire. It is irrelevant whether the building had separate access for the student housing and the restaurant or a single point of access. However, count injuries, damages, etc. only for the student housing facility, not for the restaurant.

A Note About Arson

As described in the Arson classification section in Chapter 3, the *Clery Act* requires your institution to disclose statistics for fires that are investigated and determined to meet the FBI's *UCR* definition of arson. The arson can occur anywhere within the institution's Clery geography: on campus (including in on-campus student housing facilities), in or on

noncampus buildings or property and public property. If your institution has a campus police or security department you also must record arsons that are reported to that department in your daily crime log if the arson occurs on your Clery geography or within the department's patrol jurisdiction. This means that an arson that occurs in an on-campus student housing facility must be disclosed in your annual fire safety report, your fire log, your annual security report and your crime log (if you are required to keep a crime log).

You must identify each on-campus student housing facility and enter the number of reported fires at each facility.

Remember, you must identify each on-campus student housing facility and enter the number of reported fires at each facility. Then, for each fire, enter the cause of the fire, the number of persons who received fire-related injuries that resulted in treatment at a medical facility, the number of deaths related to that fire and the value of property damage related to that fire. If there were no reported fires at a facility, state this, or enter a 0; do not omit the facility from your disclosures.

Figure 48. Sample Fire Statistics Reporting Table for the Annual Fire Safety Report

Statistics and Related Information Regarding Fires in Residential Facilities						
Residential Facilities	Total Fires in Each Building	Fire Number	Cause of Fire	Number of Injuries That Required Treatment at a Medical Facility	Number of Deaths Related to a Fire	Value of Property Damage Caused by Fire[1]
Smith Hall 1959 E St.	2	1	Unintentional/Stove fire	1	0	187.25
		2	Unintentional/Stove fire	0	0	665.23
Carroll Hall 2109 F St.	0	0	N/A	N/A	N/A	N/A
Aston 24 G St.	1	1	Unintentional/Fire in oven	0	0	0.00
Building JJ 49 G St.	0	0	N/A	N/A	N/A	N/A
City Hall 2206 M St.	0	0	N/A	N/A	N/A	N/A
Crawford 2209 M St.	0	0	N/A	N/A	N/A	N/A
Dakota 4900 M St.	0	0	N/A	N/A	N/A	N/A
Fisk 4905 M St.	0	0	N/A	N/A	N/A	N/A
Fulbright 4910 M St.	2	1	Unintentional/Fire in basement trash chute	0	0	5,895.00

[1] Values are in dollars.

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The Annual Fire Safety Report:
Publishing Policy Statements and Fire Statistics

CHAPTER 14

Annual fire safety report citation
34 CFR 668.49(b)

An institution that maintains any on-campus student housing facilities must publish an annual fire safety report by Oct. 1. This is a firm deadline; there is **no grace period** and there are **no exemptions**. The purpose of this report is to disclose fire safety policies and procedures related to your **on-campus student housing** and to disclose statistics for fires that occurred in those facilities.

You may publish your annual fire safety report together with your Clery-required annual security report as long as the title of the document clearly states that it contains both reports. There is no prescribed order for the reports. If you choose to publish the reports together one year and separately the next year, you may. If you choose to publish the reports separately, you must include information in each report about how to *directly access* the other report. This means that you can't simply say that the other report is available; you must describe how an individual can obtain the report. The publication requirements for the fire safety report are the same as those for the annual security report and are found in Chapter 9. Remember that if you have a **foreign campus** with on-campus student housing facilities, that campus also must publish an annual fire safety report.

The publication requirements for the fire safety report are the same as those for the annual security report.

The law doesn't require particular policies, procedures, programs or practices by your institution with respect to fire safety; the law prescribes how your institution collects, reports and disseminates the required information. The report must disclose your *current* policies, procedures, practices and rules. Descriptions of what your institution does regarding fire safety must be accurate and clear. For example, anyone reading your procedures for student housing evacuation in the case of a fire should be able to understand exactly what those procedures are, and the order in which they should be followed. Your institution is expected to adhere to the policies and procedures it discloses.

If your institution does not have any fire safety experts on site, we suggest that you contact local experts, such as the fire marshal, fire chief, fire investigator or other local fire authorities for assistance.

Components of the Fire Safety Report

At a minimum, the fire safety report must contain the components that are listed below. There is no prescribed order. All of the components pertain to on-campus student housing facilities, not the campus as a whole. An explanation of each component follows the list.

- A description of each on-campus student housing facility fire safety system.
- The number of fire drills held during the previous calendar year.
- The institution's policies or rules on portable electrical appliances, smoking and open flames in a student housing facility.
- The institution's procedures for student housing evacuation in the case of a fire.
- The policies regarding fire safety education and training programs provided to the students and employees. In these policies, the institution must describe the procedures that students and employees should follow in the case of a fire.
- For purposes of including a fire in the statistics in the annual fire safety report, a list of the titles of each person or organization to which students and employees should report that a fire occurred.
- Plans for future improvements in fire safety, if determined necessary by the institution.
- Fire statistics. (Fire statistics are discussed in detail in Chapter 13.)

1. Description of each on-campus student housing facility fire safety system.

HEA defines a **fire safety system** as *any mechanism or system related to the detection of a fire, the warning resulting from a fire, or the control of a fire. This may include sprinkler systems or other fire extinguishing systems, fire detection devices, stand-alone smoke alarms, devices that alert one to the presence of a fire, such as horns, bells, or strobe lights; smoke-control and reduction mechanisms; and fire doors and walls that reduce the spread of a fire.*

What does this mean?

Your statement should describe the fire safety system in **each** of your on-campus student housing facilities. It isn't enough to provide a general description of fire safety systems that encompasses all of the facilities. A reader should be able to look for a specific facility and read a description for that facility.

If you are not sure whether a specific mechanism or system is part of a fire safety system, ask yourself if the mechanism or system is related to the:

- **Detection** of a fire,
- **Warning** resulting from a fire, or
- **Control** of a fire.

For example, your institution might have egress lighting in the dormitories. Although egress lighting can be an element of a campus safety system, it is not part of a fire safety system because it is not used to detect, warn of or control a fire.

The elements included in *HEA's* definition of a fire safety system are examples. The fire safety system or systems you describe may differ.

You have flexibility in how your institution addresses this requirement. Your goal is to ensure that, at a minimum, students have enough information to understand what type of fire safety system is used in each on-campus student housing facility. For example, you may create a table that lists each student residential facility by name and has columns for checking whether a facility has any or all of the various systems and mechanisms identified, such as smoke alarms, fire doors, sprinkler systems, etc. If you use terms such as "full" or

"partial" to describe a fire suppression system, explain what is meant by "full" or "partial."

The regulations don't require your institution to provide specific detailed information on your fire safety system or other systems, such as maintenance or inspection schedules. However, you may provide this or other pertinent information as you choose.

Note that although you must disclose fire statistics for the previous three calendar years, your description of each on-campus student housing facility fire safety system must reflect the system that is currently in place.

Figure 49. Sample Description of On-campus Student Housing Facility Fire Safety Systems

Fire Safety Systems in GW Residential Facilities

Facility	Fire Alarm Monitoring Done On Site (by UPD)	Partial *1 Sprinkler System	Full *2 Sprinkler System	Smoke Detection	Fire Extinguisher Devices	Evacuation Plans & Placards	Number of evacuation (fire) drills each calendar year
Aston 24 G St.	X		X	X	X	X	2
Building JJ 49 G St.	X	X		X	X	X	2
City Hall 2206 M St.	X		X	X	X	X	4
Crawford 2209 M St.	X	X		X	X	X	4
Dakota 4900 M St.	X		X	X	X	X	2
Fisk 4905 M St.	X		X	X	X	X	2
Fulbright 4910 M St.	X		X	X	X	X	2
Smith Hall 1959 E St.	X		X	X	X	X	2
Carroll Hall 2109 F St.	X	X		X	X	X	2

*1. Partial Sprinkler System is defined as having sprinklers in the common areas only.
*2. Full Sprinkler system is defined as having sprinklers in both the common areas and individual rooms.

2. Number of fire drills held during the previous calendar year.

What does this mean?

HEA defines a fire drill as *a supervised practice of a mandatory evacuation of a building for a fire.* Disclose the number of fire drills for each on-campus student housing facility. If no fire drills were held for a facility during this time period, you must indicate this. This requirement cannot be met by a false alarm that leads to the evacuation of a building, even if the evacuation is supervised. A drill involves planning, supervision and evaluation.

3. Policies or rules on portable electrical appliances, smoking and open flames in a student housing facility.

What does this mean?

Disclose all of your institution's policies or rules on portable electrical appliances, smoking and open flames in your on-campus student housing facilities. It's not adequate to state that you have such policies or rules; you must disclose the specifics and you must address all three categories: portable electrical appliances, smoking and open flames. If some rules apply to certain facilities only, state this.

Figure 50. Sample Policy Statement Addressing Policies or Rules on Portable Electric Appliances, Smoking and Open Flames in a Student Housing Facility

The Office of Environmental Health & Safety performs Residence Hall Health and Safety (H&S) Inspections five times a year, twice in the Fall and in the Spring and once in the Summer. Inspections will be announced only during the first round of the fall semester. All other inspections are unannounced. The H&S inspections are primarily designed to find and eliminate safety violations. Students are required to read and comply with the Residential Community Conduct Guidelines (RCCGs), which include the H&S inspections and all other rules and regulations for residential buildings. The inspections include, but are not limited to, a visual examination of electrical cords, sprinkler heads, smoke detectors, fire extinguishers and other life safety systems.

In addition, each room will be examined for the presence of prohibited items (e.g., sources of open flames, such as candles; non-surge protected extension cords; halogen lamps; portable cooking appliances in non-kitchen areas; etc.) or prohibited activity (e.g., smoking in the room; tampering with life safety equipment; possession of pets; etc.). This inspection will also include a general assessment of food and waste storage and cleanliness of the room. Prohibited items will be immediately disabled with a locking device or confiscated and donated/discarded if found, without reimbursement.

4. Procedures for student housing evacuation in the case of a fire.

What does this mean?

Disclose your institution's procedures for evacuating student housing in the case of a fire. If the procedures differ by student housing facility, your statement must describe the specific procedures for each facility.

Figure 51. Sample Statement Addressing Procedures for Student Housing Evacuation in the Case of a Fire

In the event of a fire, the College expects that all campus community members will evacuate by the nearest exit, closing doors and activating the fire alarm system (if one is present) as they leave. Once safely outside a building, it is appropriate to contact 911 and the Department of Campus Safety. Students and/or staff are informed where to relocate to by staff if circumstance warrants at the time of the alarm. In the event fire alarms sound, College policy is that all occupants must evacuate from the building, closing doors as they leave. No training is provided to students or employees in firefighting or suppression activity as this is inherently dangerous and each community member's only duty is to exit safely and quickly, shutting doors along the exit path as they go to contain the spread of flames and smoke, and to activate the alarm as they exit. At no time should the closing of doors or the activation of the alarm delay the exit from the building.

5. Policies regarding fire safety education and training programs provided to the students and employees. In these policies, the institution must describe the procedures that students and employees should follow in the case of a fire.

What does this mean?

Disclose all of your institution's policies related to fire safety education programs and fire safety training programs associated with on-campus student housing facilities. Include in-person and online programs, as applicable. Describe all procedures that students should follow in the case of a fire, as well as all procedures that employees should follow in the case of a fire. The policy statement would pertain to all employees involved in student housing and areas related to student housing, for example, residential life staff, student affairs staff, student personnel services staff, residence hall directors, residential education staff and summer housing staff. If any of your student housing facilities has an attached parking garage or dining hall (as described in the bullets under the "Definition of a Fire" section in Chapter 11), include employees associated with those areas. You may include other employees as well.

Figure 52. Sample Statement Addressing Fire Safety Education and Training Programs Provided to Students and Employees

Fire safety education programs for all students living in on-campus student housing and all employees that have any association with on-campus student housing are held at the beginning of each semester. These programs are designed to: familiarize everyone with the fire safety system in each housing facility, train everyone on the procedures to be followed in case there is a fire and distribute information on the college's fire safety policies. Everyone is also provided with maps of each on-campus student housing facility that illustrate evacuation routes and fire alarm equipment locations. During these programs, trainers emphasize that participating in fire drills is mandatory. Students with disabilities are given the option to have a "buddy" assigned to them.

Fire safety education and training programs are taught by local fire authorities as well as the director of Student Housing who is experienced in fire safety matters.

If a fire occurs, students are instructed to leave hazardous areas per the evacuation routes and get to a predetermined location before calling 911 for help. They are to remain in that location so that the director of Student Housing or someone from the Student Housing office has documented that the student has left the building. RAs are instructed to pull the fire alarm as they are leaving the building if they can do so without risking their safety.

The information provided during the fire safety programs is also available online at any time at: firesafety@XXXXXXXXXXX.edu.

6. For purposes of including a fire in the statistics in the annual fire safety report, a list of the titles of each person or organization to which students and employees should report that a fire occurred.

What does this mean?

This is a list of titles of the people or organizations that should be told "after the fact" that a fire occurred. It is not a list of whom to notify that there is a fire emergency. That information should be included in "the procedures that students and employees should follow in the case of a fire," as described on the previous page in component no. 5 in the annual fire safety report.

Figure 53. Sample List of the Titles of Each Person or Organization to Whom Students and Employees Should Report That a Fire Occurred

Per federal law, Rockville College is required to annually disclose statistical data on all fires that occur in on-campus student housing facilities. Listed below are the **non-emergency** numbers to call to report fires that have already been extinguished in on-campus student housing. These are fires for which you are unsure whether the Rockville College Public Safety Office may already be aware. If you find evidence of such a fire or if you hear about such a fire, please contact one of the following:

Rockville College Public Safety (XXX) XXX-XXXX

Rockville College Housing Office (XXX) XXX-XXXX

When calling, please provide as much information as possible about the location, date, time and cause of the fire.

7. Plans for future improvements in fire safety, if determined necessary by the institution.

What does this mean?

Your plan can be limited to "Our institution is going to do the following …" or can include "If we obtain the means we'd like to do the following …" We suggest that you include information that tells the reader why the improvements are necessary. Do not simply state that the institution has plans for future improvements without indicating what those improvements will be. You may, but are not required to, include a time line.

If you determine that future improvements in fire safety are not necessary, state this.

Figure 54. Sample Plans Addressing Future Improvements in Fire Safety

The College has adopted the National Incident Management System (NIMS) for all of its emergency and non-emergency events, and will have complete NIMS compliance by Dec. 31, 2010. The adoption of NIMS will improve the college's response to emergencies and hazards, especially fires.

8. Fire statistics

Your annual fire safety report must include statistics for reported fires in on-campus student housing facilities. This requirement is multi-faceted and is discussed in detail in Chapter 13.

In addition to including fire statistics in your annual fire safety report, your institution is required to **submit the statistics from that report to ED**. The mechanism for doing this is the annual online Campus Safety and Security Survey[9] that takes place every fall. A registration packet with survey information, a password and a user ID is sent to the chief executive officer of your institution several weeks prior to the start of the data collection.

Specific screen-by-screen instructions for completing the survey and submitting it to ED are included in the user's guide for the survey located at https://surveys.ope.ed.gov/security. You can get additional help with the survey via phone at 800-435-5985 or via e-mail at campussafetyhelp@westat.com. Your institution's fire statistics will subsequently be migrated to our public dissemination site at: http://www.ope.ed.gov/security where any interested person can view them. The public site also can be used to generate reports using aggregated data from all of the schools that submit *HEA*-related crime and fire statistics. You can find more information about the annual data collection in Chapter 9.

[9] In 2010, the annual Campus Crime and Security Survey, which collects Clery crime statistics, was renamed the Campus Safety and Security Survey and was expanded to collect *HEA*-required fire statistics for on-campus student housing.

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Appendix A

Higher Education Act of 1965
Safety- and Security-related Laws and Regulations

A-1. *Federal Register*, Nov. 1, 1999 (Vol. 64, No. 210),
Student Assistance General Provision; Final Rule.
34 CFR 668.41, Reporting and Disclosure of Information
34 CFR 668.46, Institutional Security Policies and Crime Statistics

A-2. *Federal Register*, Oct. 31, 2002 (Vol. 67, No. 211),
Student Assistance General Provision; Final Rule.
34 CFR 668.46, Institutional Security Policies and Crime Statistics

A-3. *Federal Register*, Oct. 29, 2009 (Vol. 74, No. 208),
General and Non-Loan Programmatic Issues; Final Rule.
34 CRF 668.41, Reporting and Disclosure of Information
34 CRF 668.46, Institutional Security Policies and Crime Statistics
34 CFR 668.49, Institutional Fire Safety Policies and Fire Statistics

A-4. *Higher Education Opportunity Act,* Aug. 14, 2008.
Program Participation Agreement Requirements

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A-1. *Federal Register,* Nov. 1, 1999 (Vol. 64, No. 210), Student Assistance General Provision; Final Rule. 34 CFR 668.41, Reporting and Disclosure of Information 34 CFR 668.46, Institutional Security Policies and Crime Statistics

This document contains text that was taken from the *Federal Register* for Nov. 1, 1999. It is not the complete *Federal Register* for that date. It contains the regulations for 34 CFR 668.41, Reporting and Disclosure of Information and 34 CFR 668.46, Institutional Security Policies and Crime Statistics. This text was retrieved from: http://www.ed.gov/legislation/FedRegister/finrule/1999-4/110199d.html.

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[Federal Register: November 1, 1999 (Volume 64, Number 210)]
[Rules and Regulations]
[Page 59059-59073]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr01no99-18]

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Part IX

Department of Education

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34 CFR Part 668

Student Assistance General Provisions; Final Rule

[[Page 59060]]

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1845-AA03


Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

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SUMMARY: We amend the regulations governing the disclosure of
institutional and financial assistance information under the student
financial assistance programs authorized under Title IV of the Higher
Education Act of 1965, as amended (Title IV, HEA programs). These
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programs include the Federal Pell Grant Program, the campus-based programs (Federal Perkins Loan, Federal Work-Study (FWS), and Federal Supplemental Educational Opportunity Grant (FSEOG) Programs), the William D. Ford Federal Direct Loan (Direct Loan) Program, the Federal Family Education Loan (FFEL) Program, and the Leveraging Educational Assistance Partnership (LEAP) Program (formerly called the State Student Incentive Grant (SSIG) Program). These regulations implement statutory changes made to the Higher Education Act of 1965, as amended (HEA), by the Higher Education Amendments of 1998.

DATES: Effective Date: These regulations are effective July 1, 2000.

Implementation Date: The changes to certain sections, particularly Secs. 668.41 (b) and (c) and 668.46(c) (1)-(4) and (f), reflect changes made by Public Law 105-244 that already are in effect. Sections 668.41 (b) and (c) concern the distribution of information through electronic media and the distribution to enrolled students of a list of the information to which they are entitled upon request. Sections 668.46(c) (1)-(4) and (f) concern the reporting of crime statistics and the maintenance of a crime log. You may use these regulations prior to July 1, 2000 as guidance in complying with the relevant statutory provisions. You can find the full text of Public Law 105-244 at http://www.access.gpo.gov/nara/publaw/105publ.html.

SUPPLEMENTARY INFORMATION: On August 10, 1999, we published a notice of proposed rulemaking (NPRM) for the Student Assistance General Provisions in the Federal Register (64 FR 43582). In the preamble to the NPRM, we discussed the following proposed changes:

* Amending Sec. 668.41 to make the information disclosure process more understandable and less burdensome, to require institutions to provide enrolled students a list of the information to which the students are entitled upon request, and to provide for institutions' use of Internet and Intranet websites for the disclosure of information.

* Amending Sec. 668.46 regarding the disclosure of campus security information to define terms (including campus, noncampus buildings or property, and public property), by excluding pastoral or professional counselors from the definition of a campus security authority, by adding new categories of crimes to be reported and new policies to be disclosed, by clarifying how to compile and depict crime statistics, by changing the date for disclosure of the annual security report to October 1, by requiring certain institutions to maintain a publicly available crime log, and by requiring institutions annually to submit their crime statistics to the Department.

These regulations reflect the following changes to the proposed regulations in response to public comment:

* In Sec. 668.46(a) we revised the definition of a professional counselor to no longer require that the counselor be an employee of the institution. In addition, we revised the definition by replacing the term ``psychological counseling'' with the term ``mental health counseling.''

* We moved the definition of ``prospective employee'' from Sec. 668.46(a) to Sec. 668.41(a).

We added Sec. 668.46(c)(2) to require institutions to record a crime statistic in their annual security reports for the calendar year in which the crime was reported to a campus security authority.

Questions and Recommendations:

Section 668.41 Reporting and Disclosure of Information

Comments: Section 668.41 should address any information institutions participating in Title IV, HEA programs are required to disclose by any Department of Education regulation, not just information institutions are required to disclose by these regulations (34 CFR Part 668, Subpart D).

Discussion: Section 668.41 only is intended to address information that institutions are required to disclose by section 485 of the HEA. We believe that including in Sec. 668.41 all information that institutions must disclose under any Department regulation is impractical and would be confusing.

Changes: None.

Comments: The Department should provide a chart listing all information that institutions must disclose under these regulations and the persons to whom they must disclose the information.

Discussion: We believe that Sec. 668.41 adequately provides the information sought by this comment. However, we will provide continuing technical assistance, including the requested chart, to institutions to help them understand and comply with these regulations.

Changes: None.

Comments: The Department should clarify the level of description of required information it expects institutions to provide in the various notices of the availability of information that are required by Sec. 668.41.

Discussion: As stated in the preamble to the NPRM (64 FR 43583), the description should be sufficient to allow students and others to understand the nature of the information and to make informed decisions about whether to request the information. We do not believe there is a need to be more prescriptive in this area.

Changes: None.

Comments: Remove the word ``freshman'' from the definition ``first-time, freshman student'' in Sec. 668.41(a), which identifies those students that institutions must include in their cohorts for calculating completion or graduation rates, and if applicable, transfer-out rates.

Discussion: As described in Sec. 668.45, institutions must include in their cohorts first-time, certificate- or degree-seeking, full-time undergraduate students who never have attended any institution of higher education (including in the cohort those who enroll in the fall term having attended a postsecondary institution for the first time in the prior summer term or having earned college credit in high school) regardless of their class standing. As some members of the cohort may have advanced standing, we agree that the use of the word ``freshman'' in the definition could cause confusion.

Changes: The term ``first-time freshman student'' is replaced by the term ``first-time, undergraduate student'' wherever it appears in these regulations (Secs. 668.41(a), 668.45(a)(3)(iii), and 668.45(a)(4)(i)-(ii)).

Comments: The definition of ``notice'' in Sec. 668.41(a) should not require institutions, in providing the various notices of the availability of information required by Sec. 668.41, to provide the notices on a one-to-one basis to persons to whom the information need only be provided upon request.

Discussion: We do not believe that students and others entitled to the information will be adequately notified of its availability if the notification of its availability is made through means that do not ensure that each person who is entitled to the notification receives it. The regulation does not prescribe the method by which institutions must notify students and others of the information's availability; the regulation simply prescribes that the method used must provide individualized notice.

Changes: None.

Comments: Change Secs. 668.41(c) and (d) to include completion and graduation rates, and if applicable, transfer-out rates, for athletes under Sec. 668.48, among the required disclosures of information.

Discussion: Section 485(a)(1) of the HEA does not include completion and graduation rates of athletes in the list of information institutions must provide upon request to enrolled and prospective students. Although section 485(e) of the HEA only requires institutions to provide the report concerning athletes' graduation rates to prospective student-athletes and their parents, high school coaches, and guidance counselors, we encourage institutions to provide the report to others who request it.

Changes: None.

Comments: Rather than requiring institutions under Sec. 668.41(c) annually to provide all enrolled students a notice listing the information to which they are entitled upon request, allow institutions to tell students, at the time the institutions distribute the notice, how often they will publish the list and how students can obtain interim changes to the list.

Discussion: Section 485(a) of the HEA specifically requires that institutions provide the list annually to all enrolled students.

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Changes: None.

Comments: The Department should clarify that Sec. 99.7, which is referenced in Sec. 668.41(c)(1), refers to the notification requirements under the Family Educational Rights and Privacy Act of 1974 (FERPA).

Discussion: We agree.

Changes: Section 668.41(c)(1) is amended to include a reference to FERPA.

Comments: The requirement for disclosure of information about the terms and conditions of deferral of loan repayments for service under the Peace Corps Act, the Domestic Volunteer Service Act of 1973, or for comparable service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service should be moved from Sec. 668.41(d)(4) to Sec. 668.42 (Financial assistance information), which addresses, among other subjects, loan repayment.

Discussion: We agree with the commenters.

Changes: Section 668.41(d)(4) in the NPRM is moved to Sec. 668.42(c)(7).

Comments: If the purpose of the revised Sec. 668.41 is to put all of an institution's disclosure responsibilities under subpart D in a single section, the requirement that an institution must report its crime statistics to the Department should be moved from Sec. 668.46(g) to Sec. 668.41.

Discussion: We agree with the commenters.

Changes: Section 668.46(g) in the NPRM is moved to

Sec. 668.41(e)(5).

Comments: The Department should clarify that the prohibition on using the Internet to provide the information required by Sec. 668.41(f)(1)(i) to prospective student-athletes and their parents does not prohibit a national collegiate athletic association from obtaining a waiver for its members under Sec. 668.41(f)(1)(ii) for providing the information to prospective student-athletes' high school coaches and guidance counselors by distributing the information to all secondary schools in the United States through the Internet or other electronic means.

Discussion: We did not intend the prohibition referred to above to address the means by which a national collegiate athletic association must provide the information to secondary schools in order to obtain a waiver under Sec. 668.41(f)(1)(ii). We would be pleased to work with any such association seeking a waiver for its members to determine whether the association's proposed method of providing the information to secondary schools is sufficient to qualify for a waiver.

Changes: None.

Section 668.46 Institutional Security Policies and Crime Statistics

Comments: Numerous commenters requested that we specifically exclude certain types of employees from the definition of a campus security authority--for example, lay counselors, dormitory rectors, physicians, access monitors, rape crisis counselors, doctoral counselor trainees, campus ombudsmen, and teaching faculty. Other commenters requested clarification about whether student security personnel organized by student governments and concert security employees who work for the institution are campus security authorities. Still other commenters asked us to define who is an ``official'' of the institution, and what ``significant responsibility'' for student and campus activities means.

Discussion: To determine if an institution must collect crime statistics from a particular employee or official, or provide a timely warning report based on crimes reported or known to the employee or official, an institution must first determine if that official is a campus security authority. In addition to campus law enforcement staff, a campus security authority is someone with ``significant responsibility for student and campus activities.'' Absent this responsibility, an employee is not a campus security authority.

For example, a dean of students who oversees student housing, a student center, or student extra-curricular activities, has significant responsibility for student and campus activities. Similarly, a director of athletics, team coach, and faculty advisor to a student group also have significant responsibility for student and campus activities.

A single teaching faculty member is unlikely to have significant responsibility for student and campus activities, except when serving as an advisor to a student group. A physician in a campus health center or a counselor in a counseling center whose only responsibility is to provide care to students are unlikely to have significant responsibility for student and campus activities. Also, clerical staff are unlikely to have significant responsibility for student and campus activities.

Since official responsibilities and job titles vary significantly from campus to campus, we believe that including a list of specific titles in the regulation is not practical. However, as stated above, we will provide additional guidance at a later date concerning interpretation of these regulations.

Changes: None.

Comments: The definition of campus security authority should include only individuals working for the institution's campus security office or expressly performing a campus security function at the institution's request.

Discussion: We believe that the new definition and guidance reflect the reality that on colleges campuses, officials who are not police officials or acting as event security at student or campus events nevertheless are responsible for students' or campus security. We also believe the new definition and guidance will better enable institutions to determine who is a campus security authority and thereby to comply with these regulations.

Changes: None.

Comments: Commenters asked a number of questions regarding our interpretation of the definitions of campus, noncampus building or property, and public property, such as what it means for an institution to ``control'' property, what ``adjacent to and accessible from the campus'' means, and whether remote classrooms or remote research stations are included in the definition of campus. Commenters also asked how different institutions that occupy the same general geographic area and different campuses of an institution should report crimes.

Discussion: We will respond to commenters' questions concerning implementation of the proposed regulations, and will post our answers on our Information for Financial Assistance Professionals (IFAP) website: http://ifap.ed.gov

Changes: None.

Comments: Generally, the commenters expressed much satisfaction with the compromises made during negotiated rulemaking regarding the definitions in Sec. 668.46(a). In particular, many commenters agreed with the negotiators' decision to exclude professional and pastoral counselors from being required to report crimes discussed with them in their role as counselor. Some commenters disagreed with this exclusion, on the belief that reporting a statistic cannot identify the victim. Other commenters believed that the process of reporting statistics and avoiding double-counting can lead to identification of the victim. Many commenters stressed the importance of ensuring that students' ability to obtain confidential counseling not be compromised.

Discussion: We agree with the commenters about the importance of victims' being able to obtain confidential counseling. We also agree that although reporting a statistic is not likely, of itself, to identify the victim, the need to verify the occurrence of the crime and the need for additional information about the crime to avoid double-counting can lead to identification of the victim.

Representatives of psychological counselors informed us that counselors would, as a matter of professional obligation, be required to inform a patient at the beginning of any session that detailed information may be disclosed to other parties for statistical reporting purposes. In their experience, this disclosure has a chilling effect on access to professional counseling by causing a victim to decline or be wary of professional assistance. Given the importance of access to counseling, the availability of statistics from other sources on campus, and the provisions we included in this regulation concerning confidential reporting, we believe this regulation strikes the appropriate balance between individuals' need for counseling and the community's need for complete statistics.

Changes: None.

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Comments: The definition of professional counselor should refer to mental health counseling instead of psychological counseling because the job description of a professional counselor other than a psychologist or psychiatrist might refer to mental health counseling or crisis counseling, but would be unlikely to refer to psychological counseling. This definition also should refer to independent contractors who perform professional counseling for institutions.

Discussion: We agree with the commenters that changing the definition to refer to mental health counseling rather than psychological counseling provides a clearer, more precise definition, but emphasize that the change does not expand the definition to include non-professional or informal counselors.

We believe that changing the definition by eliminating the reference to employee would clarify that the definition refers to the nature of the counselor, not the counselor's employment relationship with the institution.

Changes: We changed the definition of professional counselor in Sec. 668.46(a) to refer to mental health counseling and to exclude the requirement that a professional counselor be an employee of the institution.

Comments: The requirement that institutions provide notice of the availability of the annual security report to each prospective employee is overly burdensome as that term is defined (an individual who has contacted an eligible institution requesting information concerning employment with the institution). The definition should be limited to individuals who apply for employment. Also, the definition should be moved from Sec. 668.46 to Sec. 668.41, because it applies to both sections, and the definitions in Sec. 668.41 apply to the entire subpart, while those in Sec. 668.46 only apply to that section.

Discussion: We do not believe that the definition is unduly burdensome, especially given the importance of prospective employees being able to make fully informed choices. The requirement applies only when an individual requests information from an institution and the institution, presumably, either will mail the individual the information or tell the individual where to obtain the information. The institution simply can include in whatever information it provides the individual a brief notice of the availability of the annual security report.

We agree that the definition should be moved to Sec. 668.41.

Changes: The definition of prospective employee is moved from Sec. 668.46(a) to Sec. 668.41(a).

Comments: Some commenters objected to the requirement in Sec. 668.46(b)(2)(ii) that institutions disclose their policies for preparing the annual disclosure of crime statistics and requested clarification of what this disclosure entails.

Discussion: This disclosure serves two important purposes. It informs the students about how and from what sources the report is prepared. Many students may not be aware that a formal police report or investigation is not needed in order for a crime report to be included in the statistics. This disclosure also requires an institution to consider what officials or offices must be canvassed in order to prepare a complete report. Incorrectly, some institutions believe that only formal police reports need be included; the disclosure allows the reader to conclude that all of the proper offices have been canvassed. The disclosure need only provide a general description of the process

for preparing the report, including the offices surveyed. There is no requirement to disclose every detailed step in the report's preparation.

Changes: None.

Comments: The endorsement of anonymous crime reporting procedures is a valuable addition to the regulations. Although incomplete anonymous reports raise a number of statistical reporting questions, it is a valuable alternative for some crime victims. In some States confidential reporting of crime is illegal.

Discussion: Institutions should note that the regulations refer to confidential reporting, not anonymous reporting. The regulations do not require institutions to allow confidential reporting. Rather, Sec. 668.46(b)(2)(iii) and (4)(iii) require institutions to state whether they allow confidential reporting, and if so, to describe their procedures for that reporting, including whether the institution encourages pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of those procedures. An institution prohibited by State law from allowing confidential reporting simply would be required to state that in its annual security report.

Changes: None.

Comments: Campus judicial processes do not determine whether a crime occurred, but rather determine only whether the accused person committed an act that violates the institution's rules, policies, or code of conduct. Therefore, the Secretary should clarify that referrals for alcohol, drug, and weapons law violations are limited to a breach of institutional policy, not law.

Discussion: The requirement that institutions report statistics for referrals for campus disciplinary action for alcohol, drug and weapons possession refers to violations of law only. For example, if a student of legal drinking age in the State in which an institution is located violates the institution's ``dry-campus'' policy and is referred for campus disciplinary action, that statistic should not be included in the institution's crime statistics. We believe that campus judicial officials and campus police are capable of determining whether a particular alcohol, drug, or weapons violation is a violation of law.

Changes: None.

Comment: Most commenters responded to our question regarding whether a crime should be recorded for the calendar year in which the crime was reported to the institution or the calendar year in which the crime occurred. The commenters were largely in favor of recording the crime on the date the crime was reported to the institution. The commenters indicated that for statistical purposes the FBI collects crime data based on when crimes are reported to the police, not on the date crimes occur. One reason for this standard is that crimes generally are discovered after they occur, making the date of occurrence unknown or uncertain. The commenters explained that using the date of occurrence creates additional burden for institutions.

Discussion: We appreciate the responses to our solicitation for comment on this issue. We previously have required institutions to report crime statistics according to the year in which the crimes occurred. However, we are convinced by the weight of the comments that we would eliminate a considerable burden on institutions by making this reporting requirement consistent with FBI reporting practices, and that no crime statistics will go unreported as a result of this change.

Changes: Section 668.46(c)(2) is revised to require an institution to record crime data based on when the crime was reported to a campus

security authority.

Comments: The problem with reporting which crimes are hate crimes is an institution's reliance on municipal police departments to provide this information. Hate crimes are often a political issue in municipalities, which may be reluctant to release information concerning hate crimes to an institution.

[[Page 59065]]

Discussion: We recognize that some institutions must rely on data, including hate crime data, from outside agencies. In complying with the statistical reporting requirements, an institution must make a reasonable, good-faith effort to obtain statistics from outside agencies. An institution that makes such an effort is not responsible for the agencies' failure to provide the statistics or for verifying the accuracy of statistics the agencies provide.

Changes: None.

Comments: The requirement that institutions report hate crimes related to ``any crime involving bodily injury'' is inconsistent with other statistical reporting requirements. To require an institution to search for every crime that may have involved personal injury is overly burdensome.

Discussion: The requirement that institutions report hate crimes related to any crime involving bodily injury is mandated by the HEA.

Changes: None.

Comments: The Secretary should clarify that institutions are not required to report statistics for public property that surrounds noncampus buildings or property.

Discussion: These regulations do not require an institution to report crime statistics for public property surrounding noncampus buildings or property.

Changes: None.

Comments: The commenters asked that the preamble make clear that an institution must use both the UCR definitions and standards when reporting crime.

Discussion: We reiterate the language of Sec. 668.46(c)(7) that requires an institution to use UCR guidance when defining and classifying crimes.

Changes: None.

Comments: The commenters strongly supported the use of a map to aid in the disclosure of crime statistics, and believe that a map would be very effective in indicating the areas to be considered in compiling these statistics. Some commenters believe that the Department will receive complaints or queries from the campus community that a map disclosed by an institution does not accurately depict the reporting area of a campus and recommended that the Department establish a uniform review process for the review of maps so that questions can be handled in a timely and efficient manner.

Discussion: We agree with the commenters that using a map in disclosing crime statistics can be very helpful; students and others will be able to visualize the areas covered by an institution's annual security report. We will not establish a uniform process to review institutions' maps. Anyone who believes that an institution is not in compliance with the campus security regulations may contact the Office of Student Financial Assistance regional office for the State in which the institution is located. The addresses and telephone numbers for the regional Case Team Managers are at the following Internet address:

http://ed.gov/about.html.

Changes: None.

Comments: The regulations should define what is meant, for purposes of crime log entries, by the nature, date, time and general location of each crime. The Department should emphasize that institutions may withhold this information only when it is absolutely necessary to prevent a breach of victim's confidentiality.

Discussion: We believe these terms are straightforward and there is no need for more prescriptive regulation. However, we emphasize that an institution may only withhold this information when it is sufficiently clear that the victim's confidentiality is in jeopardy.

Changes: None.

PART 668--STUDENT ASSISTANCE GENERAL PROVISIONS

Sec. 668.41 Reporting and disclosure of information.

(a) Definitions. The following definitions apply to this subpart:

Athletically related student aid means any scholarship, grant, or other form of financial assistance, offered by an institution, the terms of which require the recipient to participate in a program of intercollegiate athletics at the institution. Other student aid, of which a student-athlete simply happens to be the recipient, is not athletically related student aid.

Certificate or degree-seeking student means a student enrolled in a course of credit who is recognized by the institution as seeking a degree or certificate.

First-time undergraduate student means an entering undergraduate who has never attended any institution of higher education. It includes a student enrolled in the fall term who attended a postsecondary institution for the first time in the prior summer term, and a student who entered with advanced standing (college credit earned before graduation from high school).

Normal time is the amount of time necessary for a student to complete all requirements for a degree or certificate according to the institution's catalog. This is typically four years for a bachelor's degree in a standard term-based institution, two years for an associate degree in a standard term-based institution, and the various scheduled times for certificate programs.

Notice means a notification of the availability of information an institution is required by this subpart to disclose, provided to an individual on a one-to-one basis through an appropriate mailing or publication, including direct mailing through the U.S. Postal Service, campus mail, or electronic mail. Posting on an Internet website or an Intranet website does not constitute a notice.

Official fall reporting date means that date (in the fall) on which an institution must report fall enrollment data to either the State, its board of trustees or governing board, or some other external governing body.

Prospective employee means an individual who has contacted an eligible institution for the purpose of requesting information concerning employment with that institution.

Prospective student means an individual who has contacted an eligible institution requesting information concerning admission to that institution.

Undergraduate students, for purposes of Secs. 668.45 and 668.48 only, means students enrolled in a bachelor's degree program, an

associate degree program, or a vocational or technical program below the baccalaureate.

(b) Disclosure through Internet or Intranet websites. Subject to paragraphs (c)(2), (e)(2) through (4), or (g)(1)(ii) of this section, as appropriate, an institution may satisfy any requirement to disclose information under paragraph (d), (e), or (g) of this section for--

(1) Enrolled students or current employees by posting the information on an Internet website or an Intranet website that is reasonably accessible to the individuals to whom the information must be disclosed; and

(2) Prospective students or prospective employees by posting the information on an Internet website.

(c) Notice to enrolled students. (1) An institution annually must distribute to all enrolled students a notice of the availability of the information required to be disclosed pursuant to paragraphs (d), (e), and (g) of this section, and pursuant to 34 CFR 99.7 (Sec. 99.7 sets forth the notification requirements of

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the Family Educational Rights and Privacy Act of 1974). The notice must list and briefly describe the information and tell the student how to obtain the information.

(2) An institution that discloses information to enrolled students as required under paragraph (d), (e), or (g) of this section by posting the information on an Internet website or an Intranet website must include in the notice described in paragraph (c)(1) of this section--

(i) The exact electronic address at which the information is posted; and

(ii) A statement that the institution will provide a paper copy of the information on request.

(d) General disclosures for enrolled or prospective students. An institution must make available to any enrolled student or prospective student, on request, through appropriate publications, mailings or electronic media, information concerning--

(1) Financial assistance available to students enrolled in the institution (pursuant to Sec. 668.42);

(2) The institution (pursuant to Sec. 668.43); and

(3) The institution's completion or graduation rate and, if applicable, its transfer-out rate (pursuant to Sec. 668.45). In the case of a request from a prospective student, the information must be made available prior to the student's enrolling or entering into any financial obligation with the institution.

(e) Annual security report. (1) Enrolled students and current employees--annual security report. By October 1 of each year, an institution must distribute, to all enrolled students and current employees, its annual security report described in Sec. 668.46(b), through appropriate publications and mailings, including--

(i) Direct mailing to each individual through the U.S. Postal Service, campus mail, or electronic mail;

(ii) A publication or publications provided directly to each individual; or

(iii) Posting on an Internet website or an Intranet website, subject to paragraphs (e)(2) and (3) of this section.

(2) Enrolled students--annual security report. If an institution chooses to distribute its annual security report to enrolled students by posting the disclosure on an Internet website or an Intranet

website, the institution must comply with the requirements of paragraph (c)(2) of this section.

(3) Current employees--annual security report. If an institution chooses to distribute its annual security report to current employees by posting the disclosure on an Internet website or an Intranet website, the institution must, by October 1 of each year, distribute to all current employees a notice that includes a statement of the report's availability, the exact electronic address at which the report is posted, a brief description of the report's contents, and a statement that the institution will provide a paper copy of the report upon request.

(4) Prospective students and prospective employees--annual security report. The institution must provide a notice to prospective students and prospective employees that includes a statement of the report's availability, a description of its contents, and an opportunity to request a copy. An institution must provide its annual security report, upon request, to a prospective student or prospective employee. If the institution chooses to provide its annual security report to prospective students and prospective employees by posting the disclosure on an Internet website, the notice described in this paragraph must include the exact electronic address at which the report is posted, a brief description of the report, and a statement that the institution will provide a paper copy of the report upon request.

(5) Submission to the Secretary--annual security report. Each year, by the date and in a form specified by the Secretary, an institution must submit the statistics required by Sec. 668.46(c) to the Secretary.

(f) Prospective student-athletes and their parents, high school coach and guidance counselor--report on completion or graduation rates for student-athletes.

(1)(i) Except under the circumstances described in paragraph (f)(1)(ii) of this section, when an institution offers a prospective student-athlete athletically related student aid, it must provide to the prospective student-athlete, and his or her parents, high school coach, and guidance counselor, the report produced pursuant to Sec. 668.48(a).

(ii) An institution's responsibility under paragraph (f)(1)(i) of this section with reference to a prospective student athlete's high school coach and guidance counselor is satisfied if--

(A) The institution is a member of a national collegiate athletic association;

(B) The association compiles data on behalf of its member institutions, which data the Secretary determines are substantially comparable to those required by Sec. 668.48(a); and

(C) The association distributes the compilation to all secondary schools in the United States.

(2) By July 1 of each year, an institution must submit to the Secretary the report produced pursuant to Sec. 668.48.

(g) Enrolled students, prospective students, and the public--report on athletic program participation rates and financial support data.

(1)(i) An institution of higher education subject to Sec. 668.47 must, not later than October 15 of each year, make available on request to enrolled students, prospective students, and the public, the report produced pursuant to Sec. 668.47(c). The institution must make the report easily accessible to students, prospective students, and the public and must provide the report promptly to anyone who requests it.

(ii) The institution must provide notice to all enrolled students, pursuant to paragraph (c)(1) of this section, and prospective students

of their right to request the report described in paragraph (g)(1) of this section. If the institution chooses to make the report available by posting the disclosure on an Internet website or an Intranet website, it must provide in the notice the exact electronic address at which the report is posted, a brief description of the report, and a statement that the institution will provide a paper copy of the report on request. For prospective students, the institution may not use an Intranet website for this purpose.

(2) An institution must submit the report described in paragraph (g)(1)(i) of this section to the Secretary within 15 days of making it available to students, prospective students, and the public.

(Approved by the Office of Management and Budget under control number 1845-0004 and 1845-0010)

(Authority: 20 U.S.C. 1092)

Sec. 668.46 Institutional security policies and crime statistics.

(a) Additional definitions that apply to this section.

Business day: Monday through Friday, excluding any day when the institution is closed.

Campus: (1) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

(2) Any building or property that is within or reasonably contiguous to the area identified in paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

Campus security authority: (1) A campus police department 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 under paragraph (1) of this definition, such as an individual who is responsible for monitoring entrance into institutional property.

(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.

(4) An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings. If such an official is a pastoral or professional counselor as defined below, the official is not considered a campus security authority when acting as a pastoral or professional counselor.

Noncampus building or property: (1) Any building or property owned or controlled by a student organization that is officially recognized by the institution; or

(2) Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

Pastoral counselor: A person who is associated with a religious

order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor.

Professional counselor: A person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his or her license or certification.

Public property: All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

Referred for campus disciplinary action: The referral of any student to any campus official who initiates a disciplinary action of which a record is kept and which may result in the imposition of a sanction.

(b) Annual security report. An institution must prepare an annual security report that contains, at a minimum, the following information:

(1) The crime statistics described in paragraph (c) of this section.

(2) 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--

(i) Policies for making timely warning reports to members of the campus community regarding the occurrence of crimes described in paragraph (c)(1) of this section;

(ii) Policies for preparing the annual disclosure of crime statistics; and

(iii) A list of the titles of each person or organization to whom students and employees should report the criminal offenses described in paragraph (c)(1) of this section for the purpose of making timely warning reports and the annual statistical disclosure. This statement must also 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.

(3) A statement of current policies concerning security of and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(4) A statement of current policies concerning campus law enforcement that--

(i) Addresses the enforcement authority of security personnel, including their relationship with State and local police agencies and whether those security personnel have the authority to arrest individuals;

(ii) Encourages accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies; and

(iii) Describes procedures, if any, that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

(5) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

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(6) A description of programs designed to inform students and employees about the prevention of crimes.

(7) 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, including student organizations with off-campus housing facilities.

(8) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws.

(9) A statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws.

(10) A description of any drug or alcohol-abuse education programs, as required under section 120(a) through (d) of the HEA. For the purpose of meeting this requirement, an institution may cross-reference the materials the institution uses to comply with section 120(a) through (d) of the HEA.

(11) 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 statement must include--

(i) A description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses;

(ii) Procedures students should follow if a sex offense occurs, including procedures concerning who should be contacted, the importance of preserving evidence for the proof of a criminal offense, and to whom the alleged offense should be reported;

(iii) Information on a student's option to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that institutional personnel will assist the student in notifying these authorities, if the student requests the assistance of these personnel;

(iv) Notification to students of existing on- and off-campus counseling, mental health, or other student services for victims of sex offenses;

(v) Notification to students that the institution will change a victim's academic and living situations after an alleged sex offense and of the options for those changes, if those changes are requested by the victim and are reasonably available;

(vi) Procedures for campus disciplinary action in cases of an alleged sex offense, including a clear statement that--

(A) The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and

(B) Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense. Compliance with this paragraph does not constitute a violation of the Family Educational Rights and Privacy Act (20 U.S.C. 1232g). For the purpose of this paragraph, the outcome of a disciplinary proceeding means only the institution's final determination with respect to the alleged sex offense and any sanction that is imposed against the accused; and

(vii) Sanctions the institution may impose following a final determination of an institutional disciplinary proceeding regarding rape, acquaintance rape, or other forcible or nonforcible sex offenses.

(c) Crime statistics. (1) Crimes that must be reported. An institution must report statistics for the three most recent calendar years concerning the occurrence on campus, in or on noncampus buildings or property, and on public property of the following that are reported to local police agencies or to a campus security authority:

(i) Criminal homicide:

(A) Murder and nonnegligent manslaughter.

(B) Negligent manslaughter.

(ii) Sex offenses:

(A) Forcible sex offenses.

(B) Nonforcible sex offenses.

(iii) Robbery.

(iv) Aggravated assault.

(v) Burglary.

(vi) Motor vehicle theft.

(vii) Arson.

(viii) (A) Arrests for liquor law violations, drug law violations, and illegal weapons possession.

(B) Persons not included in paragraph (c)(1)(viii)(A) of this section, who were referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession.

(2) Recording crimes. An institution must record a crime statistic in its annual security report for the calendar year in which the crime was reported to a campus security authority.

(3) Reported crimes if a hate crime. An institution must report, by category of prejudice, any crime it reports pursuant to paragraphs (c)(1)(i) through (vii) of this section, and any other crime involving bodily injury reported to local police agencies or to a campus security authority, that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability.

(4) Crimes by location. The institution must provide a geographic breakdown of the statistics reported under paragraphs (c)(1) and (3) of this section according to the following categories:

(i) On campus.

(ii) Of the crimes in paragraph (c)(4)(i) of this section, the number of crimes that took place in dormitories or other residential facilities for students on campus.

(iii) In or on a noncampus building or property.

(iv) On public property.

(5) Identification of the victim or the accused. The statistics required under paragraphs (c)(1) and (3) of this section may not include the identification of the victim or the person accused of committing the crime.

(6) Pastoral and professional counselor. An institution is not required to report statistics under paragraphs (c)(1) and (3) of this section for crimes reported to a pastoral or professional counselor.

(7) UCR definitions. An institution must compile the crime statistics required under paragraphs (c)(1) and (3) of this section using the definitions of crimes provided in Appendix E to this part and the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Hate Crime Data Collection Guidelines and Training Guide for Hate Crime Data Collection. For further guidance concerning the application of definitions and classification of crimes, an institution must use either the UCR Reporting Handbook or the UCR Reporting Handbook: NIBRS EDITION, except that in determining how to report crimes committed in a multiple-offense situation an institution must use the UCR Reporting

Handbook. Copies of the UCR publications referenced in this paragraph are available from: FBI, Communications Unit, 1000 Custer Hollow Road, Clarksburg, WV 26306 (telephone: 304-625-2823).

(8) Use of a map. In complying with the statistical reporting requirements under paragraphs (c)(1) and (3) of this section, an institution may provide a map to current and prospective students and employees that depicts its campus, noncampus buildings or property, and public property areas if the map accurately depicts its campus, noncampus buildings or property, and public property areas.

(9) Statistics from police agencies. In complying with the statistical reporting requirements under paragraphs (c)(1) through (4) of this section, an institution must make a reasonable, good faith effort to obtain the required statistics and may rely on the information supplied by a local or State police

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agency. If the institution makes such a reasonable, good faith effort, it is not responsible for the failure of the local or State police agency to supply the required statistics.

(d) Separate campus. An institution must comply with the requirements of this section for each separate campus.

(e) Timely warning. (1) An institution must, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are--

(i) Described in paragraph (c)(1) and (3) of this section;

(ii) Reported to campus security authorities as identified under the institution's statement of current campus policies pursuant to paragraph (b)(2) of this section or local police agencies; and

(iii) Considered by the institution to represent a threat to students and employees.

(2) An institution is not required to provide a timely warning with respect to crimes reported to a pastoral or professional counselor.

(f) Crime log. (1) 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 noncampus 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. This log must include--

(i) The nature, date, time, and general location of each crime; and

(ii) The disposition of the complaint, if known.

(2) The institution must make an entry or an addition to an entry to the log within two business days, as defined under paragraph (a) of this section, 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.

(3)(i) An institution may withhold information required under paragraphs (f)(1) and (2) of this section if there is clear and convincing evidence that the release of the information would--

(A) Jeopardize an ongoing criminal investigation or the safety of an individual;

(B) Cause a suspect to flee or evade detection; or

(C) Result in the destruction of evidence.

(ii) The institution must disclose any information withheld under paragraph (f)(3)(i) of this section once the adverse effect described in that paragraph is no longer likely to occur.

(4) An institution may withhold under paragraphs (f)(2) and (3) of this section only that information that would cause the adverse effects described in those paragraphs.

(5) 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.

(Approved by the Office of Management and Budget under control number 1845-0022)

(Authority: 20 U.S.C. 1092)

Appendix E to Part 668--Crime Definitions in Accordance With the Federal Bureau of Investigation's Uniform Crime Reporting Program

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Crime Definitions From the Uniform Crime Reporting Handbook

Arson

Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

Criminal Homicide--Manslaughter by Negligence

The killing of another person through gross negligence.

Criminal Homicide--Murder and Nonnegligent Manslaughter

The willful (nonnegligent) killing of one human being by another.

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[FR Doc. 99-28273 Filed 10-29-99; 8:45 am]
BILLING CODE 4000-01-U

A-2. *Federal Register,* Oct. 31, 2002 (Vol. 67, No. 211), Student Assistance General Provision; Final Rule. 34 CFR 668.46, Institutional Security Policies and Crime Statistics

This document was copied from the *Federal Register* for Oct. 31, 2002. It contains the regulations for 34 CFR 668.46, Institutional Security Policies and Crime Statistics. The text was retrieved from: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2002_register&docid=02-27599-filed

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[Federal Register: October 31, 2002 (Volume 67, Number 211)]
[Rules and Regulations]
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[DOCID:fr31oc02-16]


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Part IV

Department of Education

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34 CFR Part 668

Student Assistance General Provisions; Final Rule

[[Page 66520]]

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DEPARTMENT OF EDUCATION

34 CFR Part 668


Student Assistance General Provisions

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

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SUMMARY: The Secretary amends the Student Assistance General Provisions
regulations to reflect changes made to the Higher Education Act of
1965, as amended (HEA), by the Campus Sex Crimes Prevention Act and to
make a technical correction. The regulations clarify that institutions
must include a new disclosure in their annual security reports that are
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due by October 1, 2003.

DATES: These regulations are effective October 31, 2002.

FOR FURTHER INFORMATION CONTACT: David Bergeron, U.S. Department of Education, 1990 K Street, NW. (8th Floor), Washington, DC 20006. Telephone: (202) 502-7815.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under FOR FURTHER INFORMATION CONTACT.

SUPPLEMENTARY INFORMATION: The final regulations add a new paragraph, Sec. 668.46(b)(12), to reflect a self-implementing change to section 485(f)(1) of the HEA that was made by the Campus Sex Crimes Prevention Act (section 1601 of Public Law 106-386). The Campus Sex Crimes Prevention Act adds a new disclosure to the list of disclosures an institution must provide in its annual security report to students and staff. In this new disclosure, an institution must inform members of the campus community of the means by which they can obtain information about registered sex offenders who may be present on campus. This change to the HEA is effective on October 28, 2002. The regulations clarify that institutions must include this new disclosure in their annual security reports that are due by October 1, 2003.

The final regulations correct an error in the definition of ``Referred for campus disciplinary action'', in Sec. 668.46(a), to reflect the language of the HEA, by changing the word ``student'' to ``person''.

Waiver of Proposed Rulemaking and Negotiated Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these regulations merely reflect statutory changes to the HEA and needed technical corrections. The changes do not establish or affect substantive policy. The Secretary has concluded that these regulations are technical in nature and do not necessitate public comment. Therefore, under 5 U.S.C. 553(b)(B) the Secretary finds that such a solicitation would be unnecessary and contrary to the public interest. In addition, the Secretary also has decided to waive the 30-day delay in the effective date of these regulatory changes under 5 U.S.C. 553(d)(3).

For the same reasons, the Secretary has determined, under section 492(b)(2) of the Higher Education Act of 1965, as amended, that these regulations should not be subject to negotiated rulemaking.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations will affect certain institutions of higher education that participate in Title IV, HEA programs. The U.S. Small Business Administration (SBA) Size Standards define these institutions as ``small entities'' if they are for-profit or nonprofit institutions

with total annual revenue below $5,000,000 or if they are institutions controlled by governmental entities with populations below 50,000. A relatively small number of the 6,000 institutions of higher education participating in the Title IV, HEA programs meet the SBA definition of ``small entities.'' The technical corrections and changes will not have a significant economic impact on any of the institutions affected.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Assessment of Educational Impact

Based on our own review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

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Note: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs--education, Loan programs--education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Sally L. Stroup,
Assistant Secretary, Office of Postsecondary Education.

For the reasons discussed in the preamble, the Secretary amends part 668 of title 34 of the Code of Federal Regulations as follows:

PART 668--STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1085, 1091, 1091b, 1092, 1094, 1099c, and 1099c-1, unless otherwise noted.

2. Section 668.46 is amended--

A. In paragraph (a), in the definition of ``Referred for campus disciplinary action'', by removing the word ``student'' and adding, in its place, ``person''.

B. By adding a new paragraph (b)(12).

The addition reads as follows:

Sec. 668.46 Institutional security policies and crime statistics.

* * * * *

(b) * * *

(12) Beginning with the annual security report distributed by October 1, 2003, a statement advising the campus community where law enforcement agency information provided by a State under section 170101(j) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(j)), concerning registered sex offenders may be obtained, such as the law

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enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.

* * * * *

[FR Doc. 02-27599 Filed 10-30-02; 8:45 am]
BILLING CODE 4000-01-P

A-3. *Federal Register,* Oct. 29, 2009 (Vol. 74, No. 208), General and Non-Loan Programmatic Issues; Final Rule. 34 CRF 668.41, Reporting and Disclosure of Information 34 CRF 668.46, Institutional Security Policies and Crime Statistics 34 CFR 668.49, Institutional Fire Safety Policies and Fire Statistics

This document contains text that was taken from the *Federal Register* for Oct. 29, 2009. It is not the complete *Federal Register* for that date. It contains the regulations for 34 CFR 668.41, Reporting and Disclosure of Information; 34 CFR 668.46, Institutional Security Policies and Crime Statistics; and 34 CFR 668.49, Institutional Fire Safety Policies and Fire Statistics. This text was retrieved from: http://edocket.access.gpo.gov/2009/E9-25373.htm.

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[Federal Register: October 29, 2009 (Volume 74, Number 208)]
[Rules and Regulations]
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[DOCID:fr29oc09-24]

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Part II

Department of Education

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34 CFR Parts 600, 668, 675, et al.

General and Non-Loan Programmatic Issues; Final Rule

[[Page 55902]]

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DEPARTMENT OF EDUCATION

[Docket ID ED-2009-OPE-0005]

34 CFR Parts 600, 668, 675, 686, 690, and 692

RIN 1840-AC99


General and Non-Loan Programmatic Issues

AGENCY: Office of Postsecondary Education, Department of Education.
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ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations for Institutional Eligibility Under the Higher Education Act of 1965, the Student Assistance General Provisions, the Federal Work-Study (FWS) Programs, the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program, the Federal Pell Grant Program, and the Leveraging Educational Assistance Partnership Program (LEAP) to implement various general and non-loan provisions of the Higher Education Act of 1965 (HEA), as amended by the Higher Education Opportunity Act of 2008 (HEOA) and other recently enacted legislation.

DATES: Effective Date: These regulations are effective July 1, 2010.

Implementation date: The Secretary has determined, in accordance with section 482(c)(2)(A) of the HEA, that institutions may, at their discretion, choose to implement the new and amended provisions of Sec. Sec. 600.32(d), 668.28, 668.23(d)(4), 668.43, 675.16, 675.18(g), 675.18(i), 686.41, and 686.42 on or after November 1, 2009. For further information, see the section entitled Implementation Date of These Regulations in the SUPPLEMENTARY INFORMATION section of this preamble.

FOR FURTHER INFORMATION CONTACT:

For information related to the provisions for fire safety standards, missing students procedures, hate crime reporting, emergency response and evacuation, and students with intellectual disabilities, Jessica Finkel. Telephone: (202) 502-7647 or via the Internet at: Jessica.Finkel@ed.gov.

For information related to the consumer information requirements, Brian Kerrigan. Telephone: (202) 219-7058 or via the Internet at: Brian.Kerrigan@ed.gov.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: On August 21, 2009, the Secretary published a notice of proposed rulemaking (NPRM) for general and non-loan programmatic issues in the Federal Register (74 FR 42380).

In the preamble to the NPRM, the Secretary discussed on pages 42383 through 42415 the major regulations proposed in that document to implement provisions of the HEOA, including the following:

Amending Sec. 668.41(e) to provide that institutions that maintain on-campus housing facilities must publish annually a fire safety report, maintain a fire log, and report fire statistics to the Department.

Amending Sec. 668.46 by adding paragraph (h) to require institutions that provide on-campus housing facilities to develop and make available a missing student notification policy and allow students who reside on campus to confidentially register contact information.

Amending Sec. 668.46(c) to expand the list of crimes that institutions must include in the hate crimes statistics reported to the Department.

Amending Sec. 668.46 by adding paragraph (g) to require

institutions to include in their annual security report a statement of emergency response and evacuation procedures.

Analysis of Comments and Changes

Except as noted under Waiver of Proposed Rulemaking for Additional Conforming Changes, the regulations in this document were developed through the use of negotiated rulemaking. Section 492 of the HEA requires that, before publishing any proposed regulations to implement programs under title IV of the HEA, the Secretary must obtain public involvement in the development of the proposed regulations. After obtaining advice and recommendations, the Secretary must conduct a negotiated rulemaking process to develop the proposed regulations. The negotiated rulemaking committee did not reach consensus on the proposed regulations that were published on August 21, 2009. The Secretary invited comments on the proposed regulations by September 21, 2009. More than 113 parties submitted comments, a number of which were substantially similar. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

We group major issues according to subject, with appropriate sections of the regulations referenced in parentheses. We discuss other substantive issues under the sections of the regulations to which they pertain. Generally, we do not address minor, non-substantive changes, recommended changes that the law does not authorize the Secretary to make, or comments pertaining to operational processes. We also do not address comments pertaining to issues that were not within the scope of the NPRM.

Part 668 Student Assistance General Provisions
Campus Safety Provisions

Reporting and Disclosure of Information (Sec. 668.41(a))

Comment: One commenter requested clarification of what would be considered an ``on-campus student housing facility.'' Specifically, the commenter questioned how this definition should be applied in cases in which there are public-private partnerships or third parties who may own or control property on areas contiguous to the campus or on university-owned property.

Discussion: The Department recognizes that there are a myriad of possible arrangements that an institution may have for housing facilities for students. Regarding whether a particular student housing facility is an ``on-campus'' facility, we refer to the current definition of the term ``campus'' in Sec. 668.46(a). To clarify, any student housing facility that is owned or controlled by the institution, or is located on property that is owned or controlled by the institution, and is within the reasonably contiguous geographic area that makes up the campus is considered an on-campus student housing facility.

Changes: None.

Missing Student Notification Procedures (Sec. 668.46(h))

Comment: A number of commenters requested clarification of how the proposed requirement in Sec. 668.46(h) relates to requirements under

the Family Educational Rights and Privacy Act (FERPA). Under this section, institutions must provide students living in an on-campus student housing facility an option to register a confidential contact person to be notified in the case that the student is determined missing.

Discussion: Although missing student contact information would be considered part of a student's education records under FERPA, section 485(j) of the HEA, as amended by section 488(g) of the HEOA, requires that students be provided the option to register ``confidential'' contact information. This indicates that a student's contact information should receive greater privacy protections than FERPA provides. Under section 485(j) of the HEA, only authorized campus officials and law enforcement officers in furtherance of a missing person investigation may have access to this confidential contact information. We view a student's identification of a contact person pursuant to section 485(j) of the HEA and Sec. 668.46(h) as providing permission for law enforcement personnel to contact the identified individual under the circumstances identified in these statutory and regulatory provisions.

Changes: None.

Comment: Some commenters expressed concern that the proposed notification procedures in Sec. 668.46(h)(2) may lead to unnecessary alarm on the part of parents, guardians, and emergency contact persons, as well as a needless burden on campus and local law enforcement agencies. Specifically, they requested clarification that the notification procedures would only take effect if, after a brief investigation, the missing student report is found to be valid. In addition, several commenters requested clarification about the 24 hour time period requirements associated with the notification procedures, suggesting that an institution's policy statement must explicitly state that the institution must make the notification within 24 hours after an official determination has been made that the student has been missing for 24 hours.

Discussion: The proposed regulations in Sec. 668.46(h)(2) specify that an institution's notification procedures must go into effect within 24 hours after a student has been officially determined to have been missing for 24 hours by the

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campus security department or local law enforcement agency, as applicable. This does not preclude an institution from either making a determination that a student is missing before the student has been missing for a full 24 hours or initiating notification procedures as soon as it determines that the student is missing. A brief investigation as suggested by the commenter would presumably be included in this official determination, e.g., authorities could check sources such as Facebook in trying to determine whether the student is missing. We agree, nevertheless, that the regulations could be clearer in delineating the 24 hour time periods.

Changes: Section 668.46(h) is revised to clarify the time frame within which notification must occur.

Comment: A commenter stated that the regulations in Sec. 668.46 were unclear and suggested a new structure.

Discussion: We reviewed the commenter's suggested language, but we continue to believe the current structure is sufficiently clear. This language reflects the tentative agreement reached by the Team V

committee during negotiated rulemaking, and the Department wishes to preserve this agreement.

Changes: None.

Annual Fire Safety Report--Definitions of Terms (Sec. 668.49(a))

Comment: One commenter suggested that the definition of value of property damage should be revised to include only the damage to property, furnishings, and equipment that is owned, leased, or otherwise controlled by the institution. The commenter argued that it could be burdensome for institutions to determine the value of property and contents that are owned by third parties and that this information could be deemed private by the other party. In addition, the commenter suggested that institutions should have the option to provide explanatory text and clarifying information for estimates of property damage. The concern was that a high dollar value may create false concern as to the safety on campus, when in reality, a high value could be from damage to a single piece of expensive equipment.

Discussion: The definition of the value of property damage applies to an on-campus student housing facility and includes the value of property and the contents within. The Department recognizes that many of the contents on a property may be owned by third parties. However, because the statute requires that information be provided about damage caused by fires in on-campus student housing facilities, this estimate should include the value of property that is not owned or controlled by the institution. Although an institution may not be able to determine the exact value of the contents, it must give the most accurate estimate possible in order to be in compliance with the regulation. With regard to explanatory text, institutions have the flexibility to include additional information in the annual fire safety report. In reporting statistics to the Department, the Web-based collection tool will include space for institutions to include explanatory text for each item that will be viewable on the public Web site.

Changes: None.

Comment: One commenter stated that the definition of fire in Sec. 668.49(a) was ambiguous and needed to be clarified. Specifically, the commenter suggested that phrases such as ``open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner'' and ``place'' could be interpreted differently by institutions and, therefore, could undermine the consistency of the definition of ``fire'' for statistical and comparative purposes. Further, the commenter suggested an alternate definition drawn from insurance law that would include the concept of a ``hostile fire,'' or one that includes any combustion that cannot be controlled, escapes from where it was initially set and confined, and that was not intended to exist. The commenter also questioned the feasibility of gathering statistics on each instance of a fire that does not result in injury, death, or property damage, suggesting that reports of insignificant fires will obscure attention to serious fire problems or trends.

Discussion: Section 485(i)(1)(A) of the HEA requires that institutions collect and report statistics on the number of fires in each on-campus student housing facility, and section 485(i)(3) of the HEA further requires that institutions maintain a log of all fires that occur in any on-campus student housing facility. The Department and non-Federal negotiators worked diligently to define the term fire, understanding that it is difficult to devise a definition that will cover all of the fires that we intend to be included yet still exclude

the ones that we do not. The negotiators reached a tentative agreement on the definition of fire, and the Department wishes to preserve this language. We continue to believe that the definition set forth in the proposed regulations can reasonably be interpreted and applied by institutions.

In addition, under the HEA all fires will be included in the institution's statistics and in the fire log. Therefore, the definition of fire arguably may not be limited to only fires that result in injury, death, or property damage. Further, as stated in the preamble to the NPRM, an institution's policies regarding fire safety do not affect the classification of whether a fire meets the definition of fire. As an example, one commenter suggested that a candle wick might be a ``place'' that is intended to contain burning, but that student residence hall policies might prohibit candles, rendering the candle wick no longer a ``place'' intended to contain a flame because the candle should not be there at all. However, a candle wick is still a place intended to contain burning, regardless of whether candles are prohibited under an institution's policies. The Department anticipates including additional examples in a revised version of the Handbook for Campus Crime Reporting to provide guidance to institutions in complying with these regulations.

Changes: None.

Annual Fire Safety Report--Statistics (Sec. 668.49(b) and (c))

Comment: One commenter suggested that an institution should not be responsible for tracking an individual with a fire-related injury who has separated from the university for the purpose of potentially including that individual in the institution's statistics on fire-related deaths. If that individual dies within one year of sustaining injuries as a result of a fire, then the institution may not know whether that individual died as a result of those injuries.

Discussion: The regulations do not require an institution to track an individual that separates from, and is no longer in contact with, the institution. However, the institution is expected to make a reasonable effort to ascertain whether an individual's death is considered a fire-related death, as defined in Sec. 668.49(a). For example, if an individual with fire-related injuries is hospitalized a few miles from the institution, the institution may reasonably be expected to track this person for potential inclusion in the institution's statistics. By contrast, if an individual separates from the institution and travels to another country, the institution may not be expected to track them for inclusion in the institution's statistics.

Changes: None.

Annual Fire Safety Report--Description of Policies (Sec. 668.49(b))

Comment: One commenter suggested that we revise the language related to the reporting of fire statistics under

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proposed Sec. 668.49 to specify that these statistics include fires that are reported to a ``campus fire authority.''

Discussion: Institutions are expected to collect information about,

and report on, all fires regardless of whether they were reported to a campus fire authority. Fires may be reported to a variety of authorities at an institution other than a campus fire authority (e.g., to a residence life officer). The intent of the regulations is to include these fires in an institution's statistics and fire log.

Changes: None.

Comment: Two commenters suggested that the Department require that institutions have fire doors and other doors in the path of exit from a fire inspected at least annually and disclose in their annual fire safety report how often the doors are inspected. The commenters noted that proper maintenance and inspection of every fire safety system element is critical to ensure that these elements can function in the case of a fire.

Discussion: We define a fire safety system in Sec. 668.49(a) as ``any mechanism or system related to the detection of a fire, the warning resulting from a fire, or the control of a fire,'' listing elements including, among others, sprinkler systems, fire detection devices, stand-alone smoke alarms, and fire doors and walls as examples of what might be included in a fire safety system. The commenter correctly states that maintenance and inspection of a fire safety system can help ensure that the elements are properly functioning. Institutions are required to describe the fire safety system in each on-campus student housing facility, and an institution may provide information about how often the elements of each fire safety system are inspected or maintained in this description. The Department expects that an institution will adequately maintain the elements of its fire safety systems. However, we do not intend to specify a maintenance or inspection schedule for each of these elements.

Changes: None.

Annual Fire Safety Report--General (Sec. 668.49)

Comment: One commenter suggested a number of minor changes to a variety of provisions, including:

Replacing the phrase ``may include'' in the definition of a fire-related injury in Sec. 668.49(a) with the word ``includes'';

Replacing the words ``faculty, staff'' in the definition of a fire-related injury in Sec. 668.49(a) and in the requirement that an institution include policies regarding fire safety education and training programs in its annual fire safety report in Sec. 668.49(b)(6) with the word ``employees'';

Replacing the words ``resulting from'' in the definition of a fire-safety system in Sec. 668.49(a) with ``of'';

Replacing the phrase ``smoke, water, and overhaul'' in the definition of value of property damage in Sec. 668.49(a) with ``smoke and water''; and

Revising the Sec. 668.49(c)(1)(ii) to read ``The number of persons who received fire-related injuries that resulted in treatment at a medical facility, including at an on-campus health center.''

Discussion: We agree to make some of these changes. In particular, we agree with the commenter that institutions should include the number of persons who received fire-related injuries, as opposed to the actual number of injuries, as a single person may have more than one injury. We also agree that the term ``employees'' is more precise than the words ``faculty, staff'' and have revised the regulations accordingly.

Changes: We have revised the language in Sec. 668.49(c)(1)(ii) to

clarify that the number of injuries refers to the number of people with fire-related injuries. We have also replaced the words ``faculty, staff'' with the word ``employees'' in both Sec. 668.49(a) and Sec. 668.49(b)(6).

Comment: One commenter suggested that we revise Sec. 668.43 to include two additional disclosures specified in the HEOA that require institutions to disclose their policies on vaccination, and information on diversity of the student body.

Discussion: The Department is not addressing all of the self-implementing provisions of the HEOA in these regulations. We intend to publish separate regulations covering these new disclosures.

Changes: None.

Campus Safety Provisions

Section 668.46(c)(3)--Hate Crime Reporting

The final regulations add the crimes of ``larceny-theft,'' ``simple assault,'' ``intimidation,'' and ``destruction/damage/vandalism of property'' to the crimes that must be reported in hate crime statistics. Additionally, the final regulations update the definitions of the terms ``Weapons: carrying, possessing, etc.,'' ``Drug abuse violations,'' and ``Liquor law violations'' which are excerpted from the Federal Bureau of Investigation's Uniform Crime Reporting Program, to reflect changes made by the FBI to these definitions in 2004.

We estimate that the final regulations will increase burden for institutions by 5,695 hours in OMB Control Number 1845-0022.

Reporting Emergency Response and Evacuation Procedures

Section 668.46(e)--Timely Warning and Emergency Notification

The final regulations clarify the difference between the existing timely warning requirement and the new requirement for an emergency notification policy. While a timely warning must be issued in response to specific crimes, an emergency notification is required in the case of an immediate threat to the health or safety of students or employees occurring on campus. The final language clarifies that an institution that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances; however, the institution must provide adequate follow-up information to the community as needed.

We estimate that the final regulations will increase burden for institutions by 1,424 hours in OMB Control Number 1845-0022.

Section 668.46(g)--Emergency Response and Evacuation Procedures

The final regulations outline the elements that an institution must include in its statement of policy

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describing its emergency response and evacuating procedures in its annual security report to include the following:

Procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation

involving an immediate threat occurring on the campus.

A description of the process that (1) confirms that there is a significant emergency or dangerous situation, (2) determines the appropriate segment or segments of the campus community to receive a notification, (3) determines the content of the notification, and (4) initiates the notification system.

A statement that the institution 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 the 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.

A list of the titles of the persons or organizations responsible for carrying out the actions required.

Procedures for disseminating emergency information to the larger community.

Procedures for testing its emergency response and evacuation procedures on at least an annual basis with at least one test per calendar year, and be documented, including a description of the exercise, the date, time, and if it was announced or unannounced.

We estimate that the final regulations will increase burden for institutions by 11,390 hours in OMB Control Number 1845-0022.

Missing Student Procedure

Section 668.41(a)--Definition of On-Campus Student Housing Facility

The final regulations in Sec. 668.41(a) would add a definition of the term on-campus student housing facility to mean a dormitory or other residential facility for students that is located on an institution's campus.

The final definition is added to clarify what is meant by on-campus student housing facility and to link the meaning of ``on-campus'' to the current regulatory definition of campus in Sec. 668.46(a), which is used for crime reporting under Sec. 668.46(c). The final change is to a definition and does not impact burden.

While the current regulations point to both OMB 1845-0004 and OMB 1845-0010, OMB 1845-0010 has recently been discontinued. We estimate that there is no change in burden associated with this section of the regulations as reported under OMB Control Number 1845-0004.

Section 668.46(b)--Annual Security Report

The final regulations in Sec. 668.46(b) require an institution to include its missing student notification policy and procedures in its annual security report. This is required beginning with the annual security report distributed by October 1, 2010.

We estimate that the final regulations will increase burden for institutions by 456 hours for an increase in burden in OMB Control

Number 1845-0022.

Section 668.46(h)--Missing Student Notification Policy

The final regulations in Sec. 668.46(h) implement the new statutory requirements, specifying that a statement of policy regarding

missing student notification for students residing in on-campus student housing facilities must include:

A list of the titles of the persons or organizations to which students, employees, or other individuals should report that a student has been missing for 24 hours;

A requirement that any official missing student report be immediately referred to the institution's police or campus security department or, if not applicable, to the local law enforcement agency with jurisdiction in the area;

The option for each student to identify a contact person to be notified if the student is determined missing by the institutional police or campus security department, or the local law enforcement agency; and

A disclosure that contact information will be registered and maintained confidentially.

The final regulations further require an institution to advise students who are under 18 and not emancipated that if the student is missing, it will notify a custodial parent or guardian in addition to any contact person designated by the student. All students must also be advised that, regardless of whether they name a contact person, the institution must notify the local law enforcement agency that the student is missing, unless the local law enforcement was the entity that determined that the student is missing.

The final regulations reflect the new statutory requirements. These regulations do not preclude the institution from contacting the student's contact person or the parent immediately upon determination that the student has been missing for 24 hours.

We estimate that the final regulations will increase burden for institutions by 2,423 hours for an increase in burden in OMB Control Number 1845-0022.

Fire Safety Standards

Section 668.41(e)--Annual Fire Safety Report

The final regulations provide that institutions that maintain an on-campus student housing facility must distribute an annual fire safety report and to create publication requirements for the annual fire safety report that are similar to the long-standing rules for the annual security report.

The final regulations allow an institution to publish the annual security report and the annual fire safety report together, as long as the title of the document clearly states that it contains both the annual security report and the annual fire safety report. If an institution chooses to publish the reports separately, it would have to include information in each of the two reports about how to directly access the other report.

While the current regulations point to both OMB 1845-0004 and OMB 1845-0010, OMB 1845-0010 has recently been discontinued. The burden associated with the data collection and reporting for the annual fire safety report is reflected in Sec. 668.49 as reported under OMB Control Number 1845-NEW3.

Section 668.49--Annual Fire Safety Report

The final regulations define the following terms relevant to the

fire safety reporting requirements: Cause of fire; Fire; Fire drill; Fire-related injury; Fire-related death; Fire-safety system; and Value of property damage.

The final regulations require an institution to report to the public, the statistics that it submits to the Department in its annual fire safety report. The institution must provide data for the three most recent calendar years for which data are available. The first full report to contain the full three years of data would be the report due on October 1, 2012.

The final regulations outline the elements that an institution must disclose in its annual fire safety report, including: Fire statistics; A description of each on-campus student housing facility fire safety system; The number of regular, mandatory, supervised fire drills held during the previous calendar year; Policies or rules on portable electrical appliances, smoking, and open flames in student housing facilities; Procedures for student

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housing evacuation in the case of a fire; Policies on fire safety education and training programs provided to students, faculty, and staff; A list of the titles of each person or organization to which students and employees should report that a fire has occurred; and Plans for future improvements in fire safety.

The final regulations specify that an institution that maintains an on-campus student housing facility must maintain a written and easily understood fire log that records, by the date that the fire was reported (as opposed to by the date that the fire occurred), any fire that occurred in an on-campus student housing facility. The log would have to include the nature, date, time, and general location of each fire, and require that the log be available for the public. These final regulations also implement the statutory requirement that an institution make an annual report to the campus community on the fires recorded in the fire log; however, this requirement may be satisfied by the annual fire safety report described in final Sec. 668.49(b).

We estimate that the final regulations will increase burden for institutions by 7,283 hours in OMB Control Number 1845-NEW3.

668.46(c)(3), (e), (g).....	Expanding the list of crimes that institutions must include in the hate crimes statistics reported to the Department. Requiring institutions to include in the annual security report a statement of emergency response and evacuation procedures (see section 485(f) of the HEA).	OMB 1845-0022. There will be an increase in burden of 18,509 hours.
668.41(a).....	Requiring	OMB 1845-0004. There

	institutions that provide on-campus housing facilities to develop and make available a missing student notification policy and allow students who reside on campus to confidentially register contact information (see section 485(j) of	is no change in burden associated with this section of the final regulations.
668.46(b), (h).....	Requiring institutions that provide on-campus housing facilities to develop and make available a missing student notification policy and allow students who reside on campus to confidentially register contact information (see section 485(j) of the HEA).	OMB 1845-0022. There will be an increase in burden of 2,879 hours.
668.41(e).....	Establishing requirements for institutions that maintain on-campus housing facilities to publish annually a fire safety report, maintain a fire log, and report fire statistics to the Department (see section 485(i) of the HEA).	OMB 1845-0004. There is no change in burden associated with this section of the final regulations.
668.49.....	Establishing requirements for institutions that maintain on-campus housing facilities to publish annually a fire safety report, maintain a fire log, and report fire statistics to the Department (see	OMB 1845-NEW3. There will be a new collection. A separate 60-day Federal Register notice will be published to solicit comments. There will be an increase in burden of 7,283 hours.

section 485(i) of
the HEA).

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Sec. 668.41 Reporting and disclosure of information.

(a) * * *

On-campus student housing facility: A dormitory or other residential facility for students that is located on an institution's campus, as defined in Sec. 668.46(a).

* * * * *

(d) General disclosures for enrolled or prospective students. An institution must make available to any enrolled student or prospective student through appropriate publications, mailings or electronic media, information concerning--

(e) Annual security report and annual fire safety report. (1) Enrolled students and current employees--annual security report and annual fire safety report. By October 1 of each year, an institution must distribute to all enrolled students and current employees its annual security report described in Sec. 668.46(b), and, if the institution maintains an on-campus student housing facility, its annual fire safety report described in Sec. 668.49(b), through appropriate publications and mailings, including--

(i) Direct mailing to each individual through the U.S. Postal Service, campus mail, or electronic mail;

(ii) A publication or publications provided directly to each individual; or

(iii) Posting on an Internet Web site or an Intranet Web site, subject to paragraph (e)(2) and (3) of this section.

(2) Enrolled students--annual security report and annual fire safety report. If an institution chooses to distribute either its annual security report or annual fire safety report to enrolled students by posting the disclosure or disclosures on an Internet Web site or an Intranet Web site, the institution must comply with the requirements of paragraph (c)(2) of this section.

(3) Current employees--annual security report and annual fire safety report. If an institution chooses to distribute either its annual security report or annual fire safety report to current employees by posting the disclosure or disclosures on an Internet Web site or an Intranet Web site, the institution must, by October 1 of each year, distribute to all current employees a notice that includes a statement of the report's availability, the exact electronic address at which the report is posted, a brief description of the report's contents, and a statement that the institution will provide a paper copy of the report upon request.

(4) Prospective students and prospective employees--annual security report and annual fire safety report. For each of the reports, the institution must provide a notice to prospective students and prospective employees that includes a statement of the report's availability, a description of its contents, and an opportunity to request a copy. An institution must provide its annual security report and annual fire safety report, upon request, to a prospective student or prospective employee. If the institution chooses to provide either its annual security report or annual fire safety report to prospective students and prospective employees by posting the disclosure on an Internet Web site, the notice described in this paragraph must include

the exact electronic address at which the report is posted, a brief description of the report, and a statement that the institution will provide a paper copy of the report upon request.

(5) Submission to the Secretary--annual security report and annual fire safety report. Each year, by the date and in a form specified by the Secretary, an institution must submit the statistics required by Sec. Sec. 668.46(c) and 668.49(c) to the Secretary.

(6) Publication of the annual fire safety report. An institution may publish its annual fire safety report concurrently with its annual security report only if the title of the report clearly states that the report contains both the annual security report and the annual fire safety report. If an institution chooses to publish the annual fire safety report separately from the annual security report, it must include information in each of the two reports about how to directly access the other report.

(Approved by the Office of Management and Budget under control number 1845-0004)

(Authority: 20 U.S.C. 1092)

19. Section 668.46 is amended by:

A. In paragraph (a), adding, in alphabetical order, a definition of test.

0

B. Adding paragraphs (b)(13) and (b)(14).

0

C. Revising paragraph (c)(3).

0

D. Revising the heading for paragraph (e).

0

E. Adding paragraph (e)(3).

0

F. Adding paragraph (g).

0

G. Adding paragraph (h).

The additions and revisions read as follows:

Sec. 668.46 Institutional security policies and crime statistics.

(a) * * *

Test: Regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities.

* * * * *

(b) * * *

(13) Beginning with the annual security report distributed by October 1, 2010, a statement of policy regarding emergency response and evacuation procedures, as described in paragraph (g) of this section.

(14) Beginning with the annual security report distributed by October 1, 2010, a statement of policy regarding missing student notification procedures, as described in paragraph (h) of this section.

(c) * * *

(3) Reported crimes if a hate crime. An institution must report, by

category of prejudice, the following crimes reported to local police agencies or to a campus security authority that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability:

(i) Any crime it reports pursuant to paragraph (c)(1)(i) through (vii) of this section.

(ii) The crimes of larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property.

(iii) Any other crime involving bodily injury.

* * * * *

(e) Timely warning and emergency notification. * * *

(3) If there is an immediate threat to the health or safety of students or employees occurring on campus, as described in paragraph (g)(1) of this section, an institution must follow its emergency notification procedures. An institution that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances; however, the institution must provide adequate follow-up information to the community as needed.

* * * * *

(g) Emergency response and evacuation procedures. An institution must include a statement of policy regarding its emergency response and evacuation procedures in the annual security report. This statement must include--

(1) The procedures the institution will use 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 the institution will use to--

(i) Confirm that there is a significant emergency or dangerous situation as described in paragraph (g)(1) of this section;

(ii) Determine the appropriate segment or segments of the campus community to receive a notification;

(iii) Determine the content of the notification; and

(iv) Initiate the notification system.

(3) A statement that the institution 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) A list of the titles of the person or persons or organization or organizations responsible for carrying out the actions described in paragraph (g)(2) of this section;

(5) The institution's procedures for disseminating emergency information to the larger community; and

(6) The institution's procedures to test the emergency response and evacuation procedures on at least an annual basis, including--

(i) Tests that may be announced or unannounced;

(ii) Publicizing its emergency response and evacuation procedures in conjunction with at least one test per calendar year; and

(iii) Documenting, for each test, a description of the exercise, the date, time, and whether it was announced or unannounced.

(h) Missing student notification policies and procedures. (1) An institution that provides any on-campus student housing facility must include a statement of policy regarding missing student notification procedures for students who reside in on-campus student housing

facilities in its annual security report. This statement must--
(i) Indicate a list of titles of the persons or organizations to which students, employees, or other individuals should report that a student has been missing for 24 hours;
(ii) Require that any missing student report must be referred immediately to the institution's police or campus security department, or, in the absence of an institutional police or campus security department, to the local law

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enforcement agency that has jurisdiction in the area;
(iii) Contain an option for each student to identify a contact person or persons whom the institution shall notify within 24 hours of the determination that the student is missing, if the student has been determined missing by the institutional police or campus security department, or the local law enforcement agency;
(iv) Advise students that their contact information will be registered confidentially, that this information will be accessible only to authorized campus officials, and that it may not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation;
(v) Advise students that if they are under 18 years of age and not emancipated, the institution must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student; and
(vi) Advise students that, the institution will notify the local law enforcement agency within 24 hours of the determination that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing.
(2) The procedures that the institution must follow when a student who resides in an on-campus student housing facility is determined to have been missing for 24 hours include--
(i) If the student has designated a contact person, notifying that contact person within 24 hours that the student is missing;
(ii) If the student is under 18 years of age and is not emancipated, notifying the student's custodial parent or guardian and any other designated contact person within 24 hours that the student is missing; and
(iii) Regardless of whether the student has identified a contact person, is above the age of 18, or is an emancipated minor, informing the local law enforcement agency that has jurisdiction in the area within 24 hours that the student is missing.
* * * * *

20. Section 668.49 is added to subpart D of part 668 to read as follows:

Sec. 668.49 Institutional fire safety policies and fire statistics.

(a) Additional definitions that apply to this section.
Cause of fire: The factor or factors that give rise to a fire. The causal factor may be, but is not limited to, the result of an intentional or unintentional action, mechanical failure, or act of nature.

Fire: Any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner.

Fire drill: A supervised practice of a mandatory evacuation of a building for a fire.

Fire-related injury: Any instance in which a person is injured as a result of a fire, including an injury sustained from a natural or accidental cause, while involved in fire control, attempting rescue, or escaping from the dangers of the fire. The term ``person'' may include students, employees, visitors, firefighters, or any other individuals.

Fire-related death: Any instance in which a person--

(1) Is killed as a result of a fire, including death resulting from a natural or accidental cause while involved in fire control, attempting rescue, or escaping from the dangers of a fire; or

(2) Dies within one year of injuries sustained as a result of the fire.

Fire safety system: Any mechanism or system related to the detection of a fire, the warning resulting from a fire, or the control of a fire. This may include sprinkler systems or other fire extinguishing systems, fire detection devices, stand-alone smoke alarms, devices that alert one to the presence of a fire, such as horns, bells, or strobe lights; smoke-control and reduction mechanisms; and fire doors and walls that reduce the spread of a fire.

Value of property damage: The estimated value of the loss of the structure and contents, in terms of the cost of replacement in like kind and quantity. This estimate should include contents damaged by fire, and related damages caused by smoke, water, and overhaul; however, it does not include indirect loss, such as business interruption.

(b) Annual fire safety report. Beginning by October 1, 2010, an institution that maintains any on-campus student housing facility must prepare an annual fire safety report that contains, at a minimum, the following information:

(1) The fire statistics described in paragraph (c) of this section.

(2) A description of each on-campus student housing facility fire safety system.

(3) The number of fire drills held during the previous calendar year.

(4) The institution's policies or rules on portable electrical appliances, smoking, and open flames in a student housing facility.

(5) The institution's procedures for student housing evacuation in the case of a fire.

(6) The policies regarding fire safety education and training programs provided to the students and employees. In these policies, the institution must describe the procedures that students and employees should follow in the case of a fire.

(7) For purposes of including a fire in the statistics in the annual fire safety report, a list of the titles of each person or organization to which students and employees should report that a fire occurred.

(8) Plans for future improvements in fire safety, if determined necessary by the institution.

(c) Fire statistics. (1) An institution must report statistics for each on-campus student housing facility, for the three most recent calendar years for which data are available, concerning--

(i) The number of fires and the cause of each fire;

(ii) The number of persons who received fire-related injuries that resulted in treatment at a medical facility, including at an on-campus

health center;
    (iii) The number of deaths related to a fire; and
    (iv) The value of property damage caused by a fire.
    (2) An institution is required to submit a copy of the fire statistics in paragraph (c)(1) of this section to the Secretary on an annual basis.
    (d) Fire log. (1) An institution that maintains on-campus student housing facilities must maintain a written, easily understood fire log that records, by the date that the fire was reported, any fire that occurred in an on-campus student housing facility. This log must include the nature, date, time, and general location of each fire.
    (2) An institution must make an entry or an addition to an entry to the log within two business days, as defined under Sec. 668.46(a), of the receipt of the information.
    (3) An institution must make the fire 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.
    (4) An institution must make an annual report to the campus community on the fires recorded in the fire log. This requirement may be satisfied by the annual fire safety report described in paragraph (b) of this section.

(Approved by the Office of Management and Budget under control number 1845-NEW3)

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(Authority: 20 U.S.C. 1092)

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21. Appendix A to subpart D of part 668 is amended by:
0
A. Revising the introductory text.
0
B. Under the heading, ``Crime Definitions From the Uniform Crime Reporting Handbook,'' by:
0
i. Removing the definition of Weapon Law Violations;
0
ii. Adding a new definition of Weapons: Carrying, Possessing, Etc.; and
0
iii. Revising the definitions of Drug Abuse Violations and Liquor Law Violations.
0
C. Adding a heading at the end of the appendix, ``Definitions From the Hate Crime Data Collection Guidelines of the Uniform Crime Reporting Handbook'' followed by definitions for larceny-theft (except motor vehicle theft), simple assault, intimidation, and destruction/damage/vandalism of property.
    The revisions and additions read as follows: Appendix A to Subpart D of Part 668--Crime Definitions in Accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program
    The following definitions are to be used for reporting the crimes listed in Sec. 668.46, in accordance with the Federal Bureau of

Investigation's Uniform Crime Reporting Program. The definitions for murder; robbery; aggravated assault; burglary; motor vehicle theft; weapons: carrying, possessing, etc.; law violations; drug abuse violations; and liquor law violations are excerpted from the Uniform Crime Reporting Handbook. The definitions of forcible rape and nonforcible sex offenses are excerpted from the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Handbook. The definitions of larceny-theft (except motor vehicle theft), simple assault, intimidation, and destruction/damage/vandalism of property are excerpted from the Hate Crime Data Collection Guidelines of the Uniform Crime Reporting Handbook.

* * * * *

Crime Definitions From the Uniform Crime Reporting Handbook

* * * * *

Weapons: Carrying, Possessing, Etc.

The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.

Drug Abuse Violations

The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs.

Liquor Law Violations

The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness.

* * * * *

Definitions From the Hate Crime Data Collection Guidelines of the Uniform Crime Reporting Handbook

Larceny-Theft (Except Motor Vehicle Theft)

The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.

Simple Assault

An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

Intimidation

To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Destruction/Damage/Vandalism of Property

To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

A-4. *Higher Education Opportunity Act,* Aug. 14, 2008. Program Participation Agreement Requirements

This text was extracted from the *Higher Education Opportunity Act* (Public Law 110-315), Aug. 14, 2008. Your institution must have a statement in its annual security report that addresses this Program Participation Agreement requirement. This is not a complete document. The complete document is located at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ315.110.

[DOCID: f:publ315.110]

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HIGHER EDUCATION OPPORTUNITY ACT

[[Page 122 STAT. 3078]]

Public Law 110-315
110th Congress

An Act

To amend and extend the Higher Education Act of 1965, and for other purposes. <<NOTE: Aug. 14, 2008 - [H.R. 4137]>>

Be it enacted by the Senate and House of Representatives of the United States of America in Congress <<NOTE: Higher Education Opportunity Act.>> assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) <<NOTE: 20 USC 1001 note.>> Short Title.--This Act may be cited as the ``Higher Education Opportunity Act''.

PART G--General Provisions Relating to Student Assistance

SEC. 493. PROGRAM PARTICIPATION AGREEMENTS.

(a) Program Participation Agreement Requirements.--

``(26) The institution will, upon written request, disclose to the alleged victim of any crime of violence (as that term is defined in section 16 of title 18, United States Code), or

[[Page 122 STAT. 3309]]

a nonforcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense with respect to such crime or offense. If the alleged victim of such crime or offense is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

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Appendix B

Sample Letters and Forms for Collecting Crime Reports and Requesting Crime Statistics

B-1. Sample Letter to Campus Security Authorities Regarding the Federal *Clery Act*

B-2. Sample Campus Security Authority Crime Report Form

B-3. Sample Campus Security Authority Sex Offenses Report Form

B-4. Sample Letter to a Local Law Enforcement Agency to Request Crime Statistics

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B-1. Sample Letter to Campus Security Authorities Regarding the Federal *Clery Act*

TO: Deans, Directors and Department Heads

FROM: (Name)
Campus Security Authority Coordinator

DATE: Jan. 21, 2011

RE: Crime Statistics

According to a federal law known as the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*, our school is required to disclose "statistics concerning the occurrence of certain criminal offenses reported to local law enforcement agencies or any official of the institution who is defined as a 'Campus Security Authority.'"

The law defines "Campus Security Authority" as: "An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings." An example would be a dean of students who oversees student housing, a student center, or student extra-curricular activities and has significant responsibility for student and campus activities. Similarly, a director of athletics, team coach, and faculty advisor to a student group also have significant responsibility for student and campus activities. A single teaching faculty member is unlikely to have significant responsibility for student and campus activities, except when serving as an advisor to a student group. Clerical staff, as well, are unlikely to have significant responsibility for student and campus activities.

The criminal offenses for which we are required to disclose statistics are murder/non-negligent manslaughter, negligent manslaughter, sex offenses (forcible and non-forcible), robbery, aggravated assault, burglary, motor vehicle theft, arson, liquor law violations, drug abuse violations and weapons: carrying, possessing, etc.

We are also required to report statistics for bias-related (hate) crimes for the following offenses: murder/non-negligent manslaughter, sex offenses (forcible and non-forcible), robbery, aggravated assault, burglary, motor vehicle theft, arson, larceny-theft, vandalism, intimidation, simple assault, and damage/destruction/vandalism of property.

We are required to disclose statistics for offenses that occur on campus, in or on noncampus buildings or property owned or controlled by our school, and public property within or immediately adjacent to our campus.

Please forward this letter and the attached forms to all of those individuals in your department who fit the definition of a Campus Security Authority, as previously described. If those individuals are aware of any crimes that were reported to have occurred on campus in **2010** that were not reported to the University Police Department,

it is important that they forward the information to me no later than **Feb. 28, 2011.** If it's available, provide the date, location, and a brief description of the incident.

Our school has a responsibility to notify the campus community about any crimes which pose an ongoing threat to the community, and, as such, campus security authorities are obligated by law to report crimes to the university police department. Even if you are not sure whether an ongoing threat exists, immediately contact the university police department.

If you have any questions about this request please contact me at (phone number).

Thank you for your assistance in complying with this federal law. Please return all completed incident forms to me at (office address).

B-2. Sample Campus Security Authority Crime Report Form

CSA_____

Date_____

Crime reported by:_____ Phone number:_____

Classification (see definitions below):_____ Date incident occurred:_____

Location of Incident (building name or address): _____

Brief description of the incident: _____

_____

_____

Check the appropriate answer to the following questions:

Did the crime occur in a building or on the street?	Building: _____	Street: _____
Did the crime occur on school owned, controlled, or leased property?	Yes: _____	No:_____
Did the crime occur at a University-sponsored activity or event?	Yes: _____	No:_____

Murder/Non-Negligent Manslaughter: the willful (non-negligent) killing of one human being by another. NOTE: Deaths caused by negligence, attempts to kill, assaults to kill, suicides, accidental deaths, and justifiable homicides are excluded.

***Negligent Manslaughter*:** the killing of another person through gross negligence.

Robbery: the taking or attempting to take anything from value of the care, custody or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Aggravated Assault: an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. It is not necessary that injury result from an aggravated assault when a gun, knife or other weapon is used which could or probably would result in a serious potential injury if the crime were successfully completed.

Burglary: The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or a felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

Motor Vehicle Theft: The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access, even though the vehicles are later abandoned - including joy riding)

***Arson*:** The willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, or personal property of another kind.

Weapon Law Violations: The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; all attempts to commit any of the aforementioned.

Drug Abuse Violations: Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadones); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

Liquor Law Violations: The violation of laws or ordinance prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; all attempts to commit any of the aforementioned. (Drunkenness and driving under the influence are not included in this definition.)

Crime definitions from the Uniform Crime Reporting Handbook

Please forward this completed form to: (Name and Title)
(Address)

USE REVERSE TO REPORT HATE CRIMES

We are also required to report statistics for bias-related (hate) crimes by the type of bias as defined below for the following classifications: murder/non-negligent manslaughter, negligent manslaughter, sex offenses (forcible and non-forcible), robbery, aggravated assault, burglary, motor vehicle theft, arson, liquor law violations, drug abuse violations and/or weapons: possessing carrying, etc. (see definitions on the front page) and larceny-theft, destruction/damage/vandalism of property, intimidation, and simple assault (see definitions below).

Larceny: The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another.

Vandalism*:* To willfully or maliciously destroy, injure, disfigure, or deface any public or private property, real or personal, without the consent of the owner or person having custody or control by cutting, tearing, breaking, marking, painting, drawing, covering with filth, or any other such means as may be specified by local law.

Intimidation*:* To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Simple Assault: An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration or loss of consciousness.

If a hate crime occurs where there is an incident involving intimidation, vandalism, larceny, simple assault or other bodily injury, the law requires that the statistic be reported as a hate crime even though there is no requirement to report the crime classification in any other area of the compliance document.

A bias-related (hate) crime is not a separate, distinct crime, but is the commission of a criminal offense which was motivated by the offender's bias. For example, a subject assaults a victim, which is a crime. If the facts of the case indicate that the offender was motivated to commit the offense because of his bias against the victim's race, sexual orientation, etc... the assault is then also classified as a hate crime.

If a bias-related (hate) crime was reported to you, please fill out the top section of Page 1 and then complete the following information about the type of bias involved in the crime.

Type of Crime (List classification as defined above):_____

Type of Bias (circle one):	Race	Religion	Ethnicity/National Origin
	Gender	Sexual Orientation	Disability

B-3. Sample Campus Security Authority Sex Offenses Report Form

CSA_____

Date_____

Crime reported by:_____ Phone number:_____

Classification (see definitions below):_____ Date incident occurred:_____

Brief description of the incident: _____

_____

Check the appropriate answer to the following questions:

Did the crime occur in a building or on the street?	Building: _____	Street: _____
Did the crime occur on school owned, controlled, or leased property?	Yes: _____	No:_____
Did the crime occur at a University-sponsored activity or event?	Yes: _____	No:_____

Sex Offenses-Forcible

Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.

A. Forcible Rape

The carnal knowledge of a person, forcibly and/or against the person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth).

B. Forcible Sodomy

Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

C. Sexual Assault With An Object

The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

D. Forcible Fondling

The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.

Sex Offenses-Non-forcible

Unlawful, non-forcible sexual intercourse.

A. Incest

Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

B. Statutory Rape

Non-forcible sexual intercourse with a person who is under the statutory age of consent.

Sex Offenses Definitions From the National Incident-Based Reporting System Edition of the Uniform Crime Reporting Program

Please forward this completed form to: (Name and Title)
(Address)

B-4. Sample Letter to a Local Law Enforcement Agency to Request Crime Statistics

Jan. 21, 2011

(Name)
Research Analyst
Metropolitan Police Department
300 Indiana Ave. NW, Suite 5126
Washington, DC 20001

Dear (Name),

According to the federal *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*, postsecondary schools are required to disclose statistics for certain crimes that occurred on campus and on public property within and immediately adjacent to school-owned buildings and property. We are required to disclose statistics that are reported to our department as well as to local and state law enforcement agencies.

I am requesting **2010** crime statistics for the following offenses:

Murder/Non-negligent Manslaughter
Negligent Manslaughter
Sex offenses-forcible (i.e., forcible rape, forcible sodomy, sexual assault with an object and forcible fondling)
Sex offenses-non-forcible (i.e., statutory rape and incest)
Robbery
Burglary
Aggravated Assault
Motor Vehicle Theft
Arson

Please specify if any of the above-listed offenses were categorized as hate crimes. In addition, please include statistics for any incidents of larceny-theft, simple assault, intimidation, or destruction/damage/vandalism of property that were classified as hate crimes. I also need the category of bias for each hate crime according to the six categories we are required to report: race, gender, religion, sexual orientation, ethnicity/national origin, and disability.

Please include statistics for **arrests** only for the following UCR categories:

Liquor Law Violations
Drug Abuse Violations
Weapons: Carrying, Possessing, Etc.

I'm requesting the required crime statistics for the following areas which are considered to be "on campus":

1900–2200 blocks of Pennsylvania Ave.

2300 block of K St.

2000-2300 blocks of I St.

2000-2300 blocks of H St.

2000-2300 blocks of G St.

1900-2200 blocks of F St.

I also need crime statistics for the following specific addresses:

1129 New Hampshire Ave.
2400 Virginia Ave.

2601 Virginia Ave.
1776 G St.
2011 Eye St.
2020 K St.
2021 K St.

I would appreciate it if you would forward this information to me as soon as you get an opportunity. We are in the process of publishing our annual report, and we will need to include these statistics in the final draft.

In addition, if a serious crime that may cause an ongoing threat to our campus community is reported to your department, we would appreciate it if you would notify our University Police Department immediately. The institution has a responsibility to notify the campus community in a timely manner about any crimes on and immediately around the campus which pose an ongoing threat to the community.

Thank you for your attention to this matter.

Sincerely,

(Name)
Chief of University Police
(Phone Number)

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Appendix C

Sample Memorandum of Understanding (MOU)

This document is provided as an example of one postsecondary institution's agreement between its campus police department and local law enforcement agency as described in policy statement 3b in Chapter 7. This is only a sample; other institutions may have different types of agreements or may not have an agreement with local law enforcement agencies.

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MEMORANDUM OF UNDERSTANDING

AGREEMENT
BETWEEN
THE XXXXX POLICE DEPARTMENT AND
THE XXXXX DEPARTMENT OF CAMPUS SAFETY
RELATING TO COLLEGE FACILITIES

THIS AGREEMENT, made and entered into this ___ day of _____, 2006, by and between the POLICE DEPARTMENT, a Department of The Mayor and Common Council ("PD") and the COLLEGE DEPARTMENT OF CAMPUS SAFETY, a Department of XXXXX College ("DCS") witnesseth that:

WHEREAS, the parties have determined that as entities which have certain responsibilities for the safety of staff, students and visitors of the College, and the citizens of the City of XXXXX, and that the common good would be served by an agreement between the parties outlining responsibilities with respect to the buildings and grounds located on XXXXX College.

NOW, THEREFORE, the parties agree as follows:

I. PARTIES

The parties to this Agreement are the XXXXX Police Department and the XXXXX College Department of Campus Safety.

II. PURPOSE

The PD and the DCS have certain responsibilities for the safety of the staff, students and visitors of XXXXX College. They recognize that cooperative and effective interaction is imperative to the successful accomplishment of their collective mission. This Agreement serves as an operational framework for their ongoing and cooperative public safety efforts.

III. THE CAMPUS

The Campus is generally defined as property owned, leased or used by XXXXX College in furtherance of its educational purposes, as well as its arboretum.

IV. DCS

A. The DCS will have jurisdiction for handling all police related events occurring within the Campus as provided as follows:

1. Minor property crimes such as burglary, theft, fraud and malicious destruction of property which result in a loss of less than $2,500 and which appear to have been perpetrated from within the Campus, shall be handled by the DCS, unless the victim requests that the case be handled by the PD. Cases which result in a loss of more than $2,500, those which appear to have been perpetrated by suspects from outside the Campus Community, and crimes which appear to be part of a pattern of crime will be immediately referred to the PD for investigation and action.

2. Minor crimes, such as alcohol violations, disorderly conduct and loud parties occurring on the campus, shall be handled primarily by the DCS. If it determines that an

incident requires investigative expertise or operational resources beyond its abilities, DCS will notify the PD immediately and request that it assume case responsibility. In such case, the DCS staff will immediately provide PD staff all available information and detailed reports, including those relating to their observations and actions prior to referral.

3. Minor assaults committed on the Campus.

B. Date/acquaintance rapes or sexual offenses reported to the DCS will be handled in a manner consistent with the victim's wishes. Should the victim wish not to make a formal police report, the DCS will execute a declination of prosecution form with the victim which reflects her/his unwillingness to cooperate with a criminal investigation. The DCS will provide the PD CID Commander (or the Commander's designee) with the specifics of the allegation, but will not reveal the identity of the victim unless permission is provided by the victim to do so.

V. PD

A. The Police Department will have primary responsibility for handling police-related events occurring within the Campus as follows:

1. Crimes of violence resulting in significant injury or death, including actual and attempted homicides, rape, and sexual assaults, robberies, serious assaults, such as first degree assaults and those involving the use or implied use of a weapon, suicides, suspicious or unattended deaths and industrial accidents. Significant injuries are defined as those injuries requiring hospitalization and/or significant medical treatment and include in-progress and late reported crimes. The DCS will immediately refer any such crimes to the Police Department for investigation.

2. Missing person cases. The DCS will report missing persons cases to the PD immediately so that a PD officer may be dispatched to handle the investigation.

3. All controlled dangerous substance violations. The DCS will immediately refer such matters to the PD for investigation and action.

4. All other crimes for which the DCS has not assumed responsibility pursuant to Paragraph III.

VI. ADDITIONAL DCS RESPONSIBILITIES

A. In cases where the members of the DCS make a criminal arrest or initiate criminal process (i.e., criminal investigation, arrest or service of arrest warrant, criminal summons and/or peace/protective order), they will notify the PD CID Commander of their actions in a timely fashion and in a manner agreeable to both parties. Copies of all documents or reports relating to the matter will be provided to the CID Commander upon request.

B. In every case where a custodial arrest is made by a member of the DCS staff, the offender and the prisoner will be transported to the Central Booking Unit by a PD Officer. Arrangements for the prisoner transport will be made through the PD Dispatch Center with the knowledge of the on-duty PD Patrol Supervisor.

C. Patterns of crime developing within the Campus Community will be reported by the Director of Campus Safety to the PD Criminal Investigations Commander as soon as practical. Significant crimes that occur off-campus but may pose a serious or continuing threat to the Campus Community will be immediately reported to the dispatcher of the DCS in a timely fashion by the on-duty PD supervisor or the supervisor's designee.

D. Consistent with law and regulations, DCS officers who possess valid Special Police Officer certification are permitted to access the automated law enforcement systems via a

telephone call to the PD Communications Section. SPOs requesting this information will first be required to provide a personal identification number that will allow Dispatchers to verify their identity prior to providing the requested information. It will be the responsibility of the DCS officers to ensure that any information provided is handled in a lawful, professional and confidential manner.

E. If at any time an on-duty supervisor of the DCS feels that a case or situation exceeds their ability to safely, effectively and appropriately handle or investigate a matter/case, it should be referred to the PD at that time. Care should be taken to involve the PD at the earliest possible opportunity to reduce confusion and duplication of effort while maximizing the integrity of the crime scene and preliminary investigation. If this should occur, the on-duty DCS supervisor will ensure that all staff members complete detailed reports to be provided to the PD investigator at the earliest possible opportunity.

Crimes involving suspects from outside the Campus Community create unique challenges for DCS staff. Accordingly, cases potentially involving suspects from outside the Campus Community will immediately be referred to the PD for investigation at the earliest opportunity.

VII. MUTUAL ASSISTANCE

The PD will provide any reasonable assistance requested by the DCS relating to matters of public safety, maintenance of order and the investigation of crimes. Requests for assistance will be approved based upon the ability of the PD to provide the requested assistance at the time of the request. Requests for assistance should be made as early as practical to optimize the ability of the PD to plan for and provide the requested assistance and resources.

VIII. SPECIAL EVENTS

From time to time major events are planned on the XXXXX College Campus that may impact on the larger town community. Timely planning and coordination by DCS with the PD is important to ensure that the event is adequately staffed and that public safety is ensured. The Director of Campus Safety or the Director's designee will contact the PD as early as practical to initiate the planning process and coordination process. The PD's principal point of contact is the Deputy Chief of Police.

IV. ADDITIONAL PD RESPONSIBILITIES

A. Where legally and operationally expedient, members of the PD initiating criminal or civil process (i.e., criminal investigations, arrests, service of arrest warrants, criminal summons, peace/protective orders and/or search warrants) on campus will inform the DCS in advance of their intended activity. When this is not possible or practical, all information which can be shared relating to the matter will be provided to the Director of Campus Safety or the Director's designee at the earliest practical opportunity following the activity.

B. PD Dispatch personnel will make appropriate law enforcement information system entries and deletions relating to stolen articles in a manner consistent with regulations. All requests for article entry or deletion will be submitted in writing by the investigating DCS Special Police Officer in a form agreed upon by the parties. The DCS retains the sole responsibility for timely entry, deletion and hit confirmation, proper record keeping and validation activities relating to their entries. This access may be withdrawn by either party at any time by written notice.

C. The PD will continue to provide DCS staff with drug recognition training, including a controlled burning of marijuana, on a periodic basis to assist DCS staff in the execution of their duties.

X. MUTUAL COOPERATION

A. Members of the PD and the DCS will conduct their interactions in a professional, collegial and respectful manner at all times. Problems or issues relating to this agreement or interaction between the party agencies and/or their members will be addressed in a timely manner at an appropriate level of supervision.

B. Public safety information and criminal intelligence will be shared regularly and proactively between the PD and DCS. This will be accomplished in a manner consistent with all applicable laws. Criminal history information will only be shared with DCS members who possess a valid Maryland Special Police Officer certification.

XI. INDEPENDENT RELATIONSHIP

Neither Party shall have the power or authority to create any obligation on behalf of the other, either express or implied. The PD is not responsible for the manner in which the DCS conducts its operations and the DCS, its officers, agents and representatives shall not be construed as employees, agents or representatives of the PD for any purpose. Similarly, The DCS is not responsible for the manner in which the PD conducts its operations and the PD, its officers, agents and representatives shall not be construed as employees, agents or representatives of the DCS for any purpose.

XII. PUBLIC PURPOSE

The parties to this Agreement hereby acknowledge that the acts performed in furtherance of this Agreement by police officers or other officers, agents or employees shall be deemed conclusively for a public and governmental purpose and all of the immunities from liability enjoyed by the parties when acting through their police officers or other officers, agents or employees for a public or governmental purpose within their respective jurisdiction shall be enjoyed by the Parties.

XIII. WAIVER OF CLAIMS

Each Party to this Agreement waives any and all claims against the other Party to this Agreement which may arise out of their activities with respect to this Agreement.

XIV. ANNUAL REVIEW

This agreement will be reviewed by the PD and the DCS on an annual basis during the month of January. Changes may be made at any time upon mutual agreement by the Chief of Police and the Director of the Department of Campus Safety.

XV. TERM OF AGREEMENT

The party may terminate this Agreement upon 30 days notice to the other.

XVI. SEVERABILITY

If any provision of this Agreement shall be deemed invalid by a court of competent jurisdiction, the remainder of this Agreement, to the extent practicable, shall remain in full force and effect.

XVII. TERMINATION

Any party to this Agreement shall have the right to terminate it by providing 30 days written notice to the other.

XVIII. BINDING EFFECT

The parties hereto agree that all covenants, stipulations, promises, agreements and provisions of this Agreement shall apply to bind and be obligatory upon the parties hereto.

XIX. DUPLICATE ORIGINALS

This Agreement is executed in two counterparts, each one of which shall be deemed an original for each party.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and date heretofore set forth.

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Appendix D

Higher Education Act of 1965, Sec. 120 (as amended by the *Higher Education Opportunity Act,* Sec. 107)

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This text is extracted from 20 U.S.C. Higher Education Resources and Student Assistance, Feb. 01, 2010. The complete text is located at: http://uscode.house.gov/download/pls/20c28.txt.

-CITE-
20 USC CHAPTER 28 - HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE 02/01/2010

-EXPCITE-
TITLE 20 - EDUCATION
CHAPTER 28 - HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE

-HEAD-
CHAPTER 28 - HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE

-MISC1-

SUBCHAPTER I - GENERAL PROVISIONS

-CITE-
20 USC Sec. 1011i

-EXPCITE-
TITLE 20 - EDUCATION
CHAPTER 28 - HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE
SUBCHAPTER I - GENERAL PROVISIONS
Part B - Additional General Provisions

-HEAD-
Sec. 1011i. Drug and alcohol abuse prevention

-STATUTE-
(a) Restriction on eligibility

Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless the institution certifies to the Secretary that the institution has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes -

(1) the annual distribution to each student and employee of -

(A) 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 the institution's property or as part of any of the institution's activities;

(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

(C) a description of the health-risks associated with the use of illicit drugs and the abuse of alcohol;

(D) a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and

(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions,

up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by subparagraph (A); and

(2) a biennial review by the institution of the institution's program to -

(A) determine the program's effectiveness and implement changes to the program if the changes are needed;

(B) determine the number of drug and alcohol-related violations and fatalities that -

(i) occur on the institution's campus (as defined in section 1092(f)(6) of this title), or as part of any of the institution's activities; and

(ii) are reported to campus officials;

(C) determine the number and type of sanctions described in paragraph (1)(E) that are imposed by the institution as a result of drug and alcohol-related violations and fatalities on the institution's campus or as part of any of the institution's activities; and

(D) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

(b) Information availability

Each institution of higher education that provides the certification required by subsection (a) of this section shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) of this section as well as the results of the biennial review required by subsection (a)(2) of this section.

(c) Regulations

(1) In general

The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for -

(A) the periodic review of a representative sample of programs required by subsection (a) of this section; and

(B) a range of responses and sanctions for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

(2) Rehabilitation program

The sanctions required by subsection (a)(1)(E) of this section may include the completion of an appropriate rehabilitation program.

(d) Appeals

Upon determination by the Secretary to terminate financial assistance to any institution of higher education under this section, the institution may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such institution is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the institution concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.

Appendix E

Checklist for Campus Safety and Security Compliance

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Checklist for the Various Components of Campus Safety and Security Compliance

This list is designed to help you determine if you are meeting the various components of campus safety and security compliance. It is not a substitute for reading this handbook, as it provides only a brief description of the activities to be undertaken by an institution. Remember, if your institution has any separate campuses (see bullet no. 6 under "Other On-campus Considerations" in Chapter 2), the requirements must be met for each one individually.

I. Geography (Chapter 2) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	
Date information was last updated	

Your institution must disclose statistics for *Clery Act* crimes that occur on campus, in or on noncampus buildings or property and public property.

Do you have an up-to-date list of the buildings and properties that your institution owns or controls and addresses for those buildings/properties? ..... ☐

Have you identified the appropriate geographic categories to which the buildings and property belong? ..... ☐

Have you identified public property that is within your campus or immediately adjacent to and accessible from your campus? ..... ☐

II. Crime Statistics (Chapter 3) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	

Your institution must collect statistics for reported crimes on your Clery geography. You must disclose the statistics in your annual security report and the annual Web-based data collection.

Do you have all records associated with your institution's statistics?..... ☐

III. Campus Security Authorities (Chapter 4) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

In addition to campus police or security personnel, if your institution has any, your institution must identify other individuals or offices with significant responsibility for student and campus activities. Alleged crimes reported *to* these campus security authorities are then reported *by* these campus security authorities to someone designated by the institution to collect such reports, such as the campus police or security department.

Have you identified all of your institution's campus security authorities? ..... ☐

Have you provided your campus security authorities with the information and materials they need to document reported crimes?..... ☐

Do you have a procedure in place for collecting and reviewing crime reports from your campus security authorities?..... ☐

IV. Statistics From Local Law Enforcement Agencies (Chapter 4) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution must make a good-faith effort to collect crime statistics for all *Clery Act* crimes committed in applicable geographic locations from all law enforcement agencies with jurisdiction for your institution.

Have you made a good-faith effort to obtain the crime statistics from all of the law enforcement agencies with jurisdiction for your Clery geography?..... ☐

Have you requested statistics for *all* of your Clery geography?..... ☐

Have you documented your institution's efforts to obtain the statistics and, if applicable, documented any nonresponse on behalf of an agency (or agencies)?..... ☐

V. The Daily Crime Log (Chapter 5) Mandatory for all institutions with a campus police or security department.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution must record all alleged criminal incidents, including non-*Clery Act* crimes, reported to the campus police or security department regardless of how much time has passed since the alleged incident occurred. Crimes are recorded by the date they are reported.

Do you have a hard copy or electronic crime log that includes:

The nature of the crime? ..... ☐

The date and time the crime occurred?..... ☐

The general location of the crime?..... ☐

The disposition of the complaint, if known? ..... ☐

If you maintain an electronic log, do you have a back-up log in case there are technical problems?..... ☐

Do you have more than one person trained to maintain the log?..... ☐

Do you allow public access to the log?..... ☐

VI. Emergency Response and Evacuation Procedures (Chapter 6) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution must immediately notify the campus community (or a segment or segments of 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.

Does your institution have written emergency response and evacuation procedures that address the following:

The procedures the institution will use 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? ..... ☐

A description of the process the institution will use to—

a) Confirm that there is a significant emergency or dangerous situation as described above? ..... ☐

b) Determine the appropriate segment or segments of the campus community to receive a notification? ..... ☐

c) Determine the content of the notification? ..... ☐

d) Initiate the notification system? ..... ☐

A statement that the institution 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? ..... ☐

A list of the titles of the person or persons or organization or organizations responsible for carrying out the actions described in (a) through (d) above? ..... ☐

The institution's procedures for disseminating emergency information to the larger community? ..... ☐

The institution's procedures to test the emergency response and evacuation procedures on at least an annual basis, including—

Tests that may be announced or unannounced? ..... ☐

Publicizing its emergency response and evacuation procedures in conjunction with at least one test per calendar year? ..... ☐

Documenting, for each test, a description of the exercise, the date, time and whether it was announced or unannounced? ..... ☐

Has your institution communicated with local police requesting their cooperation in informing the institution about situations reported to them that may warrant an emergency response? ..... ☐

VII. Timely Warnings (Chapter 6) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution must alert the campus community regarding any *Clery Act* crime that is reported to campus security authorities or local police agencies and is considered to represent a serious or continuing threat to students and employees.

Does your institution have a written timely warning policy? ..... ☐

Does your institution have an individual or office responsible for issuing timely warnings? ..... ☐

Does your institution have one or more methods of disseminating timely warnings? .... ☐

Has your institution communicated with local police requesting their cooperation in informing the institution about crimes reported to them that may warrant timely warnings? ..... ☐

VIII. Annual Security Report (Chapters 7–9) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution is required to publish and distribute an annual security report by Oct. 1 to all enrolled students and all employees. You must provide notice, as appropriate, to all prospective students and employees. The report must contain crime statistics and various policy statements. The statements must accurately reflect how the policies are currently implemented.

Policy statements

Does your annual security report have statements addressing:

Current campus policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus? Does this statement include your institution's policies concerning its response to these reports, and does it specifically address the following areas:

Policies for making timely warning reports to members of the campus community regarding the occurrence of *Clery Act* crimes? ..... ☐

Policies for preparing the annual disclosure of crime statistics? ..... ☐

A list of titles of each person or organization to whom students and employees should report criminal offenses described in the law for the purpose of making timely warning reports and the annual statistical disclosure. This statement also must disclose whether the institution has any institutional policies or procedures that allow victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual security report? ..... ☐

Current policies concerning:

Security of and access to campus facilities, including campus residences? ..... ☐

Security considerations used in the maintenance of campus facilities? ..... ☐

Current policies concerning campus law enforcement, including:

The law enforcement authority of campus security personnel? ..... ☐

The working relationship of campus security personnel with state and local law enforcement agencies, including whether the institution has agreements with such agencies, such as written memoranda of understanding, for the investigation of alleged criminal offenses?..... ☐

Policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate law enforcement agencies?..... ☐

A description of procedures, if any, that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics?..... ☐

A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others? ..... ☐

A description of programs designed to inform students and employees about the prevention of crimes?..... ☐

A 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, including student organizations with off-campus housing facilities? ..... ☐

A policy regarding the possession, use and sale of alcoholic beverages and enforcement of state underage drinking laws? ..... ☐

A policy regarding the possession, use and sale of illegal drugs and enforcement of federal and state drug laws? ..... ☐

A description of any drug or alcohol abuse education programs as required under Section 120(a) through (d) of *HEA*. For the purpose of meeting this requirement, an institution may cross-reference the materials it uses to comply with Section 120(a) through (d) of *HEA*? ..... ☐

A statement that the institution will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in Section 16 of Title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph?. ..... ☐

A statement regarding your institution's emergency response and evacuation procedures? (See this checklist's no. VI for details.) ..... ☐

A statement regarding your missing student notification procedures? (See this checklist's no. X for details.) ..... ☐

Your institution's campus sexual assault programs to prevent sex offenses and procedures to follow when a sex offense occurs? Does your statement specifically include the following:

A description of educational programs to promote the awareness of rape, acquaintance rape and other forcible and non-forcible sex offenses? ..... ☐

Procedures students should follow if a sex offense occurs, including:

Procedures concerning who should be contacted? ..... ☐

The importance of preserving evidence for the proof of a criminal offense? ..... ☐

To whom the alleged offense should be reported? ..... ☐

Information on a student's option to notify appropriate law enforcement authorities, including:

On-campus and local police? ..... ☐

A statement that institutional personnel *will* assist the student in notifying these authorities, if the student requests the assistance of these personnel? ..... ☐

Notification to students of existing on- and off-campus counseling, mental health or other student services for victims of sex offenses? ..... ☐

Notification to students that the institution will change a victim's academic and living situations after an alleged sex offense, and the options for those changes if those changes are requested by the victim and are reasonably available? ..... ☐

Procedures for campus disciplinary action in cases of an alleged sex offense, *including a clear statement that:*

The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding? ..... ☐

Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding that is brought alleging a sex offense? Compliance with this paragraph does not constitute a violation of the *Family Educational Rights and Privacy Act* (*FERPA*). For the purpose of this paragraph, the outcome of a disciplinary proceeding means only the institution's final determination with respect to the alleged sex offense and any sanction that is imposed against the accused ..... ☐

Sanctions the institution may impose following a final determination of an institutional disciplinary proceeding regarding rape, acquaintance rape or other forcible or nonforcible sex offenses? ..... ☐

Have you provided a statement advising the campus community where law enforcement agency information provided by a state concerning registered sex offenders may be obtained, such as the law enforcement agency with jurisdiction for the campus or a computer network address? ..... ☐

Crime statistics

Does your annual security report contain statistics reported by year and geographic location for the following:

Offenses

Murder and non-negligent manslaughter? ..... ☐
Negligent manslaughter? ..... ☐
Forcible sex offenses? ..... ☐
Non-forcible sex offenses? ..... ☐
Robbery? ..... ☐
Aggravated assault? ..... ☐
Burglary? ..... ☐
Motor vehicle theft? ..... ☐
Arson? ..... ☐

Hate crimes

Murder and non-negligent manslaughter? ..... ☐
Forcible sex offenses? ..... ☐
Non-forcible sex offenses? ..... ☐
Robbery? ..... ☐
Aggravated assault? ..... ☐
Burglary? ..... ☐
Motor vehicle theft? ..... ☐
Arson? ..... ☐
Larceny-Theft? ..... ☐
Simple assault? ..... ☐
Intimidation? ..... ☐
Destruction/Damage/Vandalism of property? ..... ☐

Arrests and referrals for disciplinary action

Weapons: Carrying, Possessing, Etc.? ..... ☐
Drug abuse violations?..... ☐
Liquor law violations? ..... ☐

IX. Report to ED via the Web-based Data Collection (Chapter 9) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution is required to submit the crime statistics from the annual security report to ED via an annual Web-based data collection. If your institution has one or more on-campus student housing facilities, you must submit the fire statistics from the annual fire safety report as well.

Have you completed the Web-based data collection? ..... ☐

X. Missing Student Notification Procedures (Chapter 10) Mandatory for all institutions with on-campus student housing facilities.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

If a student who lives in on-campus student housing is determined to have been missing for 24 hours, you have only 24 hours after receiving the report in which to initiate specific notification procedures. You must include your missing student notification policy and procedures in your annual security report.

Does your policy statement:

Indicate a list of titles of the persons or organizations to which students, employees or other individuals should report that a student has been missing for 24 hours? ..... ☐

Require that any missing student report must be referred immediately to the institution's police or campus security department, or, in the absence of an institutional police or campus security department, to the local law enforcement agency that has jurisdiction in the area? ..... ☐

Contain an option for each student to identify a contact person or persons whom the institution shall notify within 24 hours of the determination that the student is missing, if the student has been determined missing by the institutional police or campus security department, or the local law enforcement agency? ..... ☐

Advise students that their contact information will be registered confidentially, that this information will be accessible only to authorized campus officials and that it may not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation? ..... ☐

Advise students that if they are under 18 years of age and not emancipated, the institution must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student?..... ☐

Advise students that the institution will notify the local law enforcement agency within 24 hours of the determination that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing?..... ☐

Do your procedures include:

If the student has designated a contact person, notifying that contact person within 24 hours that the student is missing?..... ☐

If the student is under 18 years of age and is not emancipated, notifying the student's custodial parent or guardian and any other designated contact person within 24 hours that the student is missing? ..... ☐

Regardless of whether the student has identified a contact person, is above the age of 18, or is an emancipated minor, informing the local law enforcement agency that has jurisdiction in the area within 24 hours that the student is missing?..... ☐

XI. Fire safety log (Chapter 12) Mandatory for all institutions with on-campus student housing facilities.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution must maintain a written, easily understood fire log that records, by the date reported, any fire that occurs in an on-campus student housing facility. Fires are recorded by the date they are reported.

Do you have a hard copy or electronic fire log that includes:

The date the fire was reported? ..... ☐
The nature of the fire? ..... ☐
The date and time of the fire? ..... ☐
The general location of the fire? ..... ☐

Do you allow public access to the log?..... ☐

XII. Fire Safety Statistics (Chapter 13) Mandatory for all institutions with on-campus student housing facilities.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution must collect statistics for reported fires in on-campus student housing facilities. You must disclose the statistics in your annual fire safety report and the annual Web-based data collection.

Do you have statistics for each on-campus student housing facility for:

The number of fires and the cause of each fire? ..... ☐
The number of persons with fire-related injuries for each fire? ..... ☐
The number of fire-related deaths for each fire? ..... ☐
The value of property damage caused by each fire? ..... ☐

XIII. Annual Fire Safety Report (Chapter 14) Mandatory for all institutions with on-campus student housing facilities.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution is required to publish and distribute an annual fire safety report by Oct. 1 to all enrolled students and all employees. You must provide notice, as appropriate, to all prospective students and employees. The report must contain fire statistics and various policy statements. The statements must accurately reflect how the policies are currently implemented.

Policy statements

Does your annual fire safety report have statements addressing:

A description of each on-campus student housing facility fire safety system? ... ☐
The number of fire drills held during the previous calendar year? ..... ☐
Policies or rules on portable electrical appliances, smoking and open flames in a student housing facility? ..... ☐
Procedures for student housing evacuation in the case of a fire? ..... ☐
Policies regarding fire safety education and training programs provided to the students and employees? In these policies, the institution must describe the procedures that students and employees should follow in the case of a fire ..... ☐
For purposes of including a fire in the statistics in the annual fire safety report, a list of the titles of each person or organization to which students and employees should report that a fire occurred? ..... ☐
Plans for future improvements in fire safety, if determined necessary by the institution? ..... ☐

Fire statistics

Does your annual fire safety report contain the required fire statistics? ..... ☐

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