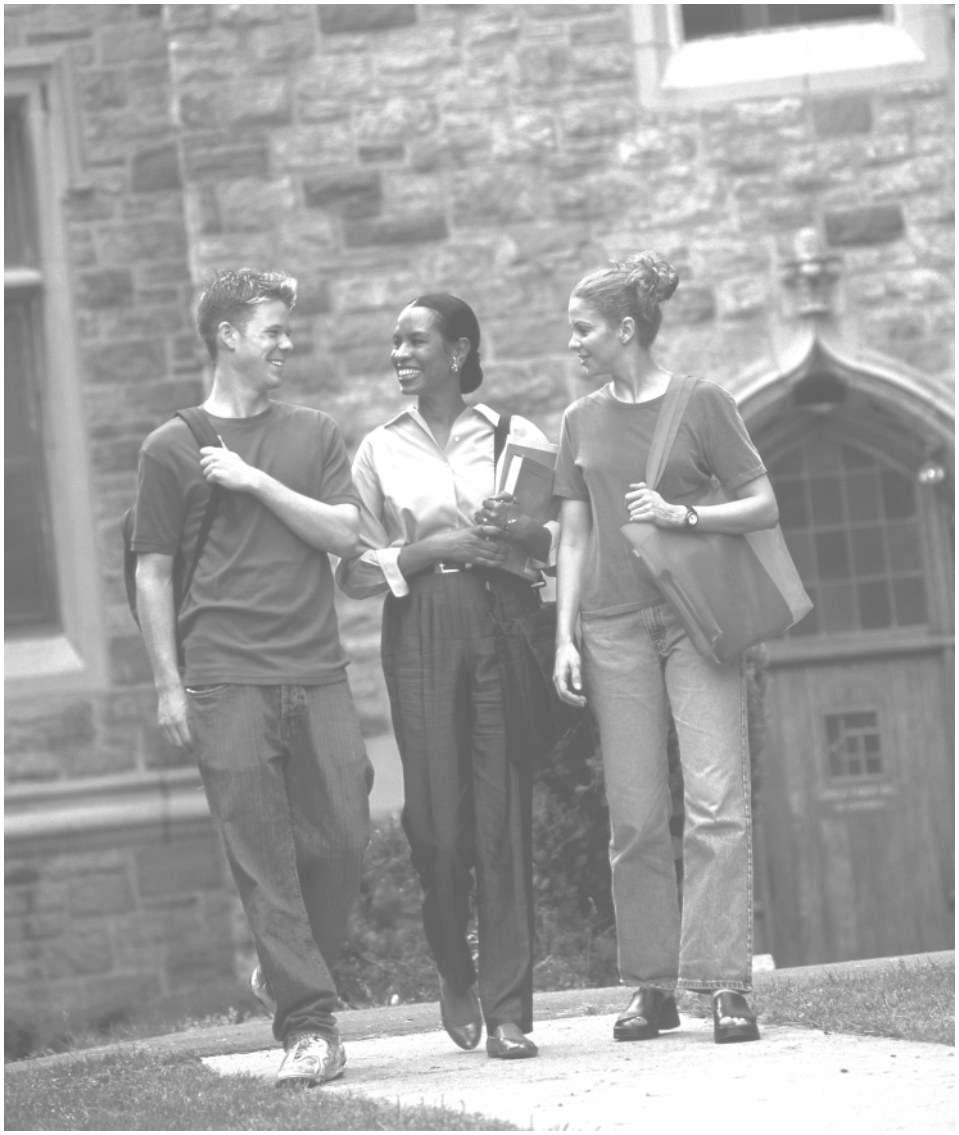
The Handbook for Campus Crime Reporting



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The Handbook for Campus Crime Reporting

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Foreword



Campus security and safety are important issues in postsecondary education today. Providing students nationwide with a safe environment in which to learn and keeping students, parents and employees well informed about campus security are goals that have been voiced by many groups. These goals were advanced by the *Crime Awareness and Campus Security Act of 1990*. The U.S. Department of Education (ED) is committed to ensuring that postsecondary institutions are in full compliance with this act, and that the enforcement of the act remains a priority.

Compliance with this act, now known as the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*, or *Clery Act*, provides students and families, as higher education consumers, with the information they need to make informed decisions. This handbook was designed to assist you, in a step-by-step and readable manner, in meeting the regulatory requirements of the *Clery Act* by guiding you through the regulations and explaining what they mean and what they require your institution to do. For example, this handbook contains references to specific sections of the regulations, highlights important information in side notes, and provides examples of documents that can be used as models for your institution. And, since no handbook could cover every situation, it also provides you with contact information if you need further assistance.

We hope that you will find *The Handbook for Campus Crime Reporting* to be a useful tool in assisting you in complying with the *Clery Act.* We urge you to share the information it contains with everyone involved with *Clery Act* compliance at your institution.

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Thank you also to Joe Mike and Barbara Bauman from OPE, and outside reviewers Alan MacNutt, John Wesley Lowery, Doug Tuttle, Steven Goldman, and countless others who reviewed the handbook, provided valuable suggestions, and participated in the field testing of the training program over the past year.

This handbook would be less than complete without the contributions of the many institutions who gave us permission to use examples of their policy statements, forms and maps to illustrate compliance. Our thanks goes to the following: University of Wyoming; James Madison University; San Diego State University; California State University, Long Beach; University of California, Irvine; University of New Mexico, Albuquerque; McDaniel College; University of Tennessee, Chattanooga; Montgomery College, Maryland; George Washington University; Strayer University; Tufts University; California State University, Los Angeles; Vanderbilt University; California State University, Fresno; University of California, San Diego; Cayuga Community College; Dodge City Community College; Virginia Polytechnic Institute and State University; Hollins University; and University of California System.

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Section 1:
An Overview of
Clery Act Compliance

This section is designed to give you an overall picture of what institutions must do to comply with the *Clery Act*. The introduction provides a brief overview of the handbook. Chapter 1 identifies the components involved in compliance, and Chapter 2 helps you to determine what compliance involves for your specific institution.

Introduction



So… your institution has assigned to you the job of coordinating compliance with the *Clery Act* and you'd like to know more about what that means. Note that we've used the term "coordinate" here because this is not a one-person job. Most institutions will find it necessary to coordinate compliance activities with many people and offices throughout the campus community. This fact will become much clearer to you as you work your way through this handbook.

You may be a security officer, an institutional research director, an administrative assistant or the president of the school. Your institution may occupy two rooms in a multistory building, several city blocks, or 100 acres surrounded by a small town. No matter what your administrative position or the size of your institution, you have essentially the same compliance responsibilities as every other institution that participates in federal Title IV student aid programs. (More about Title IV in Chapter 2.)

Compliance with the *Clery Act* is not simply a matter of entering statistics into a Web site or publishing a brochure once a year. Compliance is a whole system of developing policy statements, gathering information from all the required sources and translating it into the appropriate categories, disseminating information, and, finally, keeping records. Many people at your institution—from the president on down—should be involved.

This handbook is a compilation of current U.S. Department of Education (ED) guidelines. It also incorporates scenarios, examples, and issues discussed in multiple sessions of a working group composed of representatives of ED, the Federal Bureau of Investigation (FBI), the International Association of Campus Law Enforcement Administrators (IACLEA), Security on Campus (SOC), and various other stakeholders.

The handbook will lead you through the process of compliance step-by-step. It may not have the answers to all your specific questions, but it will explain the why, what, who, when and how of *Clery Act* compliance.

This handbook will:

- Provide you with a detailed discussion of *Clery Act* compliance, including sample policy statements, record-keeping forms and helpful practices;
- Provide clear, step-by-step instructions for those of you with little or no experience complying with the *Clery Act* requirements;
- Provide information for experienced individuals or offices to assist in satisfying compliance requirements;
- Provide detailed discussions about how the regulations apply in certain situations; and
- Provide examples of how to classify and count *Clery Act* crimes.

This handbook will not:

- Impact or change current *Clery Act* regulations in any way.
- Supplant or replace the *Higher Education Act of 1965* (HEA). The HEA and its regulations take precedence if or when there are any differences between them and the handbook. Your institution is responsible for ensuring that it complies with any changes to the HEA and the regulations.
- Discuss security issues that are not addressed in the regulations (e.g., how to increase funding for your institution's security department).

If you are experienced with *Clery Act* compliance, you may be asking yourself whether you actually need a campus crime reporting handbook. Maybe you're wondering if you need to read it all the way through. If so, you will find that the handbook includes numerous suggestions that may make your task easier while providing complete information for everyone involved in *Clery Act* compliance.

We suggest that you read this material carefully, think about how it applies to your situation, and then read it again. If you still have questions, understand that you are not alone. Many people who have been involved with this effort from the beginning still have questions. To address everyone's concerns, an e-mail Help Desk has been established and can be accessed at CrimeHandbookQuestions@ed.gov.

CHAPTER 1



What's This All About Anyway? A Brief History of the *Clery Act* and a Description of Compliance Requirements

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* (Title II of Public Law 101–542), which amended the *Higher Education Act of 1965* (HEA). This act required all postsecondary institutions participating in Title IV student financial aid 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. (See Appendix A for a detailed legislative history of the *Clery Act*.)

The *Clery Act* requires higher education institutions to give timely warnings of crimes that represent a threat to the safety of students or employees, and to make public their campus security policies. It also requires that crime data are collected, reported and disseminated to the campus community and are also submitted to ED. The act is intended 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.

What Is Your Institution Obliged to Do?

To be in compliance with *Clery Act* regulations, your institution has several obligations. These fall into three main categories: 1) policy disclosure; 2) records collection and retention; and 3) information dissemination.

1. Policy disclosure

Your institution must provide your campus community and the public with accurate statements of its current policies and practices regarding:

- Procedures for students and others to report criminal actions or other emergencies occurring on campus;
- Security of and access to campus facilities; and
- Campus law enforcement.

The regulatory requirements regarding these policy statements are discussed in detail in Chapters 8 and 9 of this handbook.

2. Records collection and retention

Your institution is required to keep some campus records and to request records from law enforcement agencies.

- You must keep records of crimes reported to campus security authorities.

Local police statistics cite
34 CFR 668.46(c)(9)

- Your institution must also make a reasonable good-faith effort to obtain certain crime statistics from appropriate law enforcement agencies to include in an annual security report and the Web-based report to ED.

Crime log cite
34 CFR 668.46(f)

- **If your institution maintains a campus police or security office**, you are required to keep a daily **crime log** that must be open to public inspection.

Suggestions for how to request data from local authorities can be found in Chapter 4. The crime log and its requirements, along with an example of a typical crime log, are discussed in detail in Chapter 6. Records-retention requirements are found in Chapter 10.

3. Information dissemination

To provide campus community members with information necessary to make informed decisions about their safety, you must disseminate information in several ways. You must:

Timely warning cite
34 CFR 668.46(e)

- Provide a "timely warning" of any *Clery Act* crime that might represent an ongoing threat to the safety of students or employees;

- Provide access to your crime log during normal business hours;

- Publish an annual security report and distribute it to all current students and employees, and inform prospective students and employees about the content and availability of the report;

Annual security report cite
34 CFR 668.46(b)

- Inform the campus community where to obtain information about registered sex offenders; and

- Submit your institution's crime statistics to ED through our Web-based data collection system.

Annual submission cite
34 CFR 668.41(e)(5)

Requirements and suggestions for providing a timely warning report system are presented in Chapter 5. A complete discussion of the crime log can be found in Chapter 6. A detailed description of the requirements for the annual security report is found in Chapters 7–10. Sex offender registry information is included in Chapter 9. Finally, Chapter 11 discusses the requirements of the report to ED.

Who Must Be Involved?

All postsecondary institutions, both public and private, that participate in federal Title IV student aid programs are required to comply with the *Clery Act* regulations. Although *Clery Act* compliance is an *institutional* responsibility, full compliance is a campus-wide effort, and concerns all members of the campus community. Policy statements must be developed and crime reports must be collected from a wide variety of campus security authorities. These authorities include:

Campus security authority cite
34 CFR 668.46(a)

- Campus police;

- Non-police security staff responsible for monitoring campus property;

- Individuals and offices designated by the campus security policies as those to whom crimes should be reported; and

- Officials of the institution with significant responsibility for student and campus activities.

A complete description of these requirements, including identifying campus security authorities, informing them of their responsibilities, and gathering appropriate data from them, is contained in Chapter 4.



Note that all institutions receiving Title IV funds, whether or not they maintain any type of campus police or security department, are required to comply with the *Clery Act*.

When Must These Things Happen?

Compliance with the *Clery Act* is not a once-a-year event. As you by now are aware, many requirements must be satisfied before an institution can be considered in full compliance. Some requirements are ongoing, such as policy implementation, timely warnings, and crime log updating, while other requirements are less frequent, such as the annual security report and the crime statistics report that is submitted to ED.

Table 1.1 is an overview of the basic requirements and time frames for the main components of compliance. The details and explanations for each requirement are contained in the remaining chapters in this handbook. Appendix B provides a checklist for *Clery Act* compliance.

TABLE 1—COMPONENTS OF *CLERY ACT* COMPLIANCE

What?	When?	To Whom?	Chapter(s)
Development, disclosure and implementation of all campus security policies.	Routinely on an ongoing basis.	All members of the campus community.	8–9
Timely warnings to alert the campus community about crimes that pose a serious or continuing threat to safety.	Whenever there is a threat that a crime is ongoing or may be repeated (i.e., as soon as the information becomes available).	All members of the campus community.	5
***A daily crime log** that lists, by date reported, all crimes reported to the campus police or security department.	Updated daily as crimes are reported.	Must be made available for public inspection without exception.	6
Annual security report containing campus security policy disclosures and crime statistics for the previous three years.	Must be published and distributed annually by October 1. There is no grace period.	Current students and employees individually. Prospective students and employees notified of availability of report.	7–10
Report to ED of statistics for *Clery Act* crimes via designated Web site.	Each fall, on the dates provided by ED in a letter to your institution.	Made available for public inspection.	11

*A crime log is mandatory for all institutions that maintain a campus police or security department.

Before Moving On

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

ED can issue civil fines up to $27,500 **per violation** for a substantial misrepresentation of the number, location or nature of the crimes required to be reported. Final Review Determination Reports are public records. ED's Program Review Guide can be accessed at www.ifap.ed.gov.

Civil penalty cite
20 U.S.C. 1092(f)(13) and 1094(c)(3)(B)

It is therefore important that you read the following chapters carefully, think about how they apply to your situation, and then review them again. Use this handbook as a desk reference as you set up your policy and data collection system. Keep timely and complete records, and ask for help if necessary.

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CHAPTER 2



Important Turns on the Road to Compliance: Campus Characteristics to Consider

Although compliance requirements are essentially the same for all institutions, the route to satisfying them will not be the same for all. Ask yourself the following questions about your institution to determine the route you should take.

Does My Institution Participate in Federal Title IV Programs?

All public and private postsecondary institutions that participate in federal Title IV student aid programs must comply with the *Clery Act* regulations. Title IV institutions have signed Program Participation Agreements (PPAs) with ED to administer federal student aid programs. These programs include: Pell Grants; Federal Supplemental Educational Opportunity Grants (FSEOGs); the Federal Work Study Program; Federal Plus Loans; the Federal Family Education Loan Program (FFELP); 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 *Clery Act* requirements beginning on the date your Program Participation Agreement goes into effect (i.e., the date it is signed by the secretary of education).

  For institutions that become Title IV eligible at times other than at the start of a calendar year, there are special considerations. Upon signing your PPA, you are required to develop policy statements, issue timely warning reports if necessary, and keep a crime log if your institution maintains a campus police or security department. However, you will need to contact ED's School Eligibility

Channel (formerly the Office of Case Management and Oversight) for guidance regarding your institution's statistical disclosure requirements.

Crime statistics are disclosed each year for the previous three years. For example, if your institution became Title IV eligible in July 2004, you would not have collected any *Clery Act* crime statistics prior to that date. Because it takes some time and coordination to begin collecting crime statistics, you will need guidance in determining the date for which your institution is responsible for beginning its crime statistics reporting. The School Eligibility Channel will make this decision on a case-by-case basis. Contact information for the appropriate division is provided in Appendix C.

- 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 the *Clery Act* for all locations. The requirement is based on institutional eligibility, not location eligibility.

- 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 the *Clery Act*.



If you have determined that your institution is *not* a Title IV institution, you are not required to comply with the *Clery Act*. If your institution is a Title IV institution, read on.

Crime log cite
34 CFR 668.46(f)(1)

Does My Institution Maintain a Campus Police or Security Department?

Most institutions with a campus setting have a campus police or security department. Some institutions choose not to provide these 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."

If local law enforcement patrols on or near your campus, but your institution does not have an arrangement or contract with the police for this service, your institution is not required to maintain a crime log for *Clery Act* purposes. The campus security policy statement you disclose in your annual security report should indicate if your campus security personnel constitute a campus police or security department (more about this in Chapter 8). This is an important distinction because any institution that has a security department is required to maintain a crime log.

If your institution has 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, your institution is not required to maintain a crime log. If your institution does not maintain a police or security department, but leases classroom space in a building with security personnel employed or contracted by your landlord, you are not required to keep a daily crime log. The requirements of the crime log are detailed in Chapter 6.



Does your institution maintain a police or security department? If so, you are required to keep a crime log. If not, your institution is not required to keep a crime log; however, you must meet all other *Clery Act* requirements.

What Geographic Area Is Associated with My Campus?

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

The *Clery Act* requires that institutions disclose statistics for offenses committed in certain geographic locations associated with the institution. For example, if a burglary is reported to the campus police, it should be included in the annual security report only if it occurred in one of the following locations: on campus, in or on a noncampus building or property, or on public property within or immediately adjacent to and accessible from the campus. All crimes, including hate crimes (discussed in Chapter 3), must be disclosed by geographic location. These locations have definitions specific to the *Clery Act* and are described in detail next.

Geographic definitions cite 34 CFR 668.46(a)

On Campus

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).

What does this mean?

"On campus" is what most people traditionally think of as the main part or core of an institution. A building or property that an institution owns, rents or leases is considered to be "controlled by" the institution. A building or property that is owned by a third party that has a written contract with the institution is also considered to be controlled by the institution. "Reasonably contiguous" requires some judgment on the part of the institution. A building or property would be considered reasonably contiguous if: 1) it is in a location that you consider to be, and treat as, an integral part of your main or core campus; and 2) it is covered by the same security policies as that campus. Therefore, on-campus includes buildings and property that are in the same general location and that fit into one of two types:

a) Owned or controlled by the school and used to meet or support the school's educational purposes. This includes residence halls. Examples of other buildings or property are:

- Buildings that house classrooms and labs.
- Buildings that house administrative offices such as financial aid, business and admissions.
- Fraternity and sorority houses. This includes only those houses located on campus that are owned or controlled by the institution. This does not include fraternity or sorority houses on campus that are owned or controlled by the fraternity or sorority. In cases where the institution owns the property, but the fraternity or sorority controls the building, the house is considered on campus. The institution's ownership of the property takes precedence over the student organization's control. Note that this rule of

ownership having precedence over control applies only to fraternity or sorority houses.

- Student activity centers.
- Health clinics.
- Storage facilities (e.g., facilities used to store lab equipment or building supplies).

b) Owned but not controlled by the school, frequented by students, and used to support the institution's purposes. Examples are:

- Food vendors; and
- Book stores.

34 CFR 668.46(c)(4)(ii)

"Dormitories or other residential facilities for students on campus" is a subset of the on-campus category. Institutions must disclose the total number of on-campus crimes, *including* those in dorms or other residential facilities for students on campus, and must also make a separate disclosure limited to the number of crimes occurring in student dorms or residential facilities on campus. As a subset, the number of crimes reported for dormitories or other residential facilities must be less than or equal to the number of reported crimes for the on-campus category.

Do not include faculty-only residence facilities in this category. Faculty housing that is owned or controlled by the institution and which is located within the confines of the campus falls under the on-campus category only.

If your institution does not have dormitories or residential facilities for students on campus, you may omit this location from the statistical section of your annual security report. You must, however, provide an explanation clearly stating that your institution does not have such facilities. Note that if your institution has dormitories or other facilities for students on campus, you must include this location in your statistical disclosure even if there were no crimes reported there. You should enter a zero (0) for each type of crime. Do not leave blanks and do not omit the residential location from your disclosure.

A Noncampus Building or Property

34 CFR 668.46(c)(4)(iii) and definitions

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.

What does this mean?

Any building or property that is either owned or controlled by an officially recognized student organization is considered to be a "noncampus" location. Whether the building or property is located on campus or off campus is irrelevant. If it is owned or controlled by a recognized student organization, it is noncampus for *Clery Act* purposes.

Use the following guidelines to help you determine whether crimes reported for a fraternity or sorority house are classified as on campus or noncampus.

For an on-campus crime:

- The building is owned or controlled by the institution and is located within the confines of the main campus;
- The building is owned by the institution, but controlled by a fraternity or sorority, and located within the confines of the main campus; and
- The property (land) is owned by the institution, the house is owned or controlled by the fraternity or sorority, and the building is located within the confines of the main campus.

For a noncampus crime, the building is:

- Owned or controlled by the institution and is located off campus;
- Owned or controlled by a student organization and is located within the confines of the main campus;
- Owned or controlled by a student organization and is located off campus; and
- Owned by the institution, but controlled by a fraternity or sorority, and is located off campus.

The second part of the noncampus definition includes any building or property not part of the main campus, but not constituting a separate campus. Note that a building or property must meet all three of the criteria for this classification: 1) owned or controlled by

the institution; 2) used for its educational purposes; and 3) frequently used by students.

Examples of properties typically meeting the requirements of noncampus properties are:

- Research facilities.
- University-owned hospitals.
- An off-campus student housing facility owned by a third party that has a written contract with your institution to provide student housing. It does not matter whether the rent is paid to the third party by the institution on behalf of the students or directly by the students (if there is no written contract with the institution, there is no requirement to disclose offenses occurring there).
- A student residential facility owned or controlled by the institution, but not located within the same reasonably contiguous geographic area of the institution.
- A publicly owned athletic stadium that is leased by the institution for its football games. Report crimes that occur during the time the facility is used by your students. If your institution leases parking space associated with this facility, you must also disclose reports of crimes occurring there during the time of use by your institution.
- Institutionally owned research vessels carrying students participating in institutional programs.
- A site owned or controlled by your institution where a student does an internship, externship, clinical training or student teaching. If your institution offers additional classes for students in a rented or leased location, your disclosure requirements are determined by the time covered in the contract. For example, if you lease a floor of a building on Tuesdays and Thursdays between the hours of 6:00 a.m. and 10:00 p.m., you must disclose all *Clery Act* crimes that occur in that space on Tuesdays and Thursdays between 6:00 a.m. and 10:00 p.m.

  If your contract gives you use of that same floor of the building on Tuesdays and Thursdays for 24 hours each day, you must disclose crimes occurring there during that period of time. It does not matter whether or not your students were using the space during the time the crimes occurred. In addition, if there is additional space associated with the leased or rented space (e.g., stairwell, hallway or lobby that must be used to enter and leave the

room), you must also disclose any reports of crimes occurring there during the time covered by your contract.

Examples of properties not considered noncampus:

- If a group of your students goes on an overnight trip to see a play and rents hotel rooms, you do not have to disclose crimes that occur in the rooms. Regardless of whether this is a school-sponsored trip and regardless of who rents the rooms (i.e., the students or the institution), such accommodations do not fit the "frequently used by students" criterion.

- If a group of your students get together every weekend to visit a nearby city, and the students rent hotel rooms at the same hotel each time, you do not have to disclose crimes that occur in the hotel rooms because this is not an institution-sanctioned event and the institution has no control over that space.

- A coffee house located just off campus that is frequented daily by students is not controlled by the institution, and you do not need to disclose crimes occurring there.

- If your institution sponsors classes for inmates at a prison facility, you are not required to disclose offenses from this location because your institution does not own or control that space.

- If your institution owns the land on which a public elementary, middle or high school is located, you do not have to disclose crime statistics from that location because it is not used for your institution's educational purposes.

- If your institution sends student teachers to a public elementary, middle or high school that is not owned or controlled by your institution, you are not required to disclose crimes committed there. If, however, your institution sends student teachers to an elementary, middle or high school that is owned or controlled by your institution, you are required to disclose crimes committed there.

- If your institution owns an apartment building and rents apartments only to faculty members, you are not required to disclose crimes committed there because the building is not frequently used by students. However, if these same apartments are rented to students, as well as to faculty, or are rented strictly to students, you are required to disclose offenses at that location.

- If your institution has "preferred leasing," that is, you steer students toward recommended off-campus housing, but this housing is neither owned nor controlled by the institution, you are not required to disclose crimes occurring there.

If your institution does not have any noncampus buildings or property associated with it, you may omit this location from the statistical portion of your annual security report. You must provide an explanation clearly stating that your institution does not have such buildings or property.

Note that if your institution does have noncampus buildings or property, you must include these locations in your statistical disclosure even if no crimes were reported there. You should enter a zero (0) for each type of crime. Do not leave blanks and do not omit this location from your report.

Crimes committed on field trips sponsored by an institution are not included in an institution's *Clery Act* statistics unless the field trip was to a noncampus building or property owned or controlled by the institution.

On Public Property

34 CFR 668.46(c)(4)(iv) and definitions

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

What does this mean?

You are required to disclose offenses that occur on **public** property (property not owned or controlled by your institution and not private residences or businesses). Only the public property that is within your campus, or next to or bordering your campus **and** that is easily accessible from your campus, is included in this definition (i.e., not public property for the entire jurisdiction surrounding your institution). For example, a thoroughfare such as a highway that is immediately adjacent to your institution but is separated by a fence or other manmade barrier would not be included in this definition because it is not **accessible** from your campus. Include the sidewalk across the street from your campus, but do not include public property beyond the sidewalk. Include publicly owned or municipal parking facilities. The *Clery Act* does not require you to disclose crime statistics for public property that surrounds noncampus buildings or property.



You are not required to disclose crime statistics for public property that surrounds noncampus buildings or property.

Suppose the public property immediately adjacent to an institution is a park or similar type of area that extends farther than "immediately adjacent" to your campus. How do you know just how much of this property to include for purposes of *Clery Act* reporting?

If a park is gated on the side or sides that border your campus, and is, therefore, not accessible from the campus, crimes committed there are not disclosed. However, if that same park is not gated, it is considered accessible, and crimes committed there are considered to have occurred "on public property." They are, therefore, disclosed. If the gate to the park is open during specific times and the park is then accessible from your campus, you must disclose crimes occurring there for the applicable time period.

For such parks or comparable public areas, we suggest that you use one mile from your campus borders as your guide. One mile is considered by ED to be a reasonable walking distance from a campus. If your institution has special concerns about areas that extend beyond this parameter, you may provide additional information. Note that this one-mile suggestion applies *only* to public parks or other comparable areas. It does not apply to all public property.

One of the intentions of providing this information to students and others is to allow comparisons between areas where institutions are located. It is important, therefore, that all institutions define "on public property" in a similar manner.

While the use of a map is not required by *Clery Act* regulations, some institutions choose to provide a map to help the campus community better understand where reported crimes were committed. A map may be used only if it presents an accurate picture of the geographic locations it depicts. As such, it is imperative that you update your map with each annual security report, as necessary. If you are reporting for separate campuses and choose to use maps, you must provide a separate map for each campus. A sample map is included in Appendix D.

We advise you to keep careful track of your institution's real estate transactions throughout the year because they may affect disclosure obligations. If after reading this handbook, you are still unsure how a building or property fits into the *Clery Act* geographic locations, e-mail CrimeHandbookQuestions@ed.gov for help.



Do you know how each geographic location applies to your institution? Getting this right is one of the keys to accurate crime reporting.

Does My Institution Have Any Separate Campuses?

Separate campus cite
34 CFR 668.46(d)

Since the whole point of disclosing crime statistics is to make sure that people are better informed about safety in their local environments, *Clery Act* requirements must be met individually for each separate campus. The definition of separate campus is broad and encompasses many kinds of campuses. A separate campus, by definition, is an additional location such as a *branch, school or administrative division that is not reasonably geographically contiguous with the main campus*.

Branch campus definition cite
34 CFR 600.2

A 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.*

For *Clery Act* purposes, an administrative division of an institution is *an academic division that offers an organized program of study but is not geographically contiguous to the campus. Administrative divisions include schools of business, law, medicine or nursing, which have separate facilities and administrative offices.* Therefore, if you have one main campus, a branch campus and a satellite location, all three must comply separately with the *Clery Act*.

Although this covers most multilocation institutions, some less typical cases deserve further clarification.

- Separate *Clery Act* compliance is required both for U.S.-owned foreign institutions as well as branches of domestic institutions that are located abroad.

- If your institution sends students to study abroad or to exchange programs at institutions that you do not own or control, you are not required to disclose crimes occurring there.

- If your institution shares a campus with another Title IV institution, each must comply separately. Do not divide the property for reporting purposes.

- If your institution has multiple campuses each located in different geographically separate buildings that are rented or leased by your institution, compliance requirements must be met separately for each location. If your

institution does not rent or lease the entire building, you are to disclose only crimes that occur in the space your institution occupies for the time you rent or lease that space. Remember to disclose reports of crimes occurring on public property for each location.

- If your institution's campus consists solely of rented classroom space on the campus of another institution, you must disclose crimes that occur in that classroom space while it is occupied by your students.

- If your institution has an additional location that offers on-line distance education *only*, that location is not required to comply with the *Clery Act*.

If the situation at your institution is different than any of the abovementioned examples, e-mail CrimeHandbookQuestions@ed.gov for assistance before making any reporting decisions.



Does your institution have any separate campuses? If the answer is yes, keep this in mind as you continue reading this handbook. Each separate campus requires separate *Clery Act* compliance.

Now, let's talk about just exactly what crimes need to be disclosed and how they should be categorized.

Section 2:
Crime Data

Now that you have read an overview of *Clery Act* compliance, the next step is to familiarize yourself with the crime data you need to disclose. This information is applicable to timely warnings, the crime log, the annual security report, and the Web-based report to ED.

We will take it step-by-step. Chapter 3 discusses how to classify crimes, while Chapter 4 addresses how to collect crime data from various sources. Note that while the discussion of each type of crime includes a statement about how the crime is counted, a detailed explanation of counting crimes is provided in Chapter 7.

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CHAPTER 3

Knowing What to Disclose: Classifying and Defining *Clery Act* Crimes



Your institution is required to disclose crime statistics based on four factors: 1) where the crime occurred; 2) the type of crime; 3) to whom the crime was reported; and 4) when the crime was reported. Chapter 2 discussed the applicable geographic locations—on campus, in or on noncampus buildings or property, or on public property within or immediately adjacent to and accessible from your campus. This chapter focuses on the specific *Clery Act* crimes you must disclose, and how they are defined.

First, you must know what this law means by disclosing "crimes." You are required to disclose *reported* crimes. A crime is reported when it is brought to the attention of a campus security authority or the local police by a victim, witness, other third party, or even the offender. An institution must disclose crime reports regardless of whether any of the individuals involved in either the crime itself, or in the reporting of the crime, are associated with the institution.

If the individual receiving the crime information believes it was provided in good faith, he or she should document this 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. If the institution is in doubt as to whether a crime has been reported, the institution should rely on the judgment of law enforcement professionals.



A crime is reported when it is brought to the attention of a campus security authority or the local police by a victim, witness, other third party, or even the offender.

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

1. **Types of 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.

2. **Hate Crimes**—Disclose whether any of the above-mentioned offenses, or any other crimes involving bodily injury, were hate crimes; and

3. **Arrests and Referrals for Disciplinary Action** for illegal weapons possession and violation of drug and liquor laws.

How Are *Clery Act* Crimes Defined?

UCR Definitions cite
34 CFR 668.46(c)(7)

It is very important that you pay careful attention to crime definitions in order to classify crimes properly so that your statistical disclosures are in compliance with the *Clery Act*. The definitions are taken from the Federal Bureau of Investigation's (FBI's) *Uniform Crime Reporting Handbook* (*UCR*) as required by *Clery Act* regulations. Keep in mind that the regulations state that institutions must use the *UCR* for defining and classifying crimes. The regulations do not state that *Clery Act* crime reporting must meet *all UCR* standards.



You are required to report 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.

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Note that crime definitions appear in italics. Much of the wording for the discussion following the definitions is taken directly from the *UCR*. Although the *Clery Act* does not require a breakdown of crime statistics into subcategories (e.g., Burglary–Forcible Entry, Burglary–Unlawful Entry–No Force, and Burglary–Attempted Forcible Entry), this information from the *UCR* is provided in this handbook to help you determine what to include in the overall crime classification (e.g., Burglary). Some of the crime examples are adapted from the *UCR*, while others were created for this handbook.

Types of Offenses

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

Murder and Non-Negligent Manslaughter is defined as *the willful (non-negligent) killing of one human being by another.*

As a general rule, any death caused by injuries received in a fight, argument, quarrel, assault or commission of a crime is classified as Murder and Non-Negligent Manslaughter. You must not classify the following as Murder and Non-Negligent Manslaughter: suicides, fetal deaths, traffic fatalities, accidental deaths, assaults to murder and attempts to murder.

Suicides, traffic fatalities and fetal deaths are excluded; however, *some* accidental deaths are classified as Manslaughter by Negligence and will be addressed later. Attempts and assaults to murder must be classified as aggravated assaults.

Situations in which a victim dies of a heart attack as the result of a crime are not classified as criminal homicide. A heart attack cannot, in fact, be caused at will by an offender. Even in instances where an individual is known to have a weak heart, there is no assurance that an offender can cause sufficient emotional or physical stress to guarantee that the victim will suffer a fatal heart attack.

Certain willful killings are classified as justifiable or excusable. In the *UCR*, justifiable homicide 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.* Note that justifiable homicide is not a *Clery Act* crime.

For *Clery Act* purposes, crime counts are based on incidents reported. Do not classify a killing as justifiable or excusable solely on the claims of self-defense or on the actions of a coroner, prosecutor, grand jury or court. Report the willful (non-negligent) killing of one individual by another, not the criminal liability of the person or persons involved. **Count one offense per victim.**

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. This is classified 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. This is classified 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. This is classified as one noncampus Murder and Non-Negligent Manslaughter statistic.

Scenario 4: A non-student is shot and killed during an armed robbery on a city-owned sidewalk in front of a campus building. This is classified 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 this incident in your annual security report, as it occurred at a private facility off campus.

Negligent Manslaughter is defined as *the killing of another person through gross negligence.*

As a general rule, any death caused by the gross negligence of another is classified as Negligent Manslaughter. Deaths of persons due to their own negligence, accidental deaths not resulting from gross negligence, and traffic fatalities, are not included in the category Negligent Manslaughter. The findings of a court, coroner's inquest, etc., do not affect classifying or counting; these are law enforcement statistics. **Count one offense per victim.**

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. This is classified as one Negligent Manslaughter in the on-campus category and in the on-campus student housing category.

2. Sex offenses. For sex offenses only, definitions from the FBI's National Incident-Based Reporting System (NIBRS) Edition of the *UCR* are used. These offenses must be separated into two categories: forcible and non-forcible. Do not differentiate between attempted and completed sex offenses in your statistical disclosures. For all sex offenses, **count one offense per victim.**

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.* 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.

In cases where several offenders rape one person, count one forcible rape. Do not count the number of offenders.

If force was used or threatened, the crime should be classified 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, the crime should be classified 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.*

- **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.

- **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.* Forcible fondling includes "indecent liberties" and "child molesting."

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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. This is classified as one on-campus Forcible Sex Offense.

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

Scenario 3: A male student reports that another male student fondled him in a campus building. This is classified as one on-campus Forcible Sex Offense.

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. This is classified 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. This is classified 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. This is classified 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. This is classified 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, this is classified as one noncampus Aggravated Assault (defined in detail later in this chapter.)

Sex Offenses—Non-forcible are incidents of *unlawful, non-forcible sexual intercourse.* Only two types of offenses are included in this definition:

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

- **Statutory Rape** is *non-forcible sexual intercourse with a person who is under the statutory age of consent.* 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, the offense should be classified as forcible rape, not statutory rape.

Example of a Non-Forcible Sex Offense

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). This is classified as one Non-Forcible Sex Offense both in the on-campus category and in the on-campus student housing category.

In reporting non-forcible sex offenses, it's important to remember the following:

- Not all sex offenses are disclosed under the *Clery Act*. (For example, sexual harassment, voyeurism and indecent exposure are not reportable offenses under the *Clery Act*.)

- The only non-forcible sex offenses reportable under the *Clery Act* are incest and statutory rape. There are no exceptions.

We recommend that during a training session: 1) the definition of non-forcible sex offenses should be emphasized for those individuals to whom crimes are reported; and 2) your institution should double-check all reports of non-forcible sex offenses to confirm that they fit the *Clery Act* definition. This does not mean you should investigate the offense. Just confirm that the description of the offense in the report fits the definition of either incest or statutory rape.

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 over age 18. We recommend that you consult your state's statutes to determine the statutory age of consent.

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.*

Robbery is a vicious type of theft in that it is committed in the presence of the victim. The victim, who usually is the owner or person having custody of the property, is directly confronted by the perpetrator, and is threatened with force or is put in fear that force will be used. Robbery involves a theft or larceny, but is aggravated by the element of force or threat of force.

Because some type of assault is an element of the crime of robbery, an assault must not be reported as a separate crime as long as it was performed in furtherance of the robbery. However, if the injury results in death, a homicide offense must be reported.

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 in Chapter 7.) Robberies wherein only personal weapons such as hands, fists and feet, 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. Classify crimes involving pretended weapons or those in which the weapon is not seen by the victim, but the robber claims to possess one, as Armed Robbery. Should an immediate on-view arrest provide that there is no weapon involved, classify the offense as Strong-Armed Robbery.

Guard against using the public's terminology, such as "robbery of an apartment" or "safe robbery" when classifying a robbery offense, inasmuch as the public is referring to a burglary situation.

In analyzing Robbery, the following subheadings are used:

- **Firearm.** Include robberies in which any firearm is used as a weapon or employed as a means of force to threaten the victim or put the victim in fear. Attempts are included in this category.

- **Knife or cutting instrument.** Include robberies in which a knife, broken bottle, razor, ice pick or other cutting or stabbing instrument is employed as a weapon or as a

means of force to threaten the victim or put the victim in fear. Attempts are included in this category.

- **Other dangerous weapon.** Include robberies in which a club, acid, explosive, brass knuckles, Mace, pepper spray or other dangerous weapon is employed or its use is threatened. Attempts are included in this category.

- **Strong-arm—hands, fists, feet, etc.** Include muggings and similar offenses in which only personal weapons such as hands, arms, feet, fists and teeth are employed or their use is threatened to deprive the victim of possessions.

In the absence of force or threat of force, as in pocket-picking or purse-snatching, the offense must be classified as Larceny–Theft rather than robbery. However, if in a purse-snatching or other such crime, force or threat of force is used to overcome the active resistance of the victim, the offense must be classified as Strong-Arm Robbery.

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 when counting this crime.

Example of Robbery

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 asked to hand over their wallets. The students comply, and the three armed men leave without harming the students. This is classified 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.*

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.

The categories of Aggravated Assault include assaults or attempts to kill or murder; poisoning; assault with a dangerous or deadly weapon; maiming; mayhem; assault with explosives; and assault with disease (as in cases when the offender is aware that he/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 are classified as Aggravated Assault. 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.

Occasionally, it is the practice of local jurisdictions to charge assailants in assault cases with assault and battery, disorderly conduct, domestic violence or simple assault, even though a knife, gun or other weapon was used in the incident. This type of offense must be classified as Aggravated Assault. **For all types of Aggravated Assault, count one offense per victim.**

- **Aggravated Assault—Firearm.** Include all assaults in which a firearm of any type is used or is threatened to be used. Assaults with revolvers, automatic pistols, shotguns, zip guns, rifles, etc., are included in this category.

- **Aggravated Assault—Knife or Cutting Instrument.** Include assaults wherein weapons such as knives, razors, hatchets, axes, cleavers, scissors, glass, broken bottles and ice picks are used as cutting or stabbing objects, or when their use is threatened.

- **Aggravated Assault—Other Dangerous Weapon.** Include assaults resulting from the use or threatened use of any object as a weapon in which serious injury does or could result. The weapons in this category include, but are not limited to: Mace, pepper spray, clubs, bricks, jack handles, tire irons, bottles or other blunt instruments used to club or beat victims. Attacks by explosives, acid, lye, poison, scalding, burnings, etc., are also included in this category.

- **Aggravated Assault—Hands, Fists, Feet, Etc.—Aggravated Injury.** Include only the 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 injures 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.

An Aid for Classifying Assaults

Careful consideration of the following factors should assist in classifying assaults:

- The type of weapon employed 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. In only a limited number of instances should it be necessary to examine the intent of the assailant.

Prosecutorial policy in a jurisdiction must not dictate classification of an assault. Examine and classify assaults according to the standard *UCR* definitions, regardless of whether they are termed misdemeanors or felonies by local definitions.

Aggravated assault is a troublesome crime to classify. 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.

UCR State Program Bulletin 99–1, Massachusetts, January 1999

Examples of Aggravated Assault

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

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

Scenario 3: Two students 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. This is classified as one on-campus Aggravated Assault, because Mace is considered a weapon.



It is important to remember that offenses must be classified according to *UCR* definitions and not according to state or local codes.

5. Burglary. Burglary is *the unlawful entry of a structure to commit a felony or a theft.* The *UCR* classifies offenses locally known 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 as Burglary. **Count one offense per each distinct operation.**

The *UCR*'s definition of a structure includes, but is not limited to, the following:

- 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 is considered a structure.

Tents, tent trailers, motor homes, house trailers or other mobile units that are being used for recreational purposes are not considered structures. The *UCR* does not consider a telephone booth a structure.

Burglaries of hotels, motels, lodging houses or other places where lodging of transients is the main purpose can present reporting problems to law enforcement. If a number of units under a single manager are burglarized and the offenses are most likely to be reported to the police by the manager rather than the individual tenants, the burglary must be reported as a single offense. Examples are burglaries of a number of rental hotel rooms, rooms in flop houses, rooms in youth hostels and units in a motel.

If the individual living areas in a building are rented or leased to the occupants for a period of time that would preclude the tenancy from being classified as transient, then the burglaries would most likely be reported separately by the occupants. Such burglaries must be reported as separate offenses. Examples of the latter type of multiple burglary would be: the burglaries of a number of apartments in an apartment house; of the offices of a number of commercial firms in a business building; of the offices of separate professionals within one building; or of a number of rooms in a college dormitory.

Unlike a residence hall, however, 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). The burglary of an academic structure

would be counted as one offense, regardless of the number of interior rooms entered or items stolen.

Thefts from automobiles, whether locked or not; shoplifting from commercial establishments; and thefts from telephone booths, coin boxes, or coin-operated machines, are all classified as Larceny–Theft offenses. If the area entered was one of open access, thefts from the area would not involve an unlawful trespass and would be classified as Larceny–Theft. A forcible entry or unlawful entry in which no theft or felony occurs, but acts of vandalism, malicious mischief, etc., are committed, is not classified as a burglary, provided investigation clearly established that the unlawful entry was for a purpose other than to commit a felony or theft. Of course, if the offender unlawfully entered the structure, a multiple offense exists, and you must classify the offense as a burglary. (Counting crimes in multiple offense incidents will be discussed in Chapter 7.)

If a forcible or unlawful entry of a building is made to steal a motor vehicle, count the offense as a burglary, not motor vehicle theft.

When a question arises as to whether a type of structure comes within the scope of the burglary definition, look to the nature of the crime and be guided by the examples set forth. If a question remains, contact CrimeHandbookQuestions@ed.gov.

- **Burglary–Forcible Entry.** Include all offenses where force of any kind is used to unlawfully enter a structure for the purpose of committing a theft or felony. This definition 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. Also include in this category burglary by concealment inside a building followed by exiting the structure.

- **Burglary–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 and open or unlocked common basement areas in apartment houses where entry is achieved by someone other than the tenant who has lawful access**.** (Note that if the area entered was one of open access, thefts from the area would not involve an unlawful trespass and would be classified as Larceny. The *Clery Act* does not require an institution to disclose Larceny statistics.)



Remember, if lawful entry cannot be proven, classify the crime as a burglary.

- **Burglary–Attempted Forcible Entry.** Include those situations where a forcible entry burglary is attempted but not completed. Once the thief is inside a locked structure, the offense becomes a Burglary–Forcible Entry. Classify attempts to enter an unlocked structure as well as actual trespass to an unlocked structure as Burglary–Unlawful Entry–No Force. Only situations in which a thief has attempted to break into a locked structure are classified as Burglary–Attempted Forcible Entry.

Examples of Burglary

Some of the following examples are adapted from FBI correspondence. Copies of the letters are provided in Appendix E.

Scenario 1: A student living in an on-campus residence hall room with other students reports an item missing from his room.

Scenario 2: When a resident, having lawful access to a structure, takes an item from another resident, the proper classification would be Larceny–Theft. You are not required to include this in your *Clery Act* statistics. If a person, other than a resident, enters an unlocked structure (room), or one where the door was left open, the proper classification would be burglary. If force of any kind is used to unlawfully enter a structure for the purpose of committing a theft or felony, this is classified as Burglary.

Scenario 3: If housekeeping and maintenance personnel who have keys and are authorized to gain access only for maintenance tasks, enter a room not on the maintenance schedule and steal an item, classify the offense as Burglary.

Scenario 4: Generally, if an item is missing from a structure, and if the individual who took the item is unknown, and if the investigating officer has exhausted all avenues leading toward the offense of Larceny–Theft, the proper classification is Burglary. Classify the offense as one on-campus Burglary and one on-campus residential facility Burglary.

Scenario 5: 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 category.

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

Motor Vehicle Theft includes the theft or attempted theft of a motor vehicle, which the *UCR* defines as a self-propelled vehicle that runs on land surface and not on rails: for example, sport utility vehicles, automobiles, trucks, buses, motorcycles, motor scooters,

all-terrain vehicles and snowmobiles are classified as motor vehicles. This category does not include farm equipment, bulldozers, airplanes, construction equipment or 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, must not be classified as motor vehicle thefts.

Classify as Motor Vehicle Theft all cases 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, which is discussed in Chapter 7).

There are three categories of motor vehicles within this classification:

- **Autos.** Include the thefts of all sedans, station wagons, coupes, convertibles, sport utility vehicles, minivans and other similar motor vehicles that serve the primary purpose of transporting people from one place to another. Automobiles used as taxis are also included. Some states allow a station wagon to be registered as a truck; however, licensing is not a determining factor. The *UCR* stipulates that a station wagon must be classified as an automobile.

- **Trucks and buses.** Include the theft of those vehicles specifically designed (but not necessarily used) to transport people and cargo. Pickup trucks and cargo vans, regardless of their uses, are included in this category. The *UCR* considers a self-propelled motor home to be a truck.

- **Other vehicles.** Include all other motor vehicles that meet the *UCR* definition, such as snowmobiles, motorcycles, motor scooters, trail bikes, mopeds, golf carts, all-terrain vehicles and motorized wheelchairs. If you are uncertain whether to classify an incident as Motor Vehicle Theft, we encourage you to contact law enforcement.

Note that Motor Vehicle Theft does not include thefts *from* motor vehicles. Theft from a motor vehicle is Larceny, which is not a *Clery Act* crime.

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. This is classified as one Motor Vehicle Theft on campus.

Scenario 2: A car stereo and CDs are reported stolen from a car parked along a city-owned street on campus. Do not include 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 this crime, because it occurred on public property outside 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.*

Report as Arson only fires determined through investigation to have been willfully or maliciously set. Attempts to burn are included in this offense, but fires of suspicious or unknown origins are not. Note that Arson is the only *Clery Act* offense that must be investigated before it can be included in the statistics. **One offense should be counted for each distinct Arson operation originating within the reporting jurisdiction.** If Arson is perpetrated in one locale and spreads to another, the jurisdiction in which the fire originated must report it.

Arson–Structural

This crime category includes:

- Single occupancy residential (houses, townhouses, duplexes, etc.);
- Other residential (apartments, tenements, flats, hotels, motels, inns, dormitories, boarding houses, etc.);
- Storage (barns, garages, warehouses, etc.);
- Industrial/manufacturing;
- Other commercial (stores, restaurants, offices, etc.);

- Community/public (churches, jails, schools, colleges, hospitals, etc.); and

- All other structures (out buildings, monuments, buildings under construction, etc.).

In classifying the object of an arson as structural, use the guidelines for defining structures set forth in the discussion of burglary in this handbook. A house trailer or mobile unit that is permanently fixed as an office, residence, or storehouse must be considered structural property.

Arson–Mobile

This crime category includes:

- Motor vehicles (automobiles, trucks, buses, motorcycles, etc.); and

- Other mobile property (trailers, recreational vehicles, airplanes, boats, etc.).

Motor vehicles by *UCR* definition must be self-propelled and run on land surface and not on rails: for example, sport utility vehicles, automobiles, trucks, buses, motorcycles, motor scooters, all-terrain vehicles and snowmobiles are classified as motor vehicles.

Arson–Other

The Arson–Other subcategory encompasses Arson of all property not classified as structural or mobile. Willful or malicious burnings of property such as crops, timber, fences, signs and merchandise stored outside structures are included in this category.

Cautions in Classifying Arson

Key to properly classifying arson is establishing the point of origin of a fire. If an individual willfully burns a vehicle parked adjacent to a home, and the fire subsequently spreads to and destroys the home, the appropriate Arson subcategory would be Mobile–Motor Vehicle. In cases where the point of origin is undetermined, or in instances of multiple points of origin, report the structural, mobile or other category of property that suffered the greatest fire damage.

Incidents in which persons are killed as a direct result of Arson are classified as both Criminal Homicides and Arson. Similarly, the number of persons severely injured during an Arson

must be reported as Aggravated Assaults along with the Arson. When multiple reportable offenses are committed during the same distinct operation as the Arson offense, the most serious offense is reported along with the Arson.

Examples of Arson

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

Scenario 2: A suspicious fire is reported in a campus academic building, but no evidence of Arson is found. Do not include this incident in your annual security report.

Hate Crimes cite
34 CFR 668.46(c)(3)

Hate Crimes

Your institution must include, by geographic location and by category of prejudice, any of the aforementioned offenses, ***and any other crime involving bodily injury*** reported to local police agencies or to a campus security authority, that manifests evidence that the victim was intentionally selected because of the perpetrator's bias. Note that unlike the previously discussed offenses, "any other crime involving bodily injury" is not a *UCR* term. Include in this category *all applicable crimes with the exception of Aggravated Assault* (Aggravated Assault is a separate crime category). The categories of bias are:

- **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.* Gender bias is also a *Clery Act*-specific term, not found in the FBI's *Hate Crime Data Collection Guidelines*.

- **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.*

Classifying a crime as a Hate Crime is sometimes difficult. The *Clery Act* regulations require institutions to classify hate crimes according to the FBI's *Uniform Crime Reporting Hate Crime Data Collection Guidelines* and *Training Guide for Hate Crime Data Collection*. The following information taken from those publications should be useful in guiding you.

1. While there are many additional types of bias, the types of bias motivation to be disclosed for *Clery Act* purposes are limited to the six aforementioned types.

2. 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 simple 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/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.



Remember, that you must also disclose *any crime involving bodily injury* that is a Hate Crime.

d. Certain objects, items or things which indicate bias were used. For example, the offenders wore white sheets with hoods covering their faces or a burning cross was left in front of the victim's residence.

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 neighborhood 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 neighborhood, and becomes less and less significant as time passes without incident).

f. The victim was visiting a neighborhood where previous hate crimes were committed against other members of his/her racial, religious, disability, sexual-orientation or ethnic/national origin group, and where tensions remained high against his/her group.

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

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

i. The victim was engaged in activities promoting his/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.

j. 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).

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

l. There were indications that a hate group was involved. For example, a hate group claimed responsibility for the crime or was active in the neighborhood.

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

n. 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.

Cautions

- **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/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 which 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/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.

3. Knowing that a perpetrator is prejudiced is not enough to classify a crime as a Hate Crime. There must be evidence that the perpetrator was motivated by that prejudice to commit the crime.

4. It is the perception of the perpetrator, not the perception of the victim, that determines whether a crime is classified as a Hate Crime.

5. The FBI does not consider rape to be a Hate Crime unless there is clear evidence of bias.

6. Do not classify arrests or disciplinary referrals for illegal weapons possession or drug or liquor law violations as hate crimes.

7. Institutions without a campus police department are encouraged to seek guidance from local police for classifying crimes as hate crimes.

Arrests or Disciplinary Referrals for Illegal Weapons Possession and Substance Law Violations

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

In addition to disclosing statistics for the aforementioned offenses, the *Clery Act* requires institutions to disclose both the number of arrests and the number of persons referred for disciplinary action for:

1. Illegal weapons possession;

2. Drug law violations; and

3. Liquor law violations.

It's important to remember that you are to disclose *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, that statistic should not be included in your institution's crime statistics, because the referral was not the result of a violation of the law.

Because state laws and local ordinances vary widely, you will 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, **count the arrest only**. (Counting offenses, arrests and the number of persons referred for disciplinary action will be discussed in detail in Chapter 7.)

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

- 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.

  Do not count arrests of incidents in which:

  - Police contact a juvenile who has committed no offense; and
  - Police take a juvenile into custody for his or her own protection, but no crime was committed.

- Not only should "arrests" in the usual sense be included, but also 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.

Include only violations by young persons where some police or official action is taken beyond a mere interview, warning or admonishment. Additionally, call backs or follow-up contacts with young offenders by officers for the purpose of determining their progress must not be counted as arrests.

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*.

To satisfy this definition, it is not sufficient for a person simply to be referred for disciplinary action. The official receiving the referral must initiate a disciplinary action, and a record of that action must be kept. It is not necessary that the referral originate with the police, nor is it necessary that a sanction be imposed. Note that if your institution calls this process "mediation" (or uses some other term), as long as the process fits the above definition, it is counted as referred for disciplinary action.

Example of Referral

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 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 some of them had not been drinking. Those students are not charged. Judicial Affairs initiates disciplinary action against the students who were drinking and keeps a record of the action. Only the number of students involved in the disciplinary action is included in your *Clery Act* statistics.

You are to count the number of arrests and the number of persons referred for disciplinary action. For example, if a single incident involving liquor law violation resulted in the arrest of 10 students, this counts as 10 arrests for *Clery Act* purposes.

1. Illegal Weapons Possession 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. Include in this classification: 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; and attempts to commit any of the above.*

Examples of Arrests for Illegal Weapons Possession

Scenario 1: A student is cited for having a firearm in his or her residence hall room in violation of state law. This is classified as one arrest for Illegal Weapons Possession in the on-campus category and in the on-campus student housing category.

Scenario 2: A faculty member is referred for disciplinary action for having a firearm in his or her office in violation of school policy, but in a state without a law against possessing a firearm on campus. Do not disclose this referral, because no violation of the law occurred.

2. Drug Law Violations. This is 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).*

Examples of Arrests for Drug Law Violations

Scenario 1: Three students are referred for disciplinary action for possessing marijuana in a residence hall room. This is classified as three persons Referred for Disciplinary Action for Drug Law Violations in the on-campus category and in the student housing on-campus category.

Scenario 2: Two non-students are arrested during an on-campus football game for possession of cocaine. This is classified as two on-campus arrests for Drug Law Violations.



Drunkenness and driving under the influence are not Liquor Law Violations.

3. Liquor Law Violations. This is 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. Include in this classification: the manufacture, sale, transporting, furnishing, possessing, etc., of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating still; furnishing liquor to a minor or intemperate person; underage possession; using a vehicle for illegal transportation of liquor; drinking on train or public conveyance; and attempts to commit any of the above.*

Examples of Arrests and Referrals for Liquor Law Violations

Scenario 1: Three underage students and a non-student are found in a residence hall room, and all are drinking alcohol in violation of state law. The students are Referred for Disciplinary Action, while the non-student is given a written citation. This is classified as three persons referred for Liquor Law Violation disciplinary actions in both the on campus category and in the on campus student housing category as well as a single arrest for Liquor Law Violation in the on-campus category and in the on-campus student housing 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. This is classified 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 this, 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 these violations, as they occurred on private property off campus.



Remember, these offenses, arrests and disciplinary referrals must be collected and disclosed by location if they occurred within the geographic locations discussed in Chapter 2 (on campus, in dormitories or other residential facilities for students on campus, in or on a noncampus building or property, and on public property).

Where Do You Get All of This Information? Collecting Crime Data

CHAPTER 4





Identify all of those individuals from whom crime reports should be collected.

By now it should be clear to you that you can't do this alone. You need to identify all of those individuals from whom crime reports should be collected.

The *Clery Act* mandates that institutions must disclose statistics both for crimes reported to local police agencies and crimes reported to campus security authorities. The intent of including non-law enforcement personnel as campus security authorities is to acknowledge that many individuals, and students in particular, are hesitant about reporting crimes to the police, but may be more inclined to report incidents to other campus-affiliated individuals. In any case, you must identify campus security authorities, and you must inform them of their responsibility for *Clery Act* reporting. In addition, you must identify local police agencies responsible for the jurisdiction where your institution is located and request statistics from them. We'll begin with campus security authorities.

Campus security authority cite
34 CFR 668.46(a) definitions

The *Clery Act* regulations define a campus security authority as:

- *A member of a campus police department or a campus security department of an institution.*
- *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).*
- *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.*
- *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 offices are campus security authorities for your institution, consider the **function** of that individual or office. Your institution should 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.

For example, a dean of students who oversees student housing, a student center or student extracurricular activities has significant responsibility for student and campus activities. Similarly, a director of athletics, a team coach and a faculty advisor to a student group also have significant responsibility for these activities. Students may, in some cases, be considered campus security authorities (e.g., resident advisors/assistants, students who monitor access to dormitories).

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 staff and cafeteria staff. A physician in a campus health center or a counselor in a counseling center whose only responsibility is to provide care to students is unlikely to have significant responsibility for student and campus activity.

The function of a campus security authority is to report to the appropriate law enforcement personnel, either campus police or local police, or to an official or office designated by the institution, those allegations of *Clery Act* crimes that he or she concludes are made in good faith. (See Chapter 3 for an explanation of "good faith.") A campus security authority is not responsible for determining authoritatively whether a crime took place—that is the function of law enforcement personnel.

For example, if a resident assistant who has been identified as a campus security authority is told by a fellow student that she has been raped and is seeking emotional and medical support, the resident assistant should report this as a crime. It is reported regardless of whether the victim chooses to file a report with law enforcement or press charges.

Certain individuals who have significant responsibility for student and campus activities are exempted from disclosing information:

Campus security authority exemptions cite 34 CFR 668.46(a) definitions

- **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.*

To be exempt from disclosing reported offenses, pastoral or professional counselors must be acting in the role of pastoral or professional counselors. This means that 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.

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 counselor, is considered to be a counselor for the purposes of the *Clery Act*. An example would be a Ph.D. counselor-trainee acting under the supervision of a professional counselor at the institution.

Because campus security authorities play an important role in *Clery Act* compliance, we recommend the following:

- Annually notify all appropriate individuals or offices in writing that they are campus security authorities and explain what is required of them. (See sample letter to campus security authorities following this section.)

- Provide training so that campus security authorities can be instructed what to do when a crime is reported to them. Emphasize the importance of the campus security authority's role in providing crime reports on an immediate basis to the individual or office responsible for issuing timely warnings. (Crimes subject to timely warnings are discussed in Chapter 5.)

- Provide all campus security authorities with definitions of *Clery Act* crimes and geographic locations, as well as an explanation of the types of arrests and Referrals for Disciplinary Action that apply to the *Clery Act*. Provide them with Incident Report forms as well. Good record-keeping can help minimize the chances of the double reporting of crimes.

- Designate one individual or office to oversee campus security authorities and to be responsible for canvassing these individuals and offices and collecting and reviewing crime reports for inclusion in the annual security report and the Web-based report to ED. The obligation to collect crime reports made to campus security authorities belongs to the institution. That is, even if a campus security authority does not forward a crime report to the appropriate individual or office, the institution is responsible for ensuring that the crime report is disclosed in the annual security report and the Web-based report to ED.

Sample Letter to Campus Security Authorities

Purpose: This memorandum is intended to notify Campus Security Authorities, as that term is used in regulations implementing the Campus Security Act, of their obligation to report crimes for inclusion within the Annual Security Report. This memorandum should be sent annually, on or about the start of the fall semester, and immediately upon the appointment of any individual to a position as a campus security authority (e.g., a copy of this memorandum should be sent to anyone appointed as a faculty advisor to a student organization). A copy of the memo should be placed in each recipient's personnel file. Please complete the date before sending the memo. One copy of an Incident Report form should be sent along with each memo.

Memorandum

To: Distribution List ("Campus Security Authorities")

From: _____, President

Date:

Re: Crime Reporting Requirements

Recent amendments to the Campus Security Act, a federal law that requires colleges and universities to annually compile and publish crime statistics for their campuses and certain other areas, require that "campus security authorities" report crime statistics for inclusion in the college's Annual Security Report. If you are listed below in the distribution list, then you are a "campus security authority" as that term has been defined by the United States Department of Education. "Campus security authorities" include faculty advisors to student organizations, athletic team coaches, members of the security department, the Dean of Student and Instructional Support Services, the Dean of Financial and Administrative Services, the Dean of the Leonardtown Campus, the Dean of the Prince Frederick Campus, the Director of Student Life, and the Coordinator of Intramural and Intercollegiate Athletics.

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Because of the law's complex reporting requirements, the most reasonable and effective way to manage the reporting is as follows. If you observe any crime listed below, or if any person reveals to you that he/she learned of or were the victim of, perpetrator of, or witness to any crime listed below, immediately complete an Incident Report form and, as indicated on the bottom of the form, send copies to the Dean of Financial and Administrative Services and to the Facilities department. This applies to crimes on any of the four college campuses (LaPlata, Leonardtown, Prince Frederick, and Waldorf), public property adjacent to each of those campuses and locations at which other college activities are taking place. Please ensure that you complete all information on the form based on the information you possess. Please do not investigate the crime or attempt to determine whether a crime, in fact, took place. Simply make the report. Appropriate college personnel may later contact you or others to gather additional information. A copy of the Incident Report form is enclosed with this Memorandum. Additional forms may be obtained from the Central Supply Office (BI021, ext. 7741)

Crimes that should be reported are:

Murder and non-negligent manslaughter
Negligent manslaughter
Forcible sex offenses
Non-forcible sex offenses
Robbery
Aggravated assault
Burglary
Motor vehicle theft
Arson
All hate crimes involving bodily injury
All liquor, drug or weapons law violations resulting in an arrest

If you are in doubt as to whether a crime is reportable, please err on the side of reporting the matter. With the exception of liquor, drug and weapons law violations, it is immaterial whether an arrest is made. For purposes of your reporting, please assume that a hate crime is any crime manifesting evidence that the victim was selected because of the victim's actual or perceived race, religion, sexual orientation, gender, ethnicity/national origin, or disability.

If you have any questions regarding reporting obligations, please contact (name deleted), Assistant to the President/General Counsel, at extension 7643. Thank you for your assistance in fulfilling these federal requirements.

Enclosure (Incident Report form)
Distribution: (list names)



Can you identify your institution's campus security authorities? Remember that they are identified by their function (i.e., whether the individual or office has significant responsibility for student and campus activities).

Obtaining Statistics From Local Police Agencies

Local police statistics cite
34 CFR 668.46(c)(9)

The *Clery Act* requires that an institution make a reasonable, good-faith effort to obtain the required statistics and may rely on the information supplied by a local or state police 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.

The *Clery Act* does not require local police agencies to provide crime statistics to institutions. This is the reason for the good-faith effort on behalf of institutions to obtain the statistics. The phrase "may rely on" means that an institution is not required to verify the accuracy of the statistics that are provided.

The *Clery Act* requires the use of *UCR* definitions when disclosing crimes, but not all police agencies use these definitions. If you are provided with statistics that are not classified according to *UCR* definitions, we recommend that the statistics be converted to *UCR* classifications, or that you include the statistics with an explanation that *UCR* classifications were not used for crimes reported to local police.

In some situations, local police 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 city or they may include statistics for private residences and businesses. In cases such as these, we suggest that you omit the local police statistics but provide a statement explaining that local police could not provide a statistical breakdown appropriate for *Clery Act* reporting.

If the local police do not comply with your request to provide you with statistics, document this. Be sure to retain any written correspondence to and from the police agencies.

How do you obtain statistics from local police? The *Clery Act* requires you to make a good-faith effort to obtain statistics from the local police department, but does not specify how to go about doing this. For those individuals who are not experienced in these matters, the following are suggestions to help you obtain the required information:

1. **Determine the correct local police authorities for your institution's jurisdiction**. It's vital that you request statistics from every agency in your institution's jurisdiction. 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.

Call that agency, and ask to speak with a supervisor or administrator. 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. You will need to provide addresses of any noncampus buildings or property as well.

For each agency you then contact, inquire about their authority. Some agencies in your jurisdiction may only provide court security, administer the jail, transport prisoners, serve papers, etc.

2. **Determine who to contact at each applicable agency.** A supervisor or public affairs office is always a good place to start. They should be able to direct you to the appropriate person.
3. **Determine when to contact.** Early in the year is best because the agencies will need time to collect the information.
4. **Document that you have made a good-faith effort to obtain the statistics.** We suggest that you write a letter annually (on your institution's official letterhead, if possible) describing all of the following:
   a. **What you need.** You need the required statistics by *Clery Act* geographic locations including hate crimes by category of prejudice for the calendar year for which you are compiling the statistics. Be very specific about what constitutes public property for *Clery Act* reporting purposes.
   b. **Why you need it.** The information is required by the *Clery Act* for disclosure in the annual security report and the report to ED.
   c. **The format in which you need it provided—in writing** (either paper or electronic version). Ask for crimes to be provided using *UCR* classifications. If *UCR* classifications are not used, ask what classifications were used (e.g., state crime classifications).
   d. **When you need it.** You must request statistics from the local and state police at least annually. Give the police a deadline for providing the statistics to ensure inclusion in your statistical disclosures.
   e. **Where it should be sent.** Provide your institution's mailing or e-mail address.
   f. **To whom it should be sent.** Provide the name and title of the person who is responsible for collecting these data.

If you make a phone call asking for this information, we suggest that you follow up with a letter for the purpose of documentation. Keep a copy of the letter requesting the required *Clery Act* statistics from the police agency. Also document any response from the police agency.

If your institution has a branch campus in a foreign country, the institution is required to make a good-faith effort to obtain statistics from the local police authorities. Again, carefully document your request and any response.

Sample Request for Statistics from Local Police

[Date]

[Commanding Officer of Local Police Agency]

[Name and address of Local Police Agency]

Dear [_____]:

I would like to request crime statistics for the locations described below for the 2004 calendar year. Pursuant to the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("*Clery Act*"), the [name of campus] is required to annually compile and publish crime statistics. This annual report must include statistics of specified crimes reported to local police agencies that occurred on or near campus and on University controlled or affiliated property. The criminal offenses that the campus is required to report are the following offenses as defined by the FBI Uniform Crime Report (sex offenses are defined using the *UCR*-National Incident-Based Reporting System): murder/non-negligent manslaughter; negligent manslaughter; forcible sex offenses; nonforcible sex offenses; robbery; aggravated assault; burglary; motor vehicle theft; and arson. In addition, I need statistics concerning any of the above crimes that manifest evidence of a hate crime, in addition to other crimes that involve bodily injury that also manifest evidence of a hate crime. Hate crimes are those crimes that manifest evidence that the victim was intentionally selected because of the victim's race, gender, religion, sexual orientation, ethnicity/national origin or disability.

[Name of school] is also required to request statistics for arrests for these categories only: liquor law violations, drug law violations, and illegal weapons possession. Please provide these statistics for each category separately.

Pursuant to the *Clery Act*, the campus is required to report these crimes separately for a number of geographic locations. These locations include the main campus, on-campus student residential facilities, off campus buildings or property that is owned or controlled by the University, or a recognized student organization such as a fraternity, and public property immediately adjacent to the main campus.

Therefore, I respectfully request the required statistics for the following locations:

- [main campus]
- [addresses of off campus property owned or controlled by an officially recognized student organization]
- [other off campus property owned or controlled by the University and used in relation to the University's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution; e.g., property leased or owned by the University in the community surrounding the campus]
- [public property within or immediately adjacent to and accessible from the campus]

I have enclosed a "Crime Statistic Report Form" and "Sexual Offense Statistic Report Form" that are provided to campus officials required to comply with the same statistical reporting obligations we are requesting of you. I hope these forms further clarify the information that I am requesting of you.

I very much appreciate your cooperation in assisting us in complying with this federal law. If you have any questions or wish to further discuss this request, please contact me at [phone number].

Sincerely,

[Chief of Campus Police Department]

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Section 3: Ongoing Disclosure Requirements

There are two distinct, ongoing *Clery Act* requirements discussed in this section of the handbook. Each is intended to keep the campus community, and any other interested individuals, apprised of crime on an everyday basis.

Chapter 5 discusses the timely warning component of *Clery Act* compliance. Chapter 6 provides instructions for keeping a daily crime log.

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Alerting Your Campus to Threats: The Timely Warning

CHAPTER 5



All of us want to be alerted to potentially dangerous situations near our homes or workplaces so that we can take appropriate precautions. Apply this to a college campus, and you have the concept of the "timely warning." In order to keep the campus community informed about safety and security issues on an ongoing basis, an institution must alert the campus community of certain crimes in a manner that is timely and will aid in the prevention of similar crimes. These crimes must include all *Clery Act* crimes (remember Chapter 3?) that are:

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

In addition to making timely warnings, an institution is required to have a timely warning policy (more about this in Chapter 8). All Title IV institutions are subject to the timely warning regulation. There are no exceptions.

Timely warnings can be issued for threats to property, as well as for threats to persons. It is irrelevant whether the victims or perpetrators are members of the campus community. The *Clery Act* mandates timely warnings only for *Clery Act* crimes, but nothing in the *Clery Act* prohibits timely warnings for other crimes that may pose a serious or continuing threat to the campus community (e.g., kidnapping). While there is no requirement to do so, we recommend that your institution request that local police keep the institution informed on an immediate basis of crimes that may require timely warnings. This request may be made as part of your annual letter to police requesting crime statistics.

By now you are probably asking, "What do you mean by 'timely'?" and "How do you expect me to alert everyone?" Neither the *Clery Act* nor ED define "timely." The warning should be issued as soon as the pertinent information is available because the intent of a timely warning is to alert the campus community of continuing

Timely warning cite
34 CFR 668.46(e)



All Title IV institutions are subject to the timely warning regulation. There are no exceptions.

threats especially concerning safety, thereby enabling community members to protect themselves.

Although the format for the warning has not been mandated, the notice must be timely and reasonably likely to reach the entire campus community and aid in the prevention of similar crimes. Therefore, timely warnings must be issued in a manner that gets the word out quickly communitywide. They may be e-mailed, posted around campus, 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 the warning rests solely with the institution.

Information to Be Included in the 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. Your institution's policy regarding timely warnings should specify what types of information will be included.

Making the Decision to Issue A Timely Warning

The issuing of 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, the continuing danger to the campus community and the possible risk of compromising law enforcement efforts. We recommend that the institution meets beforehand with its security personnel and with local and state law enforcement authorities to discuss what is reasonable in terms of the timely reporting of crimes. Your institution's policy on timely warnings should specify who or which office is responsible for issuing the warnings.

Crimes Exempt From the Timely Warning Requirement

34 CFR 668.46(a)
34 CFR 668.46(e)(2)

An institution is not required to provide a timely warning for crimes reported to a pastoral or professional counselor. (See Chapter 4 for definitions of pastoral and professional counselors.) There are no other exemptions.

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

The *Clery Act* does not require confidential reporting of crimes. Although personally identifiable information is generally precluded from disclosure, this information may be released in an emergency situation. ED's 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.*

34CFR. 99.31(b)(6) and 99.36

20 USC 1232g(b)(6)



It is imperative that your institution's written policy describing timely warning procedures accurately reflects the timely warning report system currently utilized by your institution.

Sample Timely Warnings

UWPD CAUTIONS STUDENTS ABOUT DATE RAPE DRUGS

April 11, 2002

by (name deleted), chief, 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 766-5179. Victims of any form of sexual assault are encouraged to seek confidential support at the University Counseling Center, 340 Knight Hall, 766-2187.

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 (540)568-6911; 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

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Writing It All Down: The Daily Crime Log

CHAPTER 6



Does your institution have a police department or security office (of any size) as described in Chapter 2 of this handbook? If you can answer "no" to this question, you may skip this chapter. Otherwise, read on.

Any institution that has a campus police department or security office, regardless of size, must create, maintain and make available a daily crime log. This means that even if your institution has one police officer, the institution must comply with this regulation. The crime log differs from other *Clery Act* disclosure requirements in some important ways:

Crime Log cite
34 CFR 668.46(f)

- A crime is entered into the log when it is reported to the campus police or security department. That is, if a crime is initially reported to a campus security authority other than the campus police or security department, it is not recorded in the crime log unless it is subsequently brought to the attention of the campus police or security department.
- Crime log entries include *all* crimes reported to the campus police or security department, not just *Clery Act* crimes.
- 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.*

Many institutions are also required by state law to maintain a log. If your institution maintains such a log, you may use that same log providing it meets all *Clery Act* requirements.

The daily crime log is not a general, catch-all incident log. Its purpose is for recording **alleged criminal** incidents that are reported to the campus police or security department. For example, if a student reports losing his or her wallet in the parking lot behind a dorm, it is not a criminal incident, and there is no requirement to record it in the log. However, if a student reports that his or her wallet was stolen from the student's dorm room, this is a criminal incident and your institution is required to record it in the log. Specific traffic violations to include, should they be reported, are driving under the influence (DUI), driving while intoxicated (DWI), hit-and-run (of a person), and vehicular manslaughter. Violations not considered to be "crimes" (i.e., citations for moving violations) are not required to be recorded.

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.

Sample Daily Crime Log

Daily Crime Log
Calendar Year 2003

Nature (classification)	Case Number	Date/Time Reported	Date/Time Occurred	General Location	Disposition
Larceny	2003-0003	01/20/03 1505hrs	01/10/03 0800hrs	Main Building	Closed 05/24/03
Vandalism	2003-00010	01/27/03 1231hrs	01/17 - 01/22/03	Cromer Bergman	Closed 05/24/03
Phone Calls/Profane	2003-00035	04/12/03 1937hrs	04/12/03 1930hrs	Tinker Dorm	Open
Liquor Law Violation	2003-0040	04/23/03 0300hrs	04/23/03 0300hrs	Dana/Moody Lot	Judicial Referral

Maintaining Your Log

The sample log above is meant to be illustrative, not prescriptive. The law requires that logs be easily understandable and include specific categories of information. The example includes a column for case numbers, which is not required by law, but which aids in recording and tracking a crime report. You may include other data elements or columns in your crime log in keeping with state crime log requirements or internal campus security record-keeping procedures, but such additional information is not required by the *Clery Act*.

Required Information

The Nature of the Crime

The nature of the crime refers to 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. It is acceptable to use state crime classifications (i.e., non-*UCR* classifications) for the crime log.

The Date the Crime was Reported and The Date and Time It Occurred

Remember, a crime is entered into the log by the date it was reported to the campus police or security department, regardless of how much time has passed since the crime was committed. However, you must include the date and time the crime occurred in the log. If the exact date and time of the crime are not known, a range can be used.

The General Location of the Crime

You must provide the general location of the crime. Use a description that will mean something to the campus community, such as a dorm name. Do not enter the location as "in a dormitory." 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," "judicial affairs," or "criminal arrest."

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. A business day is Monday through Friday, except for days when the institution is closed. The only exceptions to this rule are:

1. If the disclosure is prohibited by law; or

2. If the disclosure would jeopardize the confidentiality of the victim.

    a. If your institution is required to maintain a state crime log that requires the victims' names to be listed, and that same log serves as your *Clery Act* crime log, names of crime victims must be redacted for public inspection. That is, the federal *Clery Act* regulations requiring that a disclosure may not jeopardize the confidentiality of the victim takes precedence over state crime log laws.

Note that your institution is not required to update the disposition of a crime log entry after 60 days have passed. This means 60 days after the entry was made in the log—not 60 days after the crime occurred.

An institution may temporarily withhold information in some cases. There must be 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, but 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.

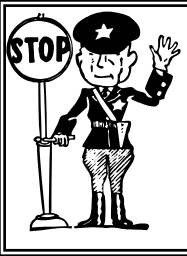
If a reported crime is investigated by law enforcement personnel, and they determine that a crime did not occur, the log should indicate that the disposition of the crime is "unfounded." The report of the crime would not be included in your institution's *Clery Act* statistical disclosures.

Only sworn or commissioned law enforcement authorities that investigate the crime can make a determination that it is unfounded. A crime cannot be determined to be unfounded by a campus security authority other than a law enforcement authority. (See Chapter 7 for a more detailed discussion of unfounded crimes.)

Making Your Log Available

Your institution may use either a hard copy log or an electronic format. Either format must be accessible on-site. That means, if you have separate campuses, the log must be available at each campus. The crime log for the most recent 60-day period must be open to public inspection, upon request, during normal business hours. Anyone may ask to see the log, whether or not they are associated with your institution. This includes the media. Any portion of the log that is older than 60 days must be made available within two business days of a request for public inspection. Your institution should provide students and employees with a description of the log, noting its location and availability. Crime logs must be kept for three years following the publication of the last annual security report to which they apply (in effect, seven years). See Chapter 10 for more information regarding records retention.

The crime log itself is not submitted to ED, although you may be required to produce it during an audit or review. However, information from 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 report to ED (i.e., *Clery Act* crimes occurring in the geographic locations described in Chapter 2 of the handbook).



Remember that criminal incidents reported to the campus police or security department must be entered into the log even if they are reported well past the time they occurred.

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Section 4: Annual Disclosure Requirements

There are two major *Clery Act* requirements with which all institutions must comply on an annual basis—the annual security report and the Web-based data collection. We'll begin with the annual security report, and finish with a walk-through of Web-based data collection.

As stated in Chapter 2, the *Clery Act* mandates that all Title IV institutions, *without* exception, prepare, publish and distribute an annual security report. This report consists of two basic parts: 1) disclosure of your institution's crime statistics for the past three years; and 2) disclosures regarding your institution's current campus security policies. Because of the complexity of the task, we've divided the information you need into several chapters. Chapter 7 provides guidelines for how to count crimes for the statistical portion of the report. Chapters 8 and 9 address the required policy statements, and Chapter 10 explains how to disseminate the report.

In addition, all Title IV institutions must complete a Web-based data collection each year. The data for this collection are taken from the statistical portion of your institution's annual security report. Chapter 11 guides you through the Web survey step-by-step and also provides you with help desk contact information.

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Adding It All Up: How to Count *Clery Act* Crimes

CHAPTER 7



It's important to understand how and when to count crimes, both to avoid double counting and to disclose data comparable to all other reporting institutions. All crimes are disclosed **by the calendar year** (Jan. 1 – Dec. 31) **in which they were *reported*, regardless of the year in which they occurred.** For example, if a crime that occurred in 2003 was not reported until 2004, you must include it with your 2004 disclosures.

Recording crimes cite 34 CFR 668.46(c)(2)

How Do You Count Crimes?

Counting Offenses

- Criminal Homicide—count one offense per victim.
  - Disclose the number of murders and non-negligent manslaughters and the number of negligent manslaughters separately.
- Sex Offenses—count one offense per victim.
  - Disclose the number of forcible sex offenses and the number of non-forcible sex offenses separately. You have the option of providing a breakdown of offenses for each of these categories; however, this is not required. For example, you may separate forcible sex offenses as follows: Forcible Rape, Forcible Sodomy, Sexual Assault With an Object and Forcible Fondling.
- Robbery—count one offense per each distinct operation (i.e., incident).
- Aggravated Assault—count one offense per victim.
- Burglary—count one offense per each distinct operation.

- Motor Vehicle Theft—count one offense per each stolen vehicle.

- Arson—count one offense per each distinct operation.

- Any of the above offenses that are classified as Hate Crimes are counted in a similar manner. For Hate Crimes involving bodily injury, count one offense per victim.

Arrests include persons processed by arrest, citation or summons. (See Chapter 3 for a detailed discussion of arrests.)

Counting Arrests for Illegal Weapons Possession, Drug Law Violations or Liquor Law Violations

- Count the number of arrests for illegal weapons possession, the number of arrests for drug law violations and the number of arrests for liquor law violations. Disclose these numbers separately.

- 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. It is counted as two arrests even when both arrests are for the same violation (e.g., both were drug law 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 law 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 law 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 discretion should determine which violation should be counted. We recommend that you document the justification for this determination.

    - Officer discretion is allowed only for illegal weapons possession and drug and liquor law violation arrests and referrals that occur during the same incident.

- Do not combine statistics for arrests and persons referred for disciplinary action. They are disclosed separately.

Counting Referrals for Disciplinary Action for Illegal Weapons Possession, Drug Law Violations and Liquor Law Violations

Referrals include any persons referred to any official who initiates a disciplinary action of which a record is kept and which may result in the imposition of a sanction. (See Chapter 3 for a discussion of referrals for disciplinary action.)

- Count the number of persons who were referred for illegal weapons possession, the number referred for violations of drug laws, and the number referred for violations of liquor laws. Disclose these numbers separately.

- 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 persons referred for disciplinary action. It is counted as two persons even if both referrals are for the same type of violation (e.g., both were drug law 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 law 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 should use discretion to determine which violation referral should be counted. We recommend that you document justification for this determination.

    - Officer discretion is allowed only for illegal weapons possession and drug and liquor law violation arrests and referrals resulting from a single incident.

- Do not combine statistics for arrests and persons referred for disciplinary action. They are disclosed separately.

Beyond the Basics—Additional Rules and Information

The Hierarchy Rule

FBI hierarchy rule cite
34 CFR 668.46(c)(7)

When counting multiple offenses, you must use the FBI's *UCR* Hierarchy Rule. This 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 must be 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 you must use 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 Illegal Weapons Possession, disclose only the Aggravated Assault.

Also, based on the hierarchy rule, if a student is both forcibly raped and robbed during a single incident, disclose only the Forcible Sex Offense, because it is classified as the more serious crime in the hierarchy.

There are exceptions to applying the hierarchy rule when counting offenses. These apply to Arson and Hate Crimes.

Arson

- Arson is always counted as an offense 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, the most serious is reported along with the Arson.

- Incidents in which persons are killed as a direct result of arson are classified as both Murder and Non-Negligent Manslaughter or Negligent Manslaughter, and Arson.

Hate crimes

- All of the offenses committed in a multiple offense incident that are bias-motivated should be disclosed.

- In a multiple-offense incident, only the crimes that are bias-motivated should be classified as hate crimes.

Attempted crimes

Do not differentiate between attempted and completed crimes. For example, an incident involving an attempted forcible rape is counted as a forcible sex offense. The only exception to this rule applies to attempts or assaults to murder wherein the victim does not die. These incidents should be classified as aggravated assaults rather than murders.

Status of the Victim and Perpetrator

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

No Personal Identification

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

Disclosure of the number of reported crimes may not include the identification of 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 the institution's disclosure of crime statistics. Crime reports made to campus security authorities may include personally identifiable information to aid in crime investigation. However, this information is omitted from the annual security report and the Web-based data collection.

Note that, while unlikely, it is possible that a statistic may potentially 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. For this reason, we recommend that schools add a caveat to the entire statistical disclosure section stating that reported crimes may involve individuals not associated with the institution.

Excluded Crimes

There are some crimes that are not included in your institution's statistical disclosures. They are:

- **Any crime not required to be included by the *Clery Act*.** Required crimes are discussed in Chapter 3.

- **Unfounded crimes.** If a reported crime is investigated by law enforcement authorities and found to be false or baseless, the crime is considered "unfounded" and is not included in your institution's statistics. Only sworn or commissioned law enforcement personnel may "unfound" a crime. 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 a crime is reported and is later "unfounded" in a subsequent year, your statistics should reflect this change. 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, while 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 report to ED. If a student reports being raped over spring break, 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, it is not included in your *Clery Act* statistics.



Now that you know more about defining, classifying and counting crimes, you may be concerned that, due to more accurate reporting, your current crime statistics will show a significant increase or decrease from the prior year's numbers.

If this is the case, you may provide an explanation to readers that the increase or decrease from the last year may be due to your institution's better understanding of the regulations regarding how crimes should be classified and counted, and is not due to an actual increase or decrease in reported crimes.

This explanation is optional and should only be provided if your institution can support it with documentation. You should not merely speculate or assume the reason for a significant increase or decrease in crime numbers.

After the Count—Presenting the Statistics

Clery Act regulations require you to include statistics for reported crimes in your annual security report as follows:

- By the calendar year in which the crime was reported for each of the three most recent years;
- By the type of crime, arrest or disciplinary referral; and
- By the geographic location in which the crime occurred.

General Crime Statistics

Present general (non-hate) crime statistics in a tabular format. You may use a single table or multiple tables. Clear and consistent labeling will make the information presented easier to read. You may include caveats as necessary. 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 "dormitories or other residential facilities for students on campus" category were included for only the most recent year.

A sample template is shown below, and other formats are included in Appendix F; however, there is no prescribed format for how your table or tables should look.

Sample Crime Statistics Table

OFFENSE	YEAR	ON-CAMPUS PROPERTY	**RESIDENTIAL FACILITIES	NON-CAMPUS PROPERTY	PUBLIC PROPERTY	OPTIONAL TOTAL
MURDER / NON-NEGLIGENT MANSLAUGHTER						
NEGLIGENT MANSLAUGHTER						
SEX OFFENSES, FORCIBLE						
SEX OFFENSES, NON-FORCIBLE						
ROBBERY						

The following is a checklist to help you prepare your annual security report:

- Include statistics for the three most recent calendar years. Enter statistics for each year separately. For example, for your 2005 report, enter statistics separately for 2002, 2003 and 2004.

- Include categories for all required geographic locations that pertain to your institution. All institutions must include on-campus and public property locations. If your institution has dormitories or other residential facilities for students on campus or noncampus buildings or property, you are required to include these locations as well. If your institution does not have dormitories or other residential facilities for students on campus or any noncampus buildings or property, remember to include a caveat stating this.

- Include all crime categories and list them separately. Remember to separate statistics for Murder and Non-Negligent Manslaughter and statistics for Negligent Manslaughter. Also separate statistics for Forcible Sex Offenses and statistics for Non-Forcible Sex Offenses.

- Although it is not required, you may provide a more detailed breakout of sex offenses. For example, Forcible Sex Offenses may be subcategorized as Forcible Rape, Forcible Sodomy, Sexual Assault With an Object and Forcible Fondling.

- Including totals for crime categories (e.g., the total robberies reported for all geographic locations for the year) is optional.

- Enter statistics separately for arrests for illegal weapons possession, arrests for drug law violations and arrests for liquor law violations. Also enter statistics separately for the number of persons referred for disciplinary action for illegal weapons possession, the number referred for drug law violations and the number referred for liquor law violations.

- Remember to enter statistics for arrests and the number of persons referred for disciplinary action by year and by geographic location.

- Zero (0) is a statistic. Do not leave any cells blank even if you have no crimes to disclose for a particular category. Instead, enter a zero whenever you have no crime to disclose in a particular cell.

- Include all crimes reported to campus police or security (if applicable), other campus security authorities, and from local police (if the local police 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 police in another column.

- There is no prescribed order for presenting your statistical disclosures and your policy statement disclosures in the annual security report.

Hate Crime Statistics

Because institutions typically do not have many hate crimes to report, or none at all, we recommend that you present hate crime data in a narrative or descriptive format. Remember the following when preparing your presentation:

- Report statistics for the three most recent calendar years.
- Report statistics by geographic location and by category of prejudice.
- Hate crime categories include all *Clery Act* offenses as well as any crime involving bodily injury.
- Arrests and referrals for disciplinary action for weapons, drug or liquor law violations are not categorized as Hate Crimes for *Clery Act* reporting purposes.

Examples of Hate Crime Reporting

1) Hate Crimes

2004: One on-campus robbery characterized by religious bias.

2003: One noncampus robbery characterized by ethnicity/national origin bias, and one public property aggravated assault characterized by sexual orientation bias.

2002: No hate crimes reported.

2) Hate Crimes

There were no reported hate crimes for the years 2002, 2003 or 2004.

CHAPTER 8



Not Just a Numbers Game: Disclosing Information About Policies, Procedures and Programs

A major requirement of your *Clery Act* compliance is disclosing policy statements in your annual security report. We have divided the policy statement requirements into two chapters. This chapter will focus on policies and practices regarding:

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

Chapter 9 will discuss policies regarding sex offenses and sex offender registration information. Here are some general guide-lines to keep in mind for all policy statements:

- Use language that will be understood by the general public (i.e., avoid heavily legal language).
- 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. Remember that your statements or descriptions of policies must accurately reflect your institution's current procedures and practices.
- Pay close attention to the requirements of each policy statement. In general, the *Clery Act* 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 an institution's annual security report.

Policy statement cite
34 CFR 668.46(b)(2)(i)–(b)(11)(vii)

- If you are compiling security reports for more than one campus, make sure your policy statements accurately reflect the current policies and practices of each specific campus.

The following section presents policy statements required by the *Clery Act*. In many cases the statement is broken down into its various components to emphasize the content that must be included. Explanations of statements and components of statements are introduced by "What does this mean?". Each statement includes an example provided by a postsecondary institution.

Note that these are samples, as opposed to templates. Your institution's policy statements must reflect your institution's unique security polices, procedures and practices.

There is no prescribed order in which your policy statements should appear. 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:

34 CFR 668.46(b)(2)

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

34 CFR 668.46(b)(2)(i)

What does this mean?

As discussed in Chapter 5, your institution must have a policy regarding its timely warning report system. We suggest that your policy include: 1) the circumstances for which a warning will be issued; 2) the individual or office responsible for issuing the warning; and 3) the manner in which the warning will be disseminated.

Sample Policy Statement Addressing Timely Warnings

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 (568-6911) or in person at the dispatch center within Public Safety, Shenandoah Hall, the southwest corner of Patterson and South Main Streets.

34 CFR 668.46(b)(2)(ii)

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 who prepares the report, and how and from what sources the crime statistics are collected.

Sample Policy Statement Addressing Preparation of Disclosure of Crime Statistics

Policy For Reporting The Annual 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. Faulty 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 (619) 594-1985. All prospective employees may obtain a copy from Human Resources in Administration Room 326 or by calling (619) 594-6404, 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.

34 CFR 668.46(b)(2)(iii)

What does this mean?

The first part of this statement asks you to disclose 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. While 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.

Sample Policy Statement Addressing the Reporting of Criminal Offenses

To report a crime:

Contact University Police at 985-4101 (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	562-985-5587 Brotman Hall 377
2. Director, Counseling and Psychological Services	562-985-4001 Brotman Hall 226
3. Director, Student Health Center	562-985-4771 Student Health Center
4. Director, Staff Personnel Services	562-985-4031 Brotman Hall 335
5. Director, Equity and Diversity	562-985-8256 Student Union 301
6. Director, Judicial Affairs	562-985-5270 Brotman Hall 377
7. Director, Women's Resource Center	562-985-8575 LA3-105
8. Director, Housing and Residential Life	562-985-4187 Parkside 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.

Sample Policy Statement Addressing Voluntary Confidential Reporting

Confidential Reporting Procedures

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 records 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.

Sample Policy Statement Addressing Limited Voluntary Confidential Reporting

CRIME 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 277-STOP (277-7867).

2. Provide a statement of **current policies concerning: security of, and access to, campus facilities,** including:

34 CFR 668.46(b)(3)

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 requires you to address both the security of, and access to, campus facilities, including campus residences. If your institution does not have any campus residences, your policy statement should note this. Address topics such as how your institution keeps its facilities secure, and how individuals gain or do not gain access to the facilities.

Part (b) of this statement requires you to address security considerations in maintaining campus facilities. For example, your institution may have someone who regularly checks to make sure pathways are well lighted.

Sample Policy Statement Addressing Security and Access

Access Policy

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.

34 CFR 668.46(b)(4)(i)

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

a. Addresses the enforcement authority of security personnel, including:

- their working relationship with state and local police agencies; and
- whether those security personnel have the authority to arrest individuals.

What does this mean?

This statement requires the institution to describe the enforcement authority of all security personnel. Note that you must specify their working relationship with both state police as well as local police. Include also whether the security personnel can make arrests. If only some of your security staff can make arrests, you should state this. If your institution does not have any security personnel, you must state this.

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

CAMPUS POLICE AUTHORITY AND JURISDICTION

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.

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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.

Sample Policy Statement Addressing Campus Law Enforcement (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.

34 CFR 668.46(b)(4)(ii)

b. Encourages accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.

What does this mean?

Your policy statement *must* encourage individuals to report all crimes to the campus police and police agencies for your institution's jurisdiction in an accurate and timely manner. If your institution does not have campus police, you must state this.

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

General Procedures for Reporting a Crime or Emergency

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 4-6111 or, from outside the University phone system, (202) 994-6111. To report a non-emergency security or public safety related matter, call UPD at extension 4-6110 or, from outside the University phone system, (202) 994-6110.

To report a crime or emergency on the Mount Vernon-campus, call UPD at 2-6111 or, from outside the University phone system, (202) 242-6111. To report a non-emergency security or public safety related matter call UPD at 2-6110 or, from outside the phone system, (202) 242-6110.

If a crime or emergency occurs in the Hospital, call Hospital Security at (202) 715-5000.

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.

c. 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.

34 CFR 668.46(b)(4)(iii)

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 may include both verbal and written encouragement. If your institution does not have these procedures, state this.

Note that this policy differs from the policy statement on Page 89. That statement does not specifically address pastoral and professional counselors.

Sample Policy Statement Addressing Counselors (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.

Sample Policy Statement Addressing Counselors (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.

34 CFR 668.46(b)(5)

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).

Sample Policy Statement Addressing Security Awareness Programs

Security Awareness Programs

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.**

34 CFR 668.46(b)(6)

What does this mean?

This statement specifically addresses programs designed to inform both students and employees about crime prevention. You must describe the programs. If you do not have any programs of this nature, you must provide a statement disclosing this fact.

Sample Policy Statement Addressing Crime Prevention Programs

CRIME PREVENTION PROGRAMS

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.

34 CFR 668.46(b)(7)

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 your institution uses local police to monitor off-campus student organizations. Note that this concerns only those organizations that are officially recognized by your institution. If you do not have any off-campus student organizations, you must disclose this.

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.

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.**

34 CFR 668.46(b)(8)

What does this mean?

This statement describes your policy concerning the possession, use and sale of alcohol. You must also disclose your policy for the enforcement of state laws relating to underage drinking.

Sample Policy Statement Addressing Alcoholic Beverages

Sample Policy on 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.

34 CFR 668.46(b)(9)

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?

This statement discloses your policy concerning the possession, use and sale of illegal drugs. You must also disclose your policy for the enforcement of both federal and state laws pertaining to drugs.

Sample Policy Statement Addressing Illegal Drugs

Sample Policy on Illegal Drugs

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.

34 CFR 668.46(b)(10)

9. Provide 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 it uses to comply with section 120(a) through (d) of the 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 the HEA. This is the only policy statement in the annual security report for which you can cross-reference materials. The text for Section 120(a)–(d) is in Appendix G of this handbook.

Sample Policy Statement Addressing Substance Abuse Education

ALCOHOL AND SUBSTANCE ABUSE INFORMATION

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.



Remember, if your institution does not have a policy for a category addressed in the regulations, you must say so!

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Special Considerations: Policies Regarding Sex Offenses and Offenders

CHAPTER 9



What are the *Clery Act* requirements regarding policies and procedures for sex offenses? As mentioned in Chapter 8, the *Clery Act* requires you to provide policy statements regarding sex offenses and obtaining access to information regarding registered sex offenders in the campus community.

Sex Offenses

The FBI's National Incident-Based Reporting System (NIBRS) edition of the *UCR* defines a sex offense in general 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 Chapter 3 for definitions of forcible and non-forcible sex offenses.)

The *Clery Act* requires you to include a statement about your institution's sex offense policy, procedures and programs in your annual security report. Specifically, the regulation requires 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:

Sex offense policy statement cite
34 CFR 668.46(b)(11)

a. A description of educational programs to promote the awareness of rape, acquaintance rape and other forcible and non-forcible sex offenses.

34 CFR 668.46(b)(11)(i)

These programs are required by Section 485(f) of the *Higher Education Act*. We encourage your institution to contract with experts in the area of sex offense education to provide training to students and staff. Such experts include rape crisis intervention specialists, local law enforcement officials and social services personnel.

34 CFR 668.46(b)(11)(ii)

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.

Note that the *Clery Act* does not mandate whom to contact or to whom the offense should be reported. It requires only that your institution include this information in the procedures. Be specific with regard to this information. For example, if students are directed to a rape crisis counselor for support and the campus police department for reporting purposes, provide contact information. We encourage institutions to consult law enforcement about what constitutes "preserving evidence."

34 CFR 668.46(b)(11)(iii)

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.

Provide information so that students know what notifying law enforcement authorities entails. Be specific about both campus and local police, as applicable. The statement that your institution will comply with a student's request for assistance in notifying authorities is mandatory.

34 CFR 668.46(b)(11)(iv)

d. Notification to students of existing on- and off-campus counseling, mental health or other student services for victims of sex offenses.

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.

34 CFR 668.46(b)(11)(v)

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.

An institution is obligated to comply with a student's request for a living and/or academic situation change following an *alleged* sex offense. The options should be identified.

These requirements allow an institution flexibility. For example, an 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*:

34 CFR 668.46(b)(11)(vi)(A)&(B)

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.

Your statement regarding procedures for campus disciplinary action for alleged sex offenses must include both (i) and (ii). Add any other procedures as appropriate for your institution. The right to have others present and to be informed of the outcome apply to the institutional disciplinary proceedings, regardless of where the alleged sex offense occurred. Disclosure concerning the outcome of proceedings must be unconditional; a victim cannot be required to sign a nondisclosure agreement or to otherwise agree to a prohibition from discussing the case.

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.

34 CFR 668.46(b)(11)(viii)

Note that this does not require you simply to state that sanctions may be imposed. You are required to list the sanctions.

It is very important that you understand that:

- Simply stating the topic of a policy does not meet the requirements. All of the required components of a policy must be included in the policy statement.

- For the most part, institutions have discretion in the wording of these statements and how the policies and procedures are put into practice.

- It is imperative that an institution's policy statements accurately reflect what the institution does currently to prevent sex offenses, and the procedures that are followed when a sex offense occurs.

Sample Policy Statement Addressing Sex Offenses

Sexual Assault Prevention and Response

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.

Advising the Campus Community About Sex Offenders

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 must also provide this information to the state. The information is then provided by the state to campus police departments or to other law enforcement authorities in the jurisdiction where the institution is located.

Sex offender registration information cite
34 CFR 668.46(b)(12)

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.**

You should know that:

- Institutions are 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 the school's jurisdiction.

- Institutions are required to provide the campus community with information that would enable them to obtain this public information about registered sex offenders on campus. The intention of this requirement is to afford a campus community the same availability of information about registered sex offenders as they would have in their home communities under Megan's Law.

- While institutions are required to inform the campus community where sex offender information can be *accessed*, the institution is not required to disseminate sex offender information throughout the community.

FERPA guidance cite
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. Institutions also have authority to disclose information about registered sex offenders that may otherwise become available to educational institutions through the operation of state sex offender registration and community notification programs. However, state

laws could limit disclosure of such information. Institutions are advised to contact their 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 agencies with this information, a statement in your annual security report should disclose this. 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.

Sample Policy Statement Addressing Sex Offender Registration (For Institutions Maintaining a List of Registered Sex Offenders On-Site)

Sexual Offender Registration

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 by, 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 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.

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

Getting the Word Out: Distributing the Annual Security Report

CHAPTER 10



You have a lot of information and may be wondering, "Now what do I do with this?" This chapter will walk you through the steps necessary to help you comply with *Clery Act* regulations concerning the publication and distribution of your annual security report.

Specifically, you must:

- Meet the deadline;
- Publish the annual security report;
- Determine who gets the annual security report;
- Distribute the report; and
- Retain the records.

Distribution cite
34 CFR 668.41(e)

When is the deadline? The annual security report must be published and distributed by Oct. 1 each year. This is a firm deadline. There is no grace period.

What should the publication look like? Whether the report is produced as a separate publication or as part of another publication, it must be contained within a single document. It cannot be published in sections or multiple volumes. For example, the report may be published in a campus directory that is given to all students and employees, provided the report appears in its entirety within that publication. It is not necessary that the report be provided to both students and employees in the same publication. If the report is posted on the institution's Web site, it must be clearly identified in a single, separate part of the site.

Remember that *Clery Act* requirements must be met individually for each separate campus. An institution may publish a single document covering all campuses as long as information and crime statistics that vary by campus are clearly presented.

Who gets the annual security report? The report must be distributed 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. The report must also be provided 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.*

How should the report be distributed? The report must be distributed to all current students and employees in one of two ways:

1. Directly by publications and mailings. This may be accomplished by giving a copy directly to each individual or by direct mailing 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 Web site that is reasonably accessible to currently enrolled students and to employees. This method may be used *only* if an individual notice about the annual security report is distributed by Oct. 1 to each student and employee. This notice should not be buried 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 Web site at which the report is posted. This means that the institution must provide a direct link to the annual security report. It is not acceptable to give the URL for the institution's Web site.

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. An institution may not charge fees to individuals for copies of the annual security report. Therefore, the annual security report may not be included in any publication for which a fee is charged.

This sample notice may be used to inform students and employees of the availability of the annual security report.

Sample Notice of Availability of Annual Security Report

A copy of [name of institution's] Annual Security Report. This report includes statistics for the previous three years concerning reported crimes that occurred on-campus; in certain off-campus buildings or property owned or controlled by [name of institution]; and on public property within, or immediately adjacent to and accessible from, the campus. The report also includes institutional policies concerning campus security, such as policies concerning sexual assault, and other matters. You can obtain a copy of this report by contacting [name of office] or by accessing the following web site [address of web site].

The report must also be made available to prospective students and employees. Prospective students and prospective employees are to be provided with a notice containing a statement of the report's availability, a description of its contents and the opportunity to request a copy. This notice may be provided to prospective students and prospective employees along with other information the 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, the institution is not required to include notification in the job advertisement, nor is it required to notify an individual to whom it simply sent a rejection letter based on his or her unsolicited employment application.

If the institution chooses to provide its 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 an *intranet* site may not be used to make disclosures to prospective students and employees.

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 2004 annual security report contains statistics for 2001, 2002 and 2003. The 2001 statistics and supporting records must be kept until Oct. 1, 2007—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 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 ED regarding *Clery Act* compliance; and copies of notices to students and employees about the availability of the annual security report. Make sure all documentation is dated and is easily retrievable.



The annual security report is not sent to ED. However, your institution is required to submit to ED the crime statistics that make up the report via a Web-based data collection. (See Chapter 11 of this handbook for detailed information.)

CHAPTER 11

Submitting Crime Statistics to the U.S. Department of Education: Web-Based Data Collection



The Campus Crime and Security at Postsecondary Education Institutions Survey is conducted annually by the U.S. Department of Education's Office of Postsecondary Education (OPE). This Web-based survey is used to collect data on alleged criminal incidents reported by over 6,700 colleges, universities and institutions of higher education in the United States. This information is posted on a public Web site for use by higher education consumers.

Each year in the late summer, a letter and a certificate from the U.S. Department of Education are sent to the institution's president or chief executive officer. The letter explains this important *Clery Act* requirement. The certificate contains the following information necessary to access the Web site and enter data.

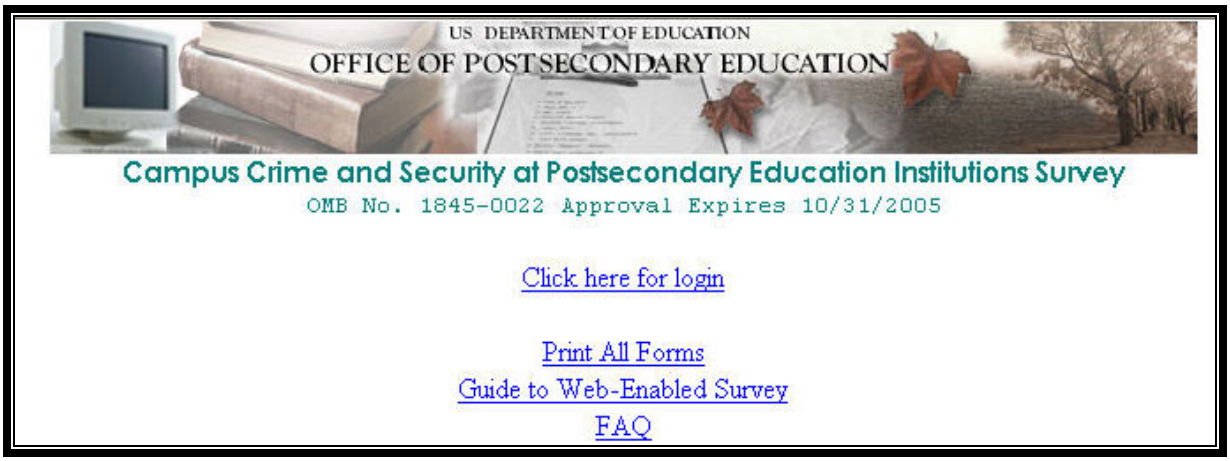
- Institution's User ID—Typically, this ID consists of an uppercase letter plus an 8-digit number. For example: C21370001.
- Institution's Password—This consists of six uppercase letters. For example: ABCDEF.
- Web address—To access this survey, visit http:/surveys.ope.ed.gov/security.
- Campus Crime Help Desk telephone number—(800) 435–5985
- Campus Crime e-mail address—http://CampusSecurityHelp@Westat.com.
- Data collection dates—Aug. __ to Oct. __ 200_.

A new ID and password are issued each year.

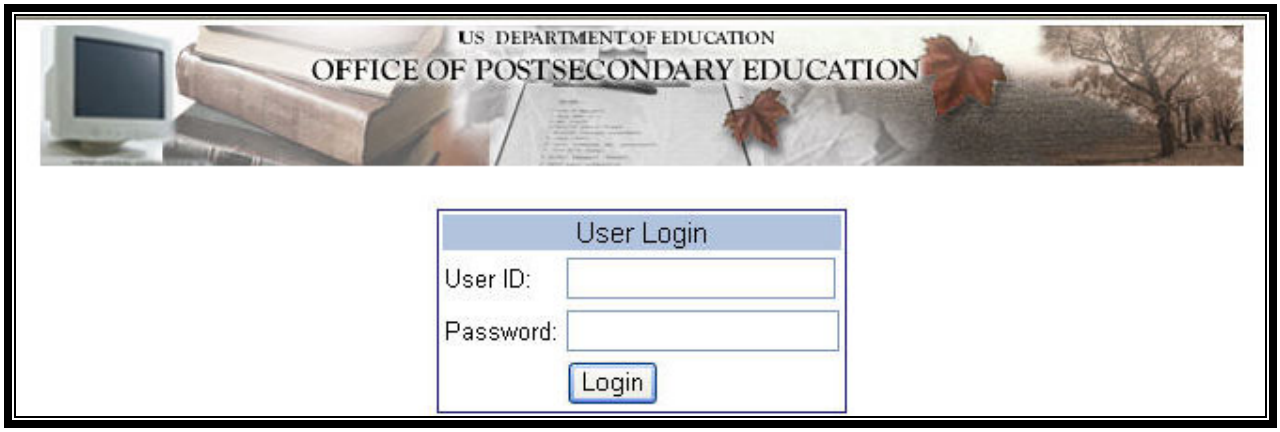
How Do You Access the Web Site?

Login

Enter the URL http://surveys.ope.ed.gov/security into your browser. The application works best with Internet Explorer but can be accessed using other browsers as well. The screen shown below is the first screen you will see. Click on Click here for login to continue.



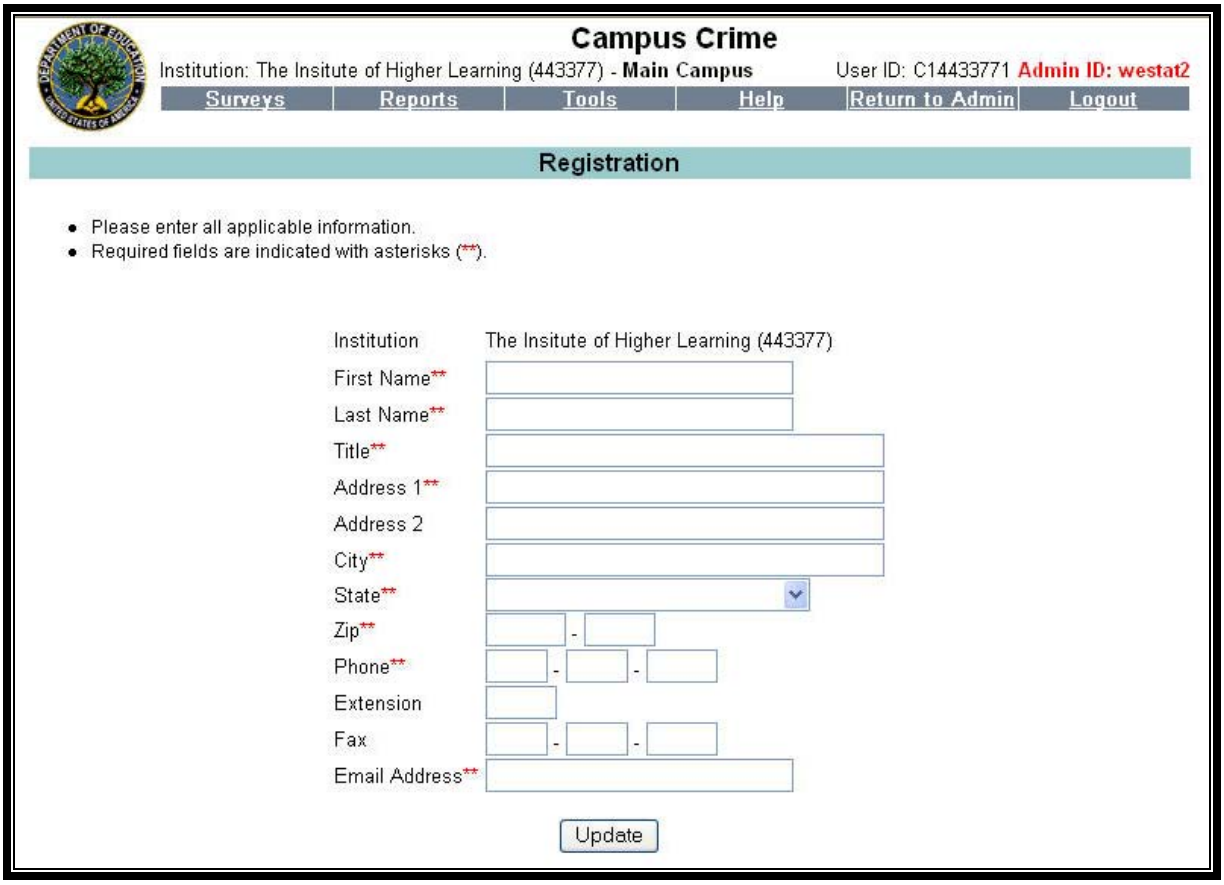
At this screen, enter your User ID and Password from the certificate mailed to the chief administrator of your institution. Both must be entered in uppercase. When you are finished, click "Login."



Registration

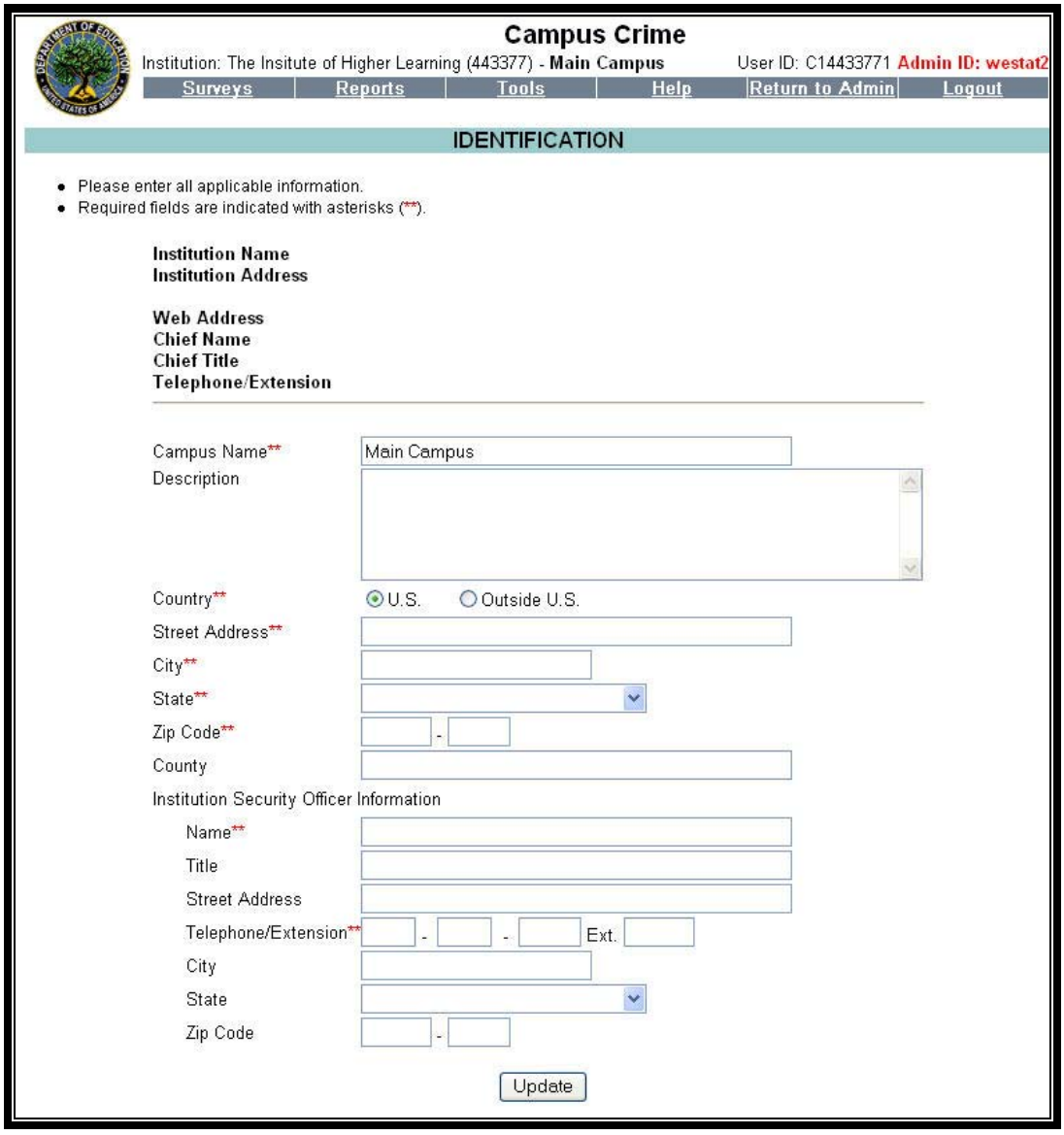
The institution registration screen appears next.

- Enter the name of the individual completing this survey. This is the person who will be contacted if any follow up is required.
- Complete all fields.
- Verify that the e-mail address is correct. It is the most efficient method of recontacting schools when necessary. Do not put a Web address in this field.
- Click "Update."
- You will see a message on your screen that reads "Your update was successful."
- Click "Continue."



Institution Identification

- Complete this entire screen.
- Correct any inaccurate information that can be changed. Only the institution name field will be "read only" and cannot be changed.
- Click "Update."
- You will see a message on your screen that reads "Your update was successful."
- Click "Continue."



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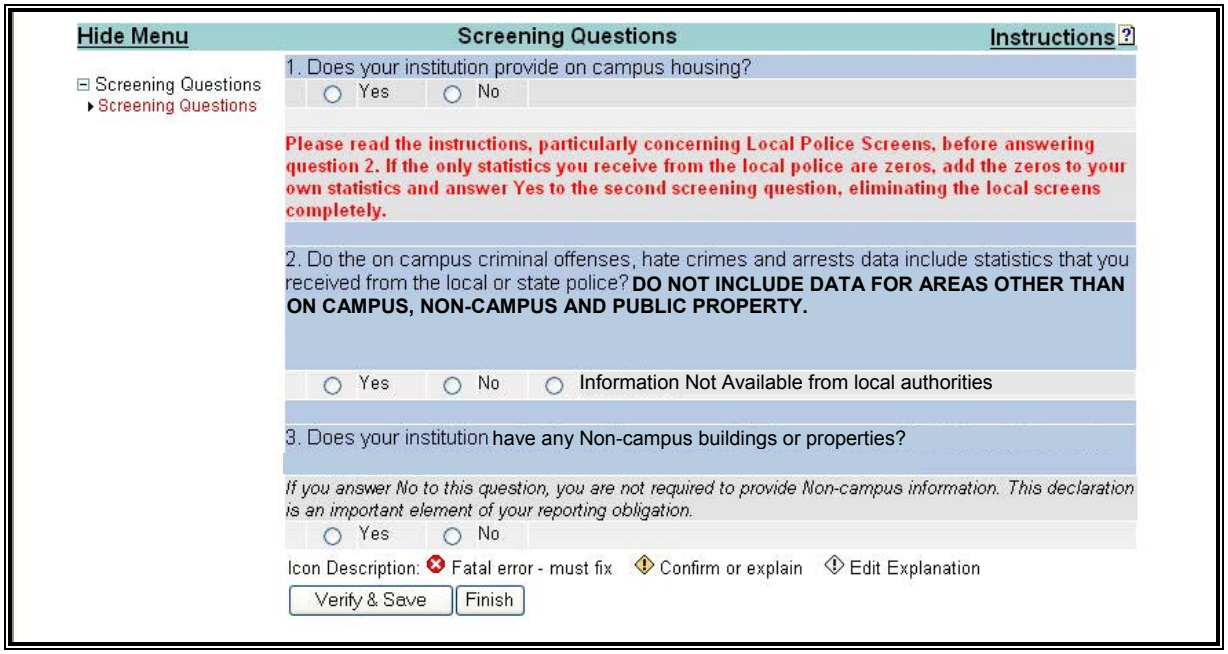
Screening Questions

The screening questions appear next.

Institutions are required to make a good-faith effort to obtain statistics from local law enforcement agencies. Only statistics from *Clery Act* geographic locations provided by the local jurisdiction should be reported. If you have combined these statistics with your institution's statistics, answer "Yes" to the second screening question. If statistics are not available from local law enforcement, select the "Not Available" option. If you answer "No" to the second screening question, the local screens will appear for you to enter the statistics. (At any time throughout the survey, click on the word "Instructions" for more information.)

- Click "Campus Crime."
- Answer all three screening questions.
- Upon completion, click "Next Screen."



Reporting Offenses

You are now ready to enter the criminal offenses for the required geographic areas for your institution. Separate screens will appear for on campus (on-campus residence halls), noncampus, and public property.

- Enter the number of alleged criminal incidents that were reported during the preceding calendar year for each category. (Data for the two prior years will be preloaded for you.)

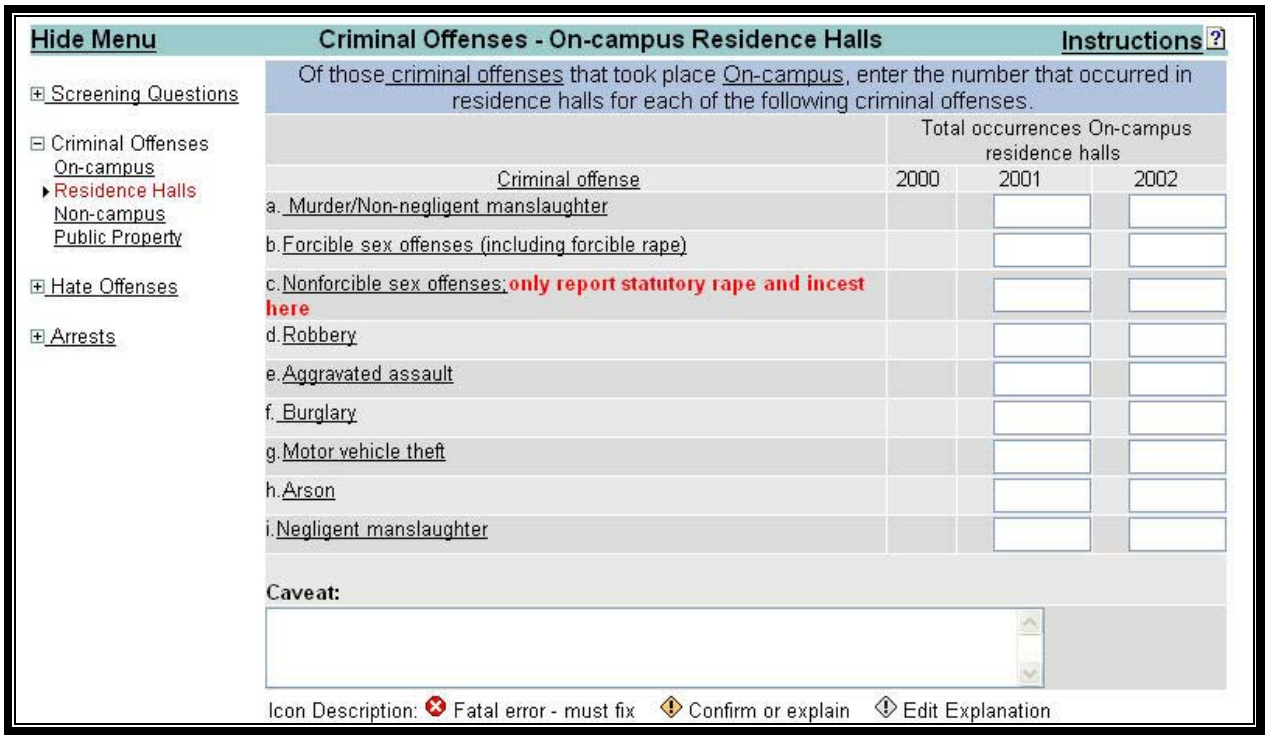
- Refer to Chapter 3 for the definitions of the various crimes.

- Click on the crime (e.g., Burglary) if you would like the definition to appear on your screen.

- If there are no offenses for a reporting category, enter zero (0) for that category. Do not leave the category blank.

- The caveat is an optional field that allows you to provide additional information about the data that are reported. Because these data will be made available on the OPE Web site and will provide much needed consumer information, institutions are urged to provide text describing special conditions and other information needed to fully explain the meaning of the reported data. For example, an increase in the number of crimes can be explained in part by an even greater increase in the number of students. Institutions can also report reductions in the rate of crime in the caveat.

- At any time, you can click on the word "Instructions" located in the upper right hand corner of the screen for more information.



Hide Menu

Criminal Offenses - On-campus Residence Halls

Instructions

- ⊞ Screening Questions
- ⊟ Criminal Offenses
  - On-campus
  - ▸ Residence Halls
  - Non-campus
  - Public Property
- ⊞ Hate Offenses
- ⊞ Arrests

Of those criminal offenses that took place On-campus, enter the number that occurred in residence halls for each of the following criminal offenses.

Criminal offense	Total occurrences On-campus residence halls 2000	2001	2002
a. Murder/Non-negligent manslaughter			
b. Forcible sex offenses (including forcible rape)			
c. Nonforcible sex offenses; **only report statutory rape and incest here**			
d. Robbery			
e. Aggravated assault			
f. Burglary			
g. Motor vehicle theft			
h. Arson			
i. Negligent manslaughter			

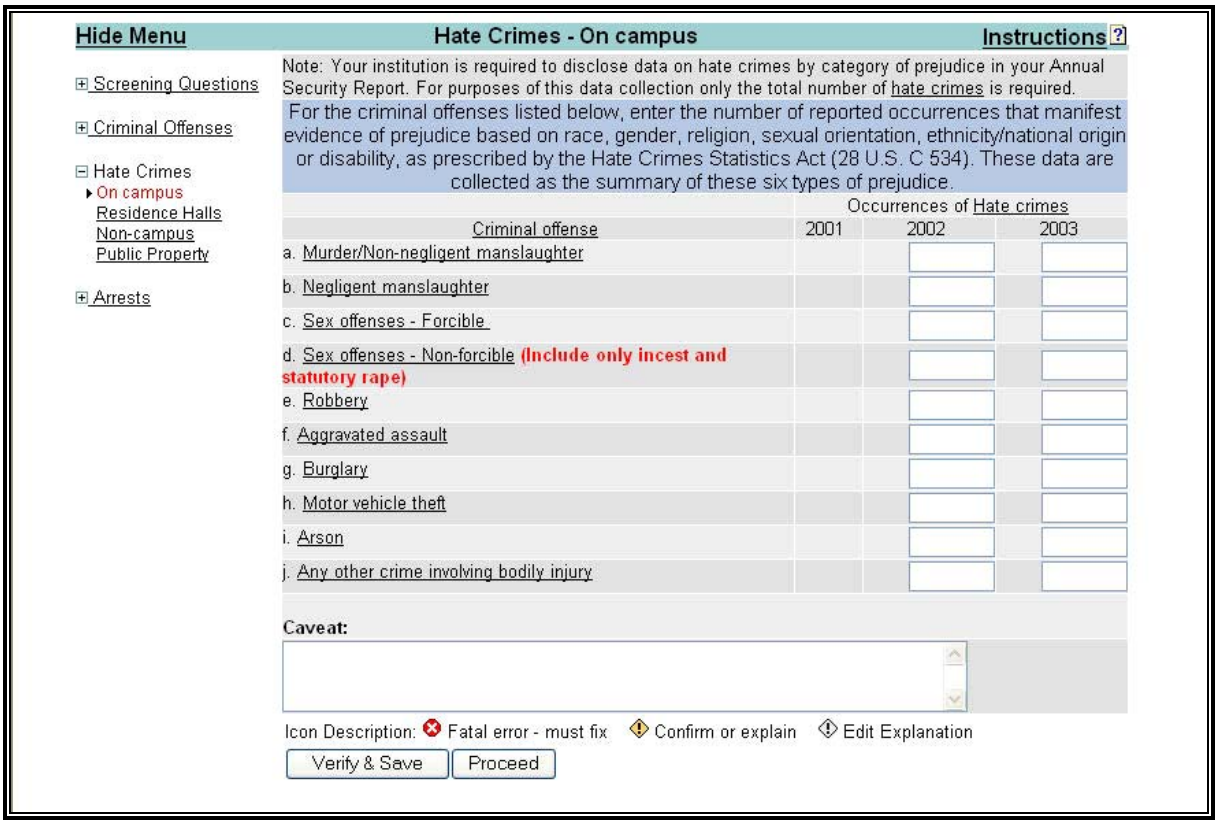
Caveat:

Icon Description: Fatal error - must fix Confirm or explain Edit Explanation

Residence Hall statistics are a subset of on-campus statistics; therefore, the numbers must be equal to or less than the numbers for on campus.

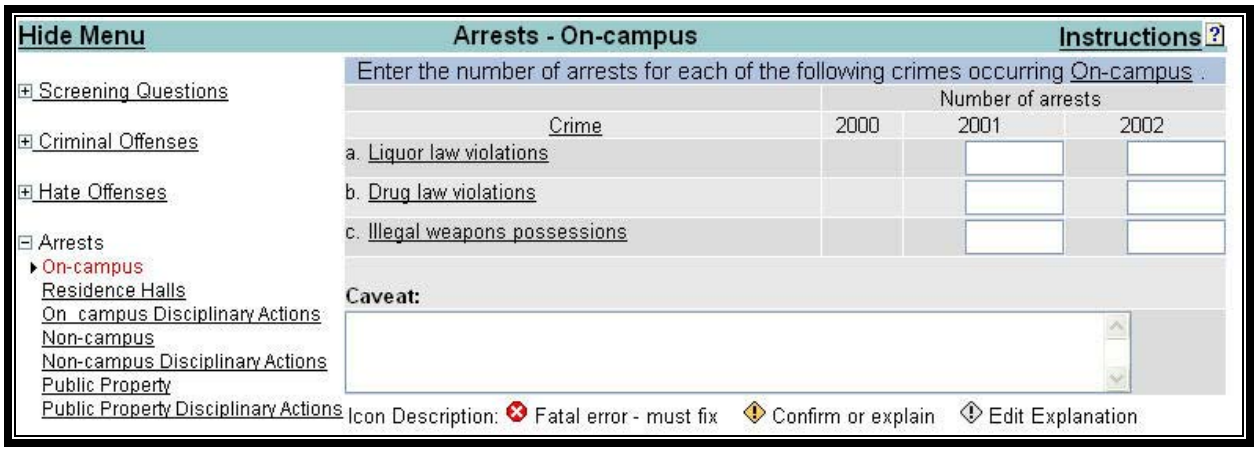
Hate Crimes

Your institution is required to disclose data in your annual security report on hate crimes by category of prejudice. For purposes of this data collection, only the total number of hate crimes is required.



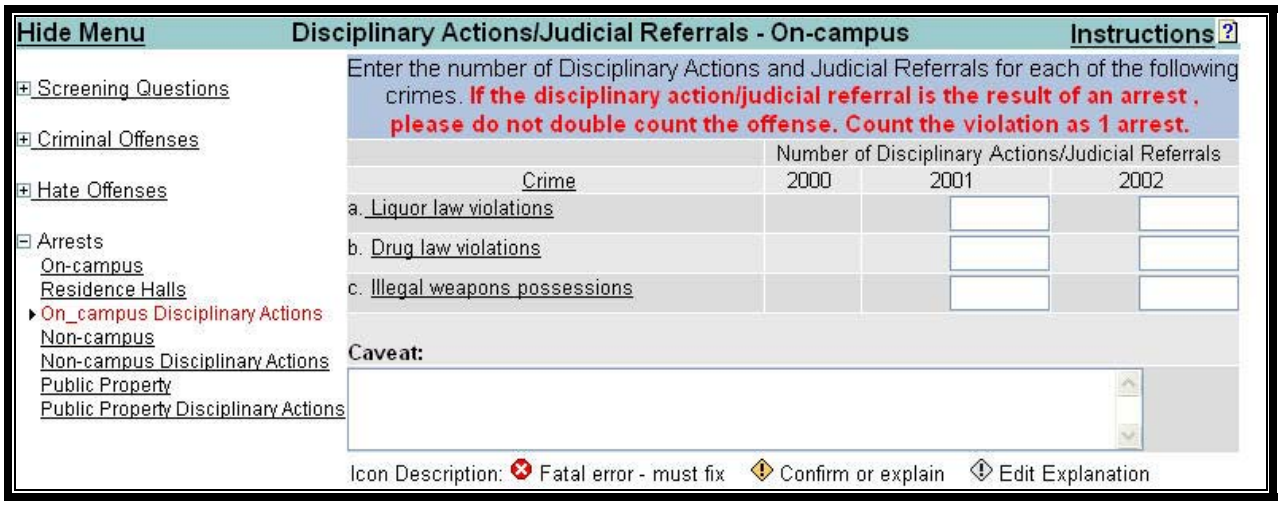
Arrests

Enter statistics for arrests for liquor and drug law violations and illegal weapons possession by geographic area. A separate screen is provided for each area.



Referrals for Disciplinary Action

Enter statistics for referrals for liquor and drug law violations and illegal weapons possession. If the disciplinary action or judicial referral is the result of an arrest, please do not double count the offense. Count the violation as one arrest.



Local Screens

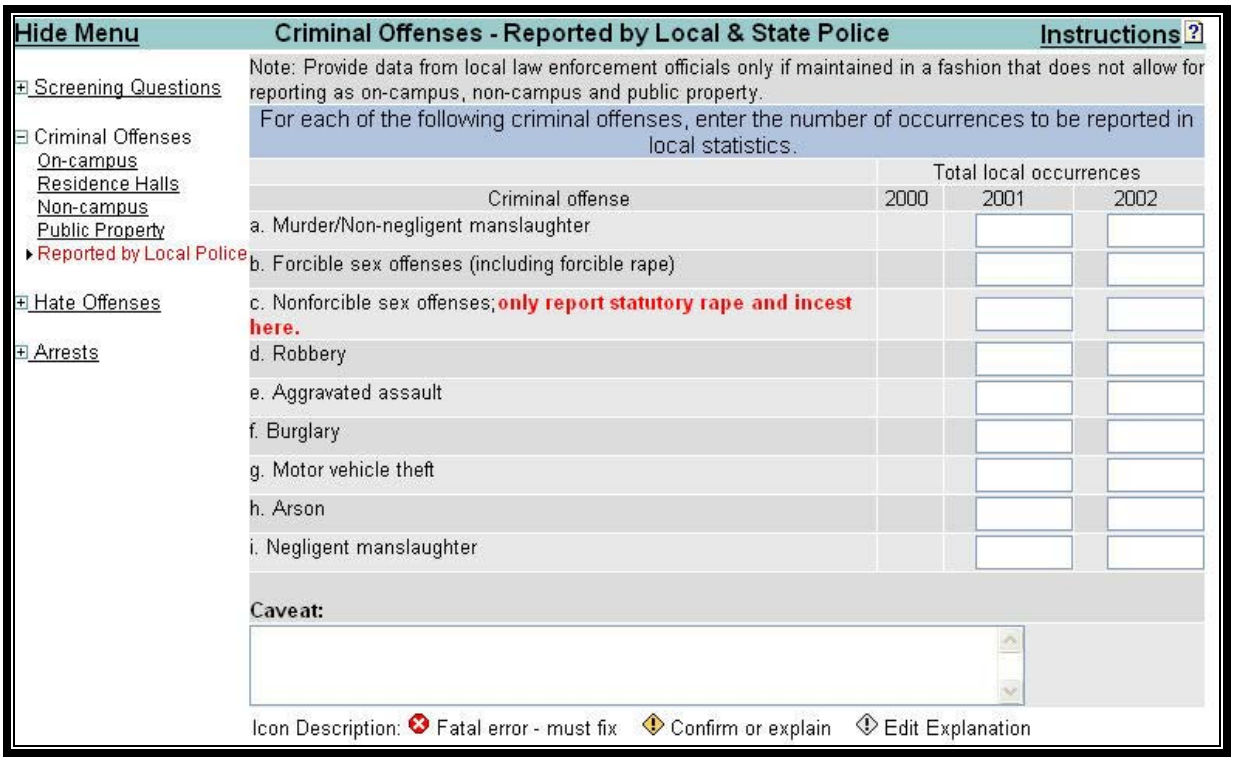
Contacting the local police to request crime statistics is required. The local police may:

- Offer statistics that may be added to your own statistics for on campus, noncampus and public property. (If this is the case, you will have answered "Yes" to the second screening question, and the "Local" screens will not appear.)

- Respond that they are not able to supply statistics for the particular geographic areas requested. (If this is the case, you will have answered "Not Available" to the second screening question, and the "Local" screens will never appear.)

- Respond that they have statistics for the areas requested, but they are unable to pinpoint the exact location. (If this is the case, you will have answered "No" to the second screening question, and the "Local" screens will appear for you to enter these statistics.)

The local screens do not require a geographic breakdown and do not take the place of your own public property screens.



Finishing the Survey

The following steps need to be taken to complete your survey.

Editing Reports

Once you have entered all of your data, you are ready to run the edits.

- Click on "Perform Edits."
- If there are no errors, the "Lock" link will appear and it will be underlined so that you may proceed with locking your survey.
- If there are errors identified, you must correct the errors before you can proceed. The icons below describe the errors and how to correct them.

Icon Description



Fatal error—must fix. This icon will appear next to an unacceptable entry or non-entry. It must be fixed to allow you to continue and complete the survey.



Confirm or explain. If there is an entry identified as a mistake or a typo, this yellow icon will appear. Click on the icon and a box will appear in the upper left-hand corner of your screen. Enter your explanation in this box.



Edit explanation. This is the symbol that appears after you have clicked on the yellow icon above and had your explanation accepted.

None of these icons appear anywhere other than on the screen you see to help you make the necessary corrections or to provide the necessary explanations. Neither the icon nor your explanation will appear on the public Web site. (See the example of an explanation box on the next page.)

Error Description

For further assistance, please contact the Campus Crime and Security Survey HELP Desk at 1-800-435-5985.
Error Description
The number entered, 23, is not within the expected range. Please explain or fix. Explanation: Verified: Close

This is the type of box that appears in the upper left-hand corner of your screen when you click on the yellow icons. Write your explanations here—not in the caveat boxes. When you are done, click on "Refresh" to save your explanation.

Surveys

- Listed in the table below are the surveys for this institution, the status of each survey, and any currently available options
- The institution identification must be completed before all applicable surveys will show in the table.

Campus : Main Campus

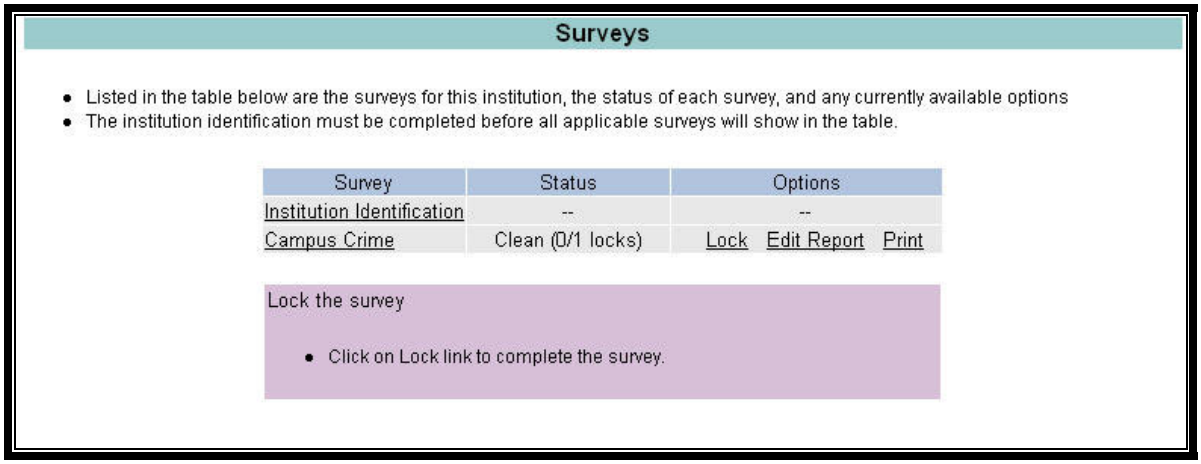
Survey	Status	Options
Institution Identification	--	--
Campus Crime	Has Data (0/1 locks)	Perform Edits Edit Report Print

Lock Your File

After the edits have been completed and there are no errors, you are ready to lock your file. This information will be transmitted to us.

- Click "Lock," which is now underlined.
- Click "Continue with locking."
- Click "Continue." This screen tells you the survey has been successfully locked.

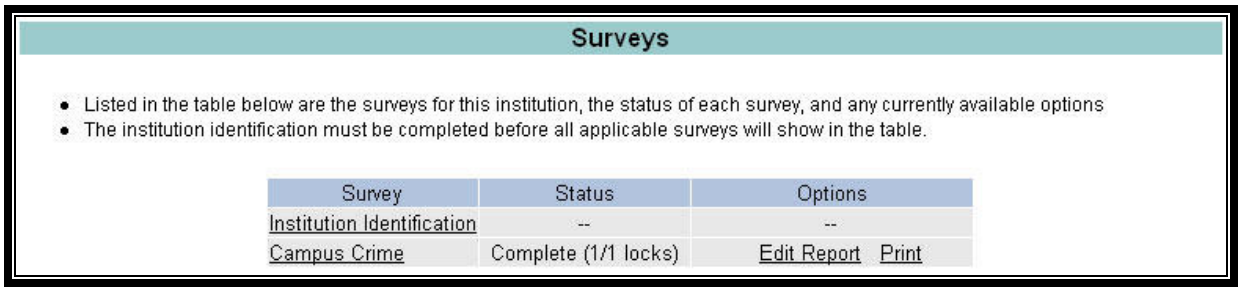
Once locked, survey data can no longer be edited or changed. You must contact the Help Desk if you need to make changes. If an institution has multiple campuses, each campus must be locked individually.



Print Your File

This is the screen you will see when your survey is locked. It will read "Complete 1/1."

Using the "Print" link, make a copy for your files.

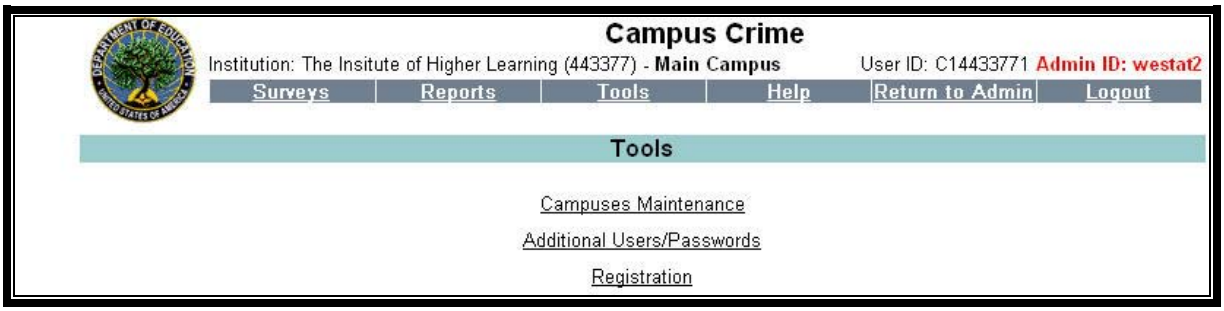


Tools

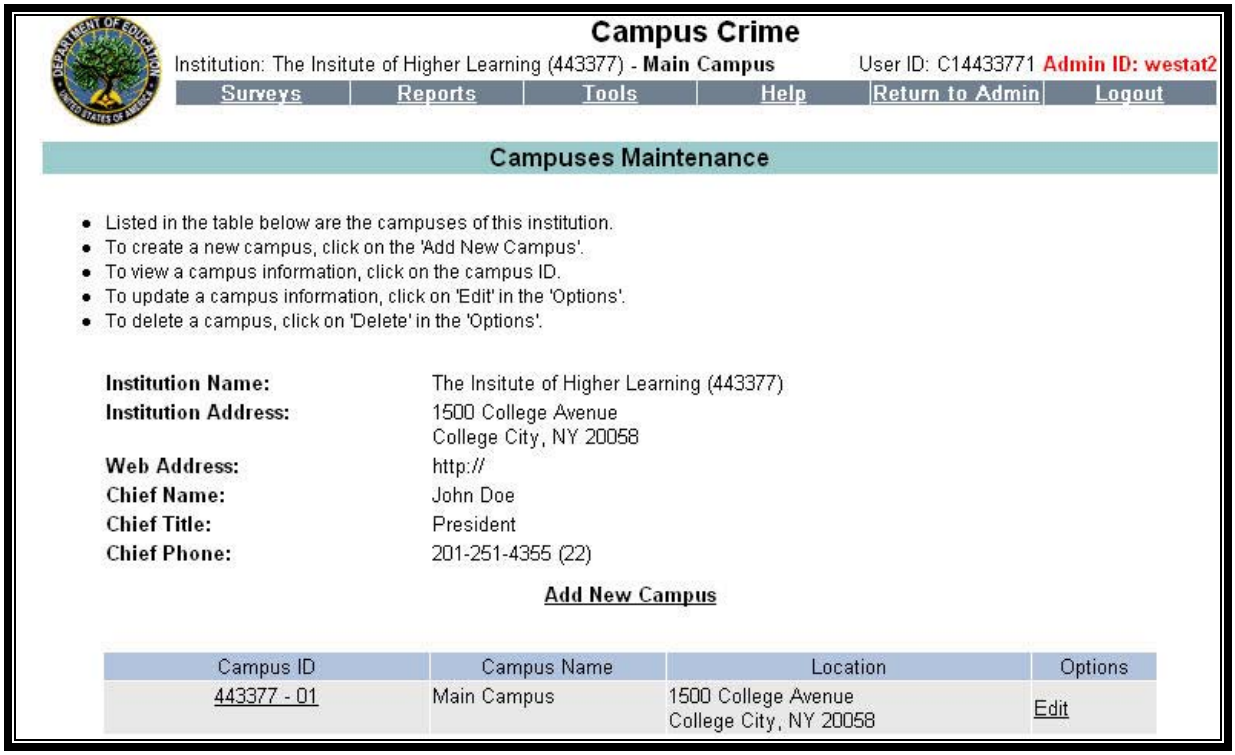
Using the "Campus Maintenance" function, you can add additional campuses. An additional campus must meet the definition of a separate campus. (See Chapter 2 for the definition of a separate campus.)

You also may request up to six additional users and passwords. Click on "Additional Users/Passwords" to make a request.

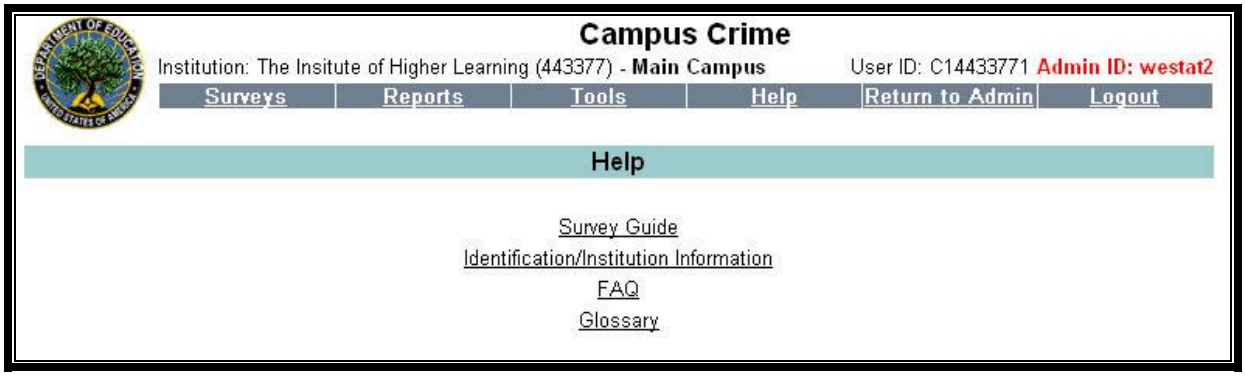
If changes need to be made on the "Registration" screen, use the "Registration" link included here.



Campuses cannot be deleted by users. This is an administrative function, and you must call the Help Desk for assistance.



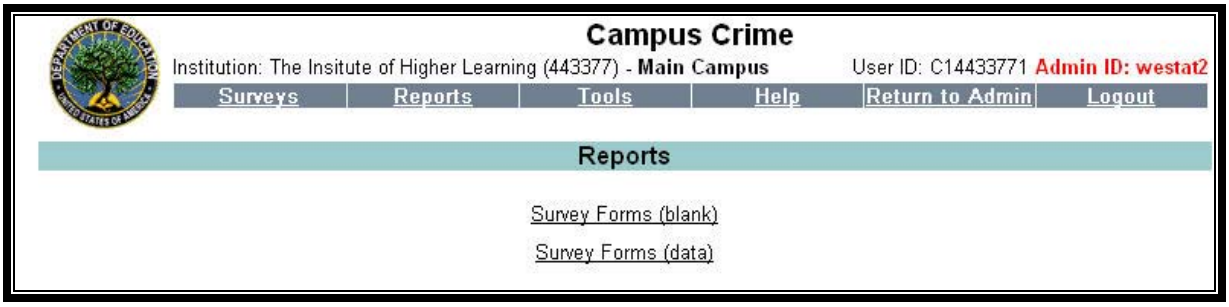
By going to "Help," you can access all of the links available to assist you in finding the answers to any questions you may have.



Under "Reports" you can print out blank forms to assist you in completing the survey.

You can also use "Print All Forms" on the "Login" screen to print blank screens.

When you have completed your data entry and have locked your survey, you can print the completed survey by selecting "Survey Forms (data)" from the "Reports" menu. You can also select the "Print" link on the Survey Screen.



Appendix A:

The *Clery Act* Regulations

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A Legislative History of the *Clery Act*

The *Student Right to Know and Campus Security Act* (Public Law 101-542) was signed into law by President Bush in 1990 and went into effect on Sept. 1, 1991. Title II of this act is known as the *Crime Awareness and Campus Security Act of 1990*. This act amends the *Higher Education Act of 1965* (HEA) by adding campus crime statistics and reporting provisions for postsecondary institutions. It requires the disclosure of crime statistics for the most recent three years, as well as disclosure of the institution's current security policies. Institutions are also required to issue timely warnings when necessary. All public and private Title IV eligible institutions must comply with the requirements of this act which is enforced by the U. S. Department of Education (ED).

This law was amended when Congress enacted the Campus Sexual Assault Victim's Bill of Rights as part of the *Higher Education Amendments of 1992* {Public Law 102-325, Section 486(C)}, giving victims of sexual assault on campus certain basic rights. In addition, institutions are required to develop and distribute a policy statement concerning their campus sexual assault programs targeting the prevention of sex offenses. This statement must also address the procedures to be followed if a sex offense occurs.

The most recent version of this law was passed as part of the *Higher Education Amendments Act of 1998* {Section 486(e) of Public Law 105-244}. The official title under this act is the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* {20 U.S.C. 1092(f)}. On Nov. 1, 1999, ED issued the final regulations which went into effect on July 1, 2000. The amendments require ED to collect, analyze, and report to Congress on the incidences of crime on college campuses. The amendments also expand the requirement of the *Student Right to Know and Campus Security Act of 1990* that all institutions of higher education participating in the federal student aid programs must disclose to students, faculty, staff, and, upon request, prospective students, information regarding the incidence of crimes on campus as part of their campus security report.

The 1998 amendments made several changes to the disclosure requirements. Among these changes were the addition of two crimes (Arson and Negligent Manslaughter) and three locations (residence halls, noncampus buildings or property not geographically contiguous to the campus, and public property immediately adjacent to a facility that is owned or operated by the institution for education purposes) that schools must include in the reported statistics. Institutions that have a campus police or security department are required to maintain a daily crime log that is available to the public.

The *Clery Act* was further amended in October 2000 by the *Campus Sex Crimes Prevention Act* (Section 1601 of Public Law 106-386). The changes went into effect on Oct. 28, 2002. Beginning in 2003, institutions are required to notify the campus community where law enforcement agency information provided by a state concerning registered sex offenders who are on campus may be obtained.

The text for the regulations, as well as Section 668.41, Reporting and Disclosure of Information, are included in this appendix.

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Monday
November 1, 1999

Part IX

Department of Education

34 CFR Part 668
Student Assistance General Provisions; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1845–AA03

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

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 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 §§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.

FOR FURTHER INFORMATION CONTACT: Paula Husselmann (Paula_Husselmann@ed.gov) or Lloyd Horwich (Lloyd_Horwich@ed.gov), U.S. Department of Education, 400 Maryland Avenue, SW, ROB–3, room 3045, Washington, DC 20202–5344. Telephone (202) 708–8242. 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 alternate format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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 §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 §668.42 by incorporating it into §668.41.
- Amending §668.43 to require institutions to disclose their requirements and procedures for a student to officially withdraw from the institution.
- Amending §668.45 regarding the disclosure of completion/graduation and transfer-out rate information by implementing changes made by the 1998 Amendments, providing for a July 1 annual disclosure date, limiting the required disclosure of transfer-out rates to certain institutions, achieving greater consistency between term and nonterm-based institutions in establishing a cohort, and adding optional disclosures.
- Amending §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.
- Amending §668.47 by providing for the disclosure of additional data about revenues and expenses attributable to an institution's intercollegiate athletic activities, by clarifying the meaning of various terms, and by requiring institutions annually to submit their Equity in Athletics Disclosure Act (EADA) report to the Department.
- Amending §668.48 to correspond with §668.45 concerning the disclosure of completion/graduation and transfer-out rates.

Discussion of Student Financial Assistance Regulations Development Process

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 Act, we obtain public involvement in the development of the proposed regulations. After obtaining advice and recommendations, we must conduct a negotiated rulemaking process to develop the proposed regulations. All proposed regulations must conform to agreements resulting from the negotiated rulemaking process unless we reopen that process or explain any departure from the agreements to the negotiated rulemaking participants.

These regulations were published in proposed form on August 10, 1999, in conformance with the consensus of the negotiated rulemaking committee. Under the committee's protocols, consensus meant that no member of the committee dissented from the agreed-upon language. We invited comments on the proposed regulations by September 15, 1999, and 132 comments were received. An analysis of the comments and of the changes in the proposed regulations follows.

These regulations reflect the following changes to the proposed regulations in response to public comment:

- In §668.43(a)(3), we clarified that the requirement that institutions disclose when a student must officially withdraw from the institution includes the disclosure of the procedures for a student to officially withdraw.
- In §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 §668.46(a) to §668.41(a).

We added §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.

We discuss substantive issues under the sections of the regulations to which they pertain. Generally, we do not address technical and other minor changes and

suggested changes the law does not authorize us to make.

Analysis of Comments and Changes

Subpart D—Institutional and Financial Assistance Information for Students

These regulations (1) retitle Subpart D from "Student Consumer Information Services" to "Institutional and Financial Assistance Information for Students," to conform the title to that of section 485 of the HEA, and (2) renumber the sections.

These regulations remove current § 668.42 and incorporate it into § 668.41. Therefore, these regulations renumber current §§ 668.43–49 as §§ 668.42–48; the preamble to these regulations refers to the new section numbers.

Questions and Recommendations:

Commenters requested guidance on implementation of the requirements of this subpart and made recommendations concerning how we should interpret these regulations or apply them to particular circumstances. As these comments did not request any changes in the proposed regulations, we will provide separate guidance at a later date.

General Comments

The Secretary should clarify the record retention requirements that apply to these regulations.

Discussion: Section 668.24 of the Student Assistance General Provisions outlines the record retention requirements for the student financial assistance programs. Generally, a record must be maintained for three years following the end of the award year for which the record was established. With respect to the disclosure of institutional and financial assistance information provided under Subpart D of the Student Assistance General Provisions, the purpose is for the disclosure of certain information to students and other parties. Therefore, the institution must retain any record related to the disclosure for three years following the date of disclosure.

Using the campus security records as an example, an institution's annual security report to be disclosed on October 1, 2000 must include crime statistics for calendar years 1997, 1998, and 1999. The record retention regulations require the institution to retain records to substantiate the information in its 2000 report for three years from October 1, 2000. Therefore, calendar year 1997 records must be retained until October 1, 2003.

Changes: None.

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 § 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 § 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 § 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 § 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 § 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 (§§ 668.41(a), 668.45(a)(3)(iii), and 668.45(a)(4)(i)–(ii)).

Comments: The definition of "notice" in § 668.41(a) should not require institutions, in providing the various notices of the availability of information required by § 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 §§ 668.41(c) and (d) to include completion and graduation rates, and if applicable, transfer-out rates, for athletes under § 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 § 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.

Changes: None.

Comments: The Department should clarify that § 99.7, which is referenced in § 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 § 668.41(d)(4) to § 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 § 668.42(c)(7).

Comments: If the purpose of the revised § 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 § 668.46(g) to § 668.41.

Discussion: We agree with the commenters.

Changes: Section 668.46(g) in the NPRM is moved to § 668.41(e)(5).

Comments: The Department should clarify that the prohibition on using the Internet to provide the information required by § 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 § 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 § 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 668.43 Institutional and Financial Assistance Information

Comments: The requirement in § 668.43(a)(2) and (4) that an institution disclose any refund policy with which the institution is required to comply should make clear that the requirement refers to any refund policy required by the institution's accrediting agency or State agency, not to the requirements for determining the amount of Title IV HEA program assistance that a student has earned upon withdrawal.

Discussion: Institutions are required to disclose any refund policy that requires the return of unearned funds to their source. This information includes the determination of amounts returned to the title IV programs and all other provisions of § 668.22, as well as any refund policy required by the State or the school's accrediting agency, or any institutional refund policy.

Changes: None.

Comments: In addition to an institution's disclosure of when a student must officially withdraw from the institution, the disclosure should include the institution's procedures for that withdrawal.

Discussion: Any disclosure of the requirements for withdrawal must necessarily include sufficient information for a student to know how to go about withdrawing from the institution.

Changes: We revised § 668.43(a)(3) to clarify that the requirement that an institution disclose its requirements for withdrawal includes a requirement that an institution disclose the procedures a student must follow to officially withdraw.

Section 668.45 Information on Completion or Graduation Rates

Comments: Term-based institutions whose students enroll before September 1 of a given year should continue to include these students in their fall cohort for that year.

Discussion: These regulations do not change how a term-based institution establishes its fall cohort. A term-based institution may include in its fall cohort students who enroll for the fall term before September 1 of a given year, and continue to include students who attended the institution for the first time during the summer preceding the fall term.

Changes: We revised § 668.45(a)(3)(i) to clarify that an institution's fall cohort must include all students who enter a term-based institution during the fall term, regardless of whether they enter before or after September 1.

Comments: Institutions should be allowed to disclose graduation or completion and, if applicable, transfer-out rates for their 1996 and 1997 cohorts based on a September 1 though August 31 year.

Discussion: We agree. The 1998 Amendments changed the year during which institutions must determine whether students for whom 150% of normal time for completion of their programs has elapsed have completed or graduated from the program from July 1 through June 30 to September 1 through August 31. These regulations reflect the statutory change.

Changes: None.

Comments: In determining its fall cohort, a term-based institution should be able to consider who is enrolled on another official fall reporting date other than October 15 or the end of the drop-add period to make the reporting date consistent with the Department's Integrated Postsecondary Education Data System's (IPEDS) Fall Enrollment (EF) report.

Discussion: We agree that a term-based institution's establishment of its fall cohort under this regulation should be consistent with the IPEDS data on fall enrollment.

Changes: We revised § 668.45(a)(4) to include as an entering student a first-time, full-time, certificate or degree-seeking undergraduate who is enrolled on another official fall reporting date. Also, we added to § 668.41(a) the definition of "official fall reporting date" used by the IPEDS EF report.

Comments: Transfer-out rates should be optional for all institutions for a number of reasons, including the greater regulatory burden placed on institutions that consider "substantial preparation" as part of their mission—for example, community colleges.

Discussion: The HEA requires institutions to report the rate at which students who receive substantial preparation transfer out of the institution. Therefore, the transfer-out rate cannot be made optional in all cases. These regulations limit the requirement to institutions that determine that their missions include providing substantial preparation for their students to enroll in other eligible institutions. Institutions with substantial numbers of transfers-out may have a lower graduation and completion rate than other institutions and thus may find it desirable to report a transfer-out rate. We anticipate that the required transfer-out rate will not apply to most four-year institutions. Consistent with the treatment of

transfer-out students by IPEDS Graduation Rate Survey (GRS), an institution only is required to report on students whom the institution knows transferred to another institution.

Changes: None.

Comments: The Secretary should clarify that a student who leaves an undergraduate institution for study at a graduate institution is not a transfer-out under these regulations.

Discussion: For purposes of these regulations, a student who leaves an undergraduate program for study in a graduate program is not considered a transfer-out. Normally, such a student would have completed his or her program and be included in the institution's completion/graduation rate.

Changes: None.

Comments: A term-based institution should be defined as an institution at which more than fifty percent of the programs are term-based.

Discussion: Section 668.45(a)(3)(i) defines a term-based institution as an institution at which a predominant number of the programs are based on semesters, trimesters, or quarters.

Changes: None.

Comments: The Secretary should indicate that an institution's compliance with the IPEDS GRS ensures compliance with the methodological requirements of § 668.45.

Discussion: We agree. An institution's compliance with the GRS constitutes compliance with the methodological provisions of §§ 668.45 and 668.48.

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 § 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.

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 § 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 § 668.46 to § 668.41, because it applies to both sections, and the definitions in § 668.41 apply to the entire subpart, while those in § 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 § 668.41.

Changes: The definition of prospective employee is moved from § 668.46(a) to § 668.41(a).

Comments: Some commenters objected to the requirement in § 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, § 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.

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 §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.

Section 668.47 Report on Athletic Program Participation Rates and Financial Support Data

Comments: Section 668.47 should include a separate audit requirement for the data it requires institutions to report.

Discussion: As discussed in the preamble to the NPRM (64 FR 43588–89), the primary change to the EADA made by the 1998 Amendments was the relocation of informational requirements concerning revenues and expenses attributable to institutions' intercollegiate athletic activities from section 487(a) of the HEA (Program Participation Agreements) to section 485(g). In relocating those requirements, Congress repealed the audit requirement under section 487(a). We believe Congress' intent is clear that there should not be a separate audit requirement for the data required by §668.47.

Changes: None.

Comments: Institutions annually submit an audited financial statement to the Department. The requirement in §668.47 to report intercollegiate athletics financial data separately requires reformatting the data, causes the data to appear differently than in the financial statement, and is administratively burdensome. The Department should consider whether the benefit to students, parents, and others from this report outweighs the cost to institutions.

Discussion: The requirements in §668.47 concerning the disclosure of intercollegiate athletics financial data are statutory requirements.

Changes: None.

Comments: When and to which office of the Department should institutions submit their EADA reports?

Discussion: We are developing a process for receiving the reports. When the process is complete, we will inform institutions on the Department's IFAP website: http://ifap.ed.gov. Institutions should have made the reports available to students and others by October 15, 1999.

Changes: None

Section 668.48 Report on Completion or Graduation Rates for Student-Athletes

Comments: Allow term-based institutions, in determining their athletic cohorts under §668.48(a), to include athletes who receive athletically related student aid at any time during the academic year in which their cohorts are established, rather than only allowing those institutions to include athletes who receive aid by the end of the institution's drop-add period or by October 15.

Discussion: We stated in the preamble to the NPRM (64 FR 43589) that institutions should include in their athletic cohorts students who receive athletically related student aid by the end of the institution's drop-add period or by October 15 because we believed that would lessen institutions' burden. However, based on the weight of the comments, and because the Department's Integrated Postsecondary Education Data System's (IPEDS) Graduation Rate Survey allows term-based institutions to use the entire academic year to determine their athletic cohorts, we now change the guidance we gave in the preamble to the NPRM and allow term-based institutions to use the entire academic year to determine their athletic cohorts.

Further, we clarify that "drop-add period," in this context, refers to institutions' fall drop-add periods.

Changes: None.

Executive Order 12866

We have reviewed these final regulations in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with these final regulations are those resulting from statutory requirements and those we have determined to be

necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of these final regulations, we have determined that the benefits of the regulations justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

We summarized the potential costs and benefits of these final regulations in the preamble to the NPRM (64 FR 43589–43590).

Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 does not require you to respond to a collection of information unless it displays a valid OMB control number. We display the valid OMB control numbers assigned to the collections of information in these final regulations at the end of the affected sections of the regulations.

Assessment of Educational Impact

In the NPRM, we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and on our 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.

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To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at the first of the previous sites. If you have questions about using the 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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(Catalog of Federal Domestic Assistance numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Consolidation Program; 84.032 Federal Stafford Loan Program; 84.032 Federal PLUS Program; 84.032 Federal Supplemental Loans for Students Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; 84.069 LEAP; and 84.268 William D. Ford Federal Direct Loan Programs)

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Student aid, Reporting and recordkeeping requirements.

Dated: October 19, 1999.

Richard W. Riley,

Secretary of 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 is revised to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1094, 1099c and 1141, unless otherwise noted.

2. The title of subpart D is revised to read as follows:

Subpart D—Institutional and Financial Assistance Information for Students

3. Section 668.41 is revised to read as follows:

§ 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 §§ 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 (§ 99.7 sets forth the notification requirements of

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 § 668.42);

(2) The institution (pursuant to § 668.43); and

(3) The institution's completion or graduation rate and, if applicable, its transfer-out rate (pursuant to § 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 § 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 § 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 § 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 § 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 § 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 § 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 § 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)

4. Section 668.42 is removed, and §§ 668.43 through 668.49 are redesignated as §§ 668.42 through 668.48, respectively.

5. Newly redesignated § 668.42 is amended by removing the word "and" at the end of paragraph (c)(5); by removing the period at the end of paragraph (c)(6), and adding, in its place, "; and"; by adding a new paragraph (c)(7) and revising the OMB control number to read as follows:

§ 668.42 Financial assistance information.

* * * * *

(c) ***

(7) The terms and conditions under which students receiving Federal Family Education Loan or William D. Ford Federal Direct Loan assistance may obtain deferral of the repayment of the principal and interest of the loan for—

(i) Service under the Peace Corps Act (22 U.S.C. 2501);

(ii) Service under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4961); or

(iii) Comparable service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service.

(Approved by the Office of Management and Budget under control number 1845-0022)

* * * * *

6. Newly redesignated § 668.43 is revised to read as follows:

§ 668.43 Institutional information.

(a) Institutional information that the institution must make readily available upon request to enrolled and prospective students under this subpart includes, but is not limited to—

(1) The cost of attending the institution, including—

(i) Tuition and fees charged to full-time and part-time students;

(ii) Estimates of costs for necessary books and supplies;

(iii) Estimates of typical charges for room and board;

(iv) Estimates of transportation costs for students; and

(v) Any additional cost of a program in which a student is enrolled or expresses a specific interest;

(2) Any refund policy with which the institution is required to comply for the return of unearned tuition and fees or other refundable portions of costs paid to the institution;

(3) The requirements and procedures for officially withdrawing from the institution;

(4) A summary of the requirements under § 668.22 for the return of title IV grant or loan assistance;

(5) The academic program of the institution, including—

(i) The current degree programs and other educational and training programs;

(ii) The instructional, laboratory, and other physical facilities which relate to the academic program; and

(iii) The institution's faculty and other instructional personnel;

(6) The names of associations, agencies or governmental bodies that accredit, approve, or license the institution and its programs and the procedures by which documents describing that activity may be reviewed under paragraph (b) of this section;

(7) A description of any special facilities and services available to disabled students;

(8) The titles of persons designated under § 668.44 and information regarding how and where those persons may be contacted; and

(9) A statement that a student's enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment at the home institution for the purpose of applying for assistance under the title IV, HEA programs.

(b) The institution must make available for review to any enrolled or prospective student, upon request, a copy of the documents describing the institution's accreditation, approval or licensing.

(Approved by the Office of Management and Budget under control number 1845-0022)

(Authority: 20 U.S.C. 1092)

7. Newly redesignated § 668.45 is revised to read as follows:

§ 668.45 Information on completion or graduation rates.

(a)(1) An institution annually must prepare the completion or graduation rate of its certificate- or degree-seeking, full-time undergraduate students, as provided in paragraph (b) of this section.

(2) An institution that determines that its mission includes providing substantial preparation for students to enroll in another eligible institution must prepare the transfer-out rate of its certificate- or degree-seeking, full-time undergraduate students, as provided in paragraph (c) of this section.

(3)(i) An institution that offers a predominant number of its programs based on semesters, trimesters, or quarters must base its completion or graduation rate and, if applicable, transfer-out rate calculations, on the cohort of first-time, certificate- or degree-seeking, full-time undergraduate students who enter the institution during the fall term of each year.

(ii) An institution not covered by the provisions of paragraph (a)(3)(i) of this section must base its completion or graduation rate and, if applicable, transfer-out rate calculations, on the group of certificate- or degree-seeking, full-time undergraduate students who enter the institution between September 1 of one year and August 31 of the following year.

(iii) For purposes of the completion or graduation rate and, if applicable, transfer-out rate calculations required in paragraph (a) of this section, an institution must count as entering students only first-time undergraduate students, as defined in § 668.41(a).

(4)(i) An institution covered by the provisions of paragraph (a)(3)(i) of this section must count as an entering student a first-time undergraduate student who is enrolled as of October 15, the end of the institution's drop-add period, or another official reporting date as defined in § 668.41(a).

(ii) An institution covered by paragraph (a)(3)(ii) of this section must count as an entering student a first-time undergraduate student who is enrolled for at least—

(A) 15 days, in a program of up to, and including, one year in length; or

(B) 30 days, in a program of greater than one year in length.

(5) An institution must make available its completion or graduation rate and, if applicable, transfer-out rate, no later than the July 1 immediately following the 12-month period ending August 31 during which 150% of the normal time for completion or graduation has elapsed for all of the students in the group on which the institution bases its completion or graduation rate and, if applicable, transfer-out rate calculations.

(b) In calculating the completion or graduation rate under paragraph (a)(1) of this section, an institution must count as completed or graduated—

(1) Students who have completed or graduated by the end of the 12-month period ending August 31 during which 150% of the normal time for completion or graduation from their program has lapsed; and

(2) Students who have completed a program described in § 668.8(b)(1)(ii), or an equivalent program, by the end of the 12-month period ending August 31 during which 150% of normal time for completion from that program has lapsed.

(c) In calculating the transfer-out rate under paragraph (a)(2) of this section, an institution must count as transfers-out students who by the end of the 12-month period ending August 31 during which 150% of the normal time for completion or graduation from the program in which they were enrolled has lapsed, have not completed or graduated but have subsequently enrolled in any program of an eligible institution for which its program provided substantial preparation.

(d) For the purpose of calculating a completion or graduation rate and a transfer-out rate, an institution may exclude students who—

(1) Have left school to serve in the Armed Forces;

(2) Have left school to serve on official church missions;

(3) Have left school to serve with a foreign aid service of the Federal Government, such as the Peace Corps;

(4) Are totally and permanently disabled; or

(5) Are deceased.

(e)(1) The Secretary grants a waiver of the requirements of this section to any institution that is a member of an athletic association or conference that

has voluntarily published completion or graduation rate data, or has agreed to publish data, that the Secretary determines are substantially comparable to the data required by this section.

(2) An institution that receives a waiver of the requirements of this section must still comply with the requirements of §668.41(d)(3) and (f).

(3) An institution, or athletic association or conference applying on behalf of an institution, that seeks a waiver under paragraph (e)(1) of this section must submit a written application to the Secretary that explains why it believes the data the athletic association or conference publishes are accurate and substantially comparable to the information required by this section.

(f) In addition to calculating the completion or graduation rate required by paragraph (a)(1) of this section, an institution may, but is not required to—

(1) Calculate a completion or graduation rate for students who transfer into the institution;

(2) Calculate a completion or graduation rate and transfer-out rate for students described in paragraphs (d)(1) through (4) of this section; and

(3) Calculate a transfer-out rate as specified in paragraph (c) of this section, if the institution determines that its mission does not include providing substantial preparation for its students to enroll in another eligible institution.

(Approved by the Office of Management and Budget under control number 1845–0004)

(Authority: 20 U.S.C. 1092)

8. Newly redesignated §668.46 is revised to read as follows:

§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.

(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

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)

9. Newly redesignated § 668.47 is revised to read as follows:

§ 668.47 Report on athletic program participation rates and financial support data.

(a) *Applicability.* This section applies to a co-educational institution of higher education that—

(1) Participates in any title IV, HEA program; and

(2) Has an intercollegiate athletic program.

(b) *Definitions.* The following definitions apply for purposes of this section only.

(1) *Expenses.*—(i) *Expenses* means expenses attributable to intercollegiate athletic activities. This includes appearance guarantees and options, athletically related student aid, contract services, equipment, fundraising activities, operating expenses, promotional activities, recruiting expenses, salaries and benefits, supplies, travel, and any other expenses attributable to intercollegiate athletic activities.

(ii) *Operating expenses* means all expenses an institution incurs attributable to home, away, and neutral-site intercollegiate athletic contests (commonly known as "game-day expenses"), for—

(A) Lodging, meals, transportation, uniforms, and equipment for coaches, team members, support staff (including, but not limited to team managers and trainers), and others; and

(B) Officials.

(iii) *Recruiting expenses* means all expenses an institution incurs attributable to recruiting activities. This includes, but is not limited to, expenses for lodging, meals, telephone use, and transportation (including vehicles used for recruiting purposes) for both recruits and personnel engaged in recruiting, any other expenses for official and unofficial visits, and all other expenses related to recruiting.

(2) *Institutional salary* means all wages and bonuses an institution pays a coach as compensation attributable to coaching.

(3)(i) *Participants* means students who, as of the day of a varsity team's first scheduled contest—

(A) Are listed by the institution on the varsity team's roster;

(B) Receive athletically related student aid; or

(C) Practice with the varsity team and receive coaching from one or more varsity coaches.

(ii) Any student who satisfies one or more of the criteria in paragraphs (b)(3)(i)(A) through (C) of this section is a participant, including a student on a team the institution designates or defines as junior varsity, freshman, or novice, or a student withheld from competition to preserve eligibility (*i.e.*, a redshirt), or for academic, medical, or other reasons.

(4) *Reporting year* means a consecutive twelve-month period of time designated by the institution for the purposes of this section.

(5) *Revenues* means revenues attributable to intercollegiate athletic activities. This includes revenues from appearance guarantees and options, an athletic conference, tournament or bowl games, concessions, contributions from alumni and others, institutional support, program advertising and sales, radio and television, royalties, signage and other sponsorships, sports camps, State or other government support, student activity fees, ticket and luxury box sales, and any other revenues attributable to intercollegiate athletic activities.

(6) *Undergraduate students* means students who are consistently designated as such by the institution.

(7) *Varsity team* means a team that—

(i) Is designated or defined by its institution or an athletic association as a varsity team; or

(ii) Primarily competes against other teams that are designated or defined by their institutions or athletic associations as varsity teams.

(c) *Report.* An institution described in paragraph (a) of this section must annually, for the preceding reporting year, prepare a report that contains the following information:

(1) The number of male and the number of female full-time undergraduate students that attended the institution.

(2) A listing of the varsity teams that competed in intercollegiate athletic competition and for each team the following data:

(i) The total number of participants as of the day of its first scheduled contest

of the reporting year, the number of participants who also participated on another varsity team, and the number of other varsity teams on which they participated.

(ii) Total operating expenses attributable to the team, except that an institution may report combined operating expenses for closely related teams, such as track and field or swimming and diving. Those combinations must be reported separately for men's and women's teams.

(iii) In addition to the data required by paragraph (c)(2)(ii) of this section, an institution may report operating expenses attributable to the team on a per-participant basis.

(iv)(A) Whether the head coach was male or female, was assigned to the team on a full-time or part-time basis, and, if assigned on a part-time basis, whether the head coach was a full-time or part-time employee of the institution.

(B) The institution must consider graduate assistants and volunteers who served as head coaches to be head coaches for the purposes of this report.

(v)(A) The number of assistant coaches who were male and the number of assistant coaches who were female, and, within each category, the number who were assigned to the team on a full-time or part-time basis, and, of those assigned on a part-time basis, the number who were full-time and part-time employees of the institution.

(B) The institution must consider graduate assistants and volunteers who served as assistant coaches to be assistant coaches for purposes of this report.

(3) The unduplicated head count of the individuals who were listed under paragraph (c)(2)(i) of this section as a participant on at least one varsity team, by gender.

(4)(i) Revenues derived by the institution according to the following categories (Revenues not attributable to a particular sport or sports must be included only in the total revenues attributable to intercollegiate athletic activities, and, if appropriate, revenues attributable to men's sports combined or women's sports combined. Those revenues include, but are not limited to, alumni contributions to the athletic department not targeted to a particular sport or sports, investment interest income, and student activity fees.):

(A) Total revenues attributable to its intercollegiate athletic activities.

(B) Revenues attributable to all men's sports combined.

(C) Revenues attributable to all women's sports combined.

(D) Revenues attributable to football.

(E) Revenues attributable to men's basketball.

(F) Revenues attributable to women's basketball.

(G) Revenues attributable to all men's sports except football and basketball, combined.

(H) Revenues attributable to all women's sports except basketball, combined.

(ii) In addition to the data required by paragraph (c)(4)(i) of this section, an institution may report revenues attributable to the remainder of the teams, by team.

(5) Expenses incurred by the institution, according to the following categories (Expenses not attributable to a particular sport, such as general and administrative overhead, must be included only in the total expenses attributable to intercollegiate athletic activities.):

(i) Total expenses attributable to intercollegiate athletic activities.

(ii) Expenses attributable to football.

(iii) Expenses attributable to men's basketball.

(iv) Expenses attributable to women's basketball.

(v) Expenses attributable to all men's sports except football and basketball, combined.

(vi) Expenses attributable to all women's sports except basketball, combined.

(6) The total amount of money spent on athletically related student aid, including the value of waivers of educational expenses, aggregately for men's teams, and aggregately for women's teams.

(7) The ratio of athletically related student aid awarded male athletes to athletically related student aid awarded female athletes.

(8) The total amount of recruiting expenses incurred, aggregately for all men's teams, and aggregately for all women's teams.

(9)(i) The average annual institutional salary of the non-volunteer head coaches of all men's teams, across all offered sports, and the average annual institutional salary of the non-volunteer head coaches of all women's teams, across all offered sports, on a per person and a per full-time equivalent position basis. These data must include the number of persons and full-time equivalent positions used to calculate each average.

(ii) If a head coach has responsibilities for more than one team and the institution does not allocate that coach's salary by team, the institution must divide the salary by the number of teams for which the coach has responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

(10)(i) The average annual institutional salary of the non-volunteer assistant coaches of men's teams, across all offered sports, and the average annual institutional salary of the non-volunteer assistant coaches of women's teams, across all offered sports, on a per person and a full-time equivalent position basis. These data must include the number of persons and full-time equivalent positions used to calculate each average.

(ii) If an assistant coach had responsibilities for more than one team and the institution does not allocate that coach's salary by team, the institution must divide the salary by the number of teams for which the coach has responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

(Approved by the Office of Management and Budget under control number 1845–0010)

(Authority: 20 U.S.C. 1092)

§ 668.48 [Amended]

10. Newly redesignated § 668.48 is amended as follows:

A. In paragraph (a)(1), by removing "By July 1, 1997, and by every July 1 every year thereafter, each" and adding, in its place, "Annually, by July 1, an"; by removing "shall" and adding in its place "must"; and by removing "an annual" and adding, in its place "a".

B. In paragraph (a)(1)(iii), by adding ", if applicable," before "transfer-out"; and by removing "§ 668.46(a)(1), (2), (3) and (4)" and adding, in its place, "§ 668.45(a)(1)";

C. In paragraph (a)(1)(iv), by adding ", if applicable," before "transfer-out"; and by removing "§ 668.46(a)(1), (2), (3) and (4)" and adding, in its place, "§ 668.45(a)(1)";

D. In paragraph (a)(1)(v), by adding ", if applicable," before "transfer-out" both times it appears; by removing "§ 668.46(a)(2), (3), and (4)" and adding, in its place, "§ 668.45(a)(1)"; and by removing "shall" and adding, in its place, "must";

E. In paragraph (a)(1)(vi), by adding ", if applicable," before "transfer-out" both times it appears; by adding after "recent," "completing or graduating"; by removing "§ 668.46(a)(2), (3), and (4)" and adding in its place "§ 668.45(a)(1)"; and by removing "shall" and adding in its place "must"; and

F. In paragraph (b), by removing "§ 668.46" and adding in its place "§ 668.45"; by removing "(a)(1)(iii), (a)(1)(iv), and (a)(1)(v)" and adding in

their place "(a)(1)(iii) through (vi)"; and by adding ", if applicable," before "transfer-out."

G. At the end of the section, by replacing the OMB control number "1840–0719" with the number "1845–0004."

11. Appendix E is amended by removing the definition of "Murder," and by adding the following definitions before the definition of "Robbery:"

Appendix E to Part 668—Crime Definitions in Accordance With the Federal Bureau of Investigation's Uniform Crime Reporting Program

* * * * *

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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Part IV

Department of Education

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34 CFR Part 668

Student Assistance General Provisions; Final Rule

[[Page 66520]]

DEPARTMENT OF EDUCATION

34 CFR Part 668

Student Assistance General Provisions

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

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 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.

You may also view this document in PDF format at the following site: http://ifap.ed.gov.

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.

Dated: October 25, 2002.
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

[[Page 66521]]

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

[Code of Federal Regulations]
[Title 34, Volume 3, Parts 400 to end]
[Revised as of July 1, 2000]
From the U.S. Government Printing Office via GPO Access
[CITE: 34CFR668.41]

[Page 469-472]

TITLE 34--EDUCATION

CHAPTER VI--OFFICE OF POSTSECONDARY EDUCATION,
DEPARTMENT OF EDUCATION

PART 668--STUDENT ASSISTANCE GENERAL PROVISIONS--Table of Contents

Subpart D--Institutional and Financial Assistance Information for Students

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

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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 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

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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

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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)

[64 FR 59066, Nov. 1, 1999]

APPENDIX B:

CHECKLIST FOR *CLERY ACT* COMPLIANCE

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Checklist for *Clery Act* Compliance

This list is designed to help you determine if you are meeting the various components of *Clery Act* compliance. It is not a substitute for reading the 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 (Chapter 2), *Clery Act* requirements must be met for each one individually.

I. Development, Disclosure and Implementation of Security Policies

A. Mandatory for all institutions.
B. On-going basis throughout the year.
C. Your institution is required, per its Title IV Program Participation Agreement, to have a campus security policy. Certain specific policy components are required by the *Clery Act* and are identified in the handbook in Chapters 8 and 9. Your institution's policy statements must accurately reflect how the policies are currently implemented.
D. Do you have:
   1. An individual or office designated to ensure that your institution's security policies are actively implemented as prescribed? ..... ☐

II. Campus Security Authorities (Chapter 4)

A. Mandatory for all institutions.
B. On-going basis throughout the year.
C. In addition to campus police or security personnel, if applicable, your institution must identify other individuals or offices with significant responsibility for student and campus activities. Alleged crimes reported *to* these authorities are then reported *by* these authorities to campus police or security, to local police, or to someone designated by the institution to collect such reports.
D. Do you have:
   1. Designated campus security authorities who understand their functions and responsibilities?..... ☐
   2. A person or office responsible for overseeing campus security authorities and ensuring the collection of crime reports?..... ☐

III. Timely Warnings (Chapter 5)

A. Mandatory for all institutions.
B. On-going basis throughout the year.
C. Your institution must alert the campus community of any *Clery Act* crimes that are reported to campus security authorities or local police and are considered to represent a serious or continuing threat to students and employees.
D. Do you have:
   1. A written timely warning policy? ..... ☐
   2. An individual or office responsible for issuing timely warnings? ..... ☐
   3. One or more methods of disseminating timely warnings?..... ☐
   4. Communication with local police requesting their cooperation in informing the institution about crimes reported to them that may warrant timely warnings? ..... ☐

IV. The Daily Crime Log (Chapter 6)

A. Mandatory for all institutions that maintain a campus police or security department.

B. On-going basis throughout the year.

C. Your institution must disclose all alleged criminal incidents, including non-*Clery Act* crimes, reported to the campus police or security department.

D. Do you have:

1. A hard copy or electronic crime log that records criminal incidents by the date reported, and which includes:
   a) The nature of the crime? ☐
   b) The date and time the crime occurred? ☐
   c) The general location of the crime? ☐
   d) The disposition of the complaint, if known? ☐
2. Public access to the log? ☐
3. An individual or individuals responsible for maintaining the log on a daily basis? ☐

V. Statistics From Local Police (Chapter 4)

A. Mandatory for all institutions.

B. Periodic basis throughout the year.

C. Your institution must make a good-faith effort to collect crime statistics for all *Clery Act* crimes committed in applicable geographic locations from all police agencies with jurisdiction for your institution.

D. Do you have:

1. An individual or office responsible for requesting crime statistics from local and state police? ☐
2. Documentation of your institution's efforts to obtain the statistics and documentation of any noncompliance on behalf of the police? ☐
3. Statistics from *all* the appropriate police agencies with jurisdiction for your institution? ☐

VI. Report to ED Via the Web-based Data Collection (Chapter 11)

A. Mandatory for all institutions.

B. Annually each fall per letter from ED.

C. Your institution is required to submit the crime statistics portion of the annual security report via the ED Web site each year.

D. Do you have:

1. An individual or office designated to enter and submit the statistics? ☐

VII. Annual Security Report (Chapters 7 – 10)

A. Mandatory for all institutions.

B. Publish and distribute annually by Oct. 1 to all enrolled students and all employees. Provide notice, as appropriate, to all prospective students and employees.

C. This report has two main parts:

1. Disclosure of crime statistics (by *Clery Act* geographic locations and by year reported).

a) Do you have:

(1) An individual or office responsible for collecting all crime reports from campus security authorities and local police for inclusion in the annual security report? ☐

(2) Crime statistics for:

Offenses

(a) Murder and non-negligent manslaughter ☐
(b) Negligent manslaughter ☐
(c) Forcible sex offenses ☐
(d) Non-forcible sex offenses ☐
(e) Robbery ☐
(f) Aggravated assault ☐
(g) Burglary ☐
(h) Motor vehicle theft ☐
(i) Arson ☐
(j) Hate crimes ☐

Arrests

(k) Weapons possession ☐
(l) Drug law ☐
(m) Liquor law ☐

Referrals

(n) Weapons possession ☐
(o) Drug law ☐
(p) Liquor law ☐

2. Disclosure of Policy Statements

(a) Do you have statements addressing:

(1) Procedures for reporting crimes and other emergencies, specifically including:
(a) Timely warnings? ☐
(b) Reporting crimes on a voluntary, confidential basis? ☐
(c) Preparing the annual security report? ☐
(d) Titles of persons or organizations to whom crimes should be reported? ☐

(2) Policies concerning the security of, and access to, campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities? ☐

(3) Policies concerning campus law enforcement, specifically including:
(a) Enforcement authority of security personnel? ☐
(b) Working relationship with state and local police agencies? ☐
(c) Arrest authority of security personnel? ☐

(4) Policies and procedures encouraging accurate and prompt reporting of all crimes to campus police and local police? ☐

(5) Policy encouraging pastoral and professional counselors, if allowed by institution, to inform clients of voluntary, confidential crime reporting procedures? ☐

(6) Programs to inform students and employees about campus safety procedures and to encourage students and employees to be responsible for themselves and others with regard to safety, specifically including:
(a) Types of programs? ☐
(b) Frequency of programs? ☐

(7) Programs to inform students and employees about crime prevention? ..... ☐
(8) Policy concerning monitoring and recording student off-campus criminal activity through local police, including student organizations with off-campus housing? ..... ☐
(9) Alcohol policy? ..... ☐
(10) Drug policy? ..... ☐
(11) Description of drug or alcohol abuse education programs (may cross-reference HEA materials)? ..... ☐
(12) Sexual assault programs to prevent sexual offenses and procedures if an offense occurs, specifically including:
  (a) Description of relevant educational programs? ..... ☐
  (b) Procedures students should follow if sexually assaulted, specifically including:
    (i) Procedures regarding whom to contact? ..... ☐
    (ii) Importance of preserving evidence? ..... ☐
    (iii) To whom the offense should be reported? ..... ☐
(13) Information on a student's option to notify law enforcement authorities, specifically including:
  (a) Campus and local police? ..... ☐
  (b) Statement that institution will assist the student with notification, if desired? ..... ☐
(14) Notification to students of on-and-off campus sex offender victim services? ☐
(15) Notification that institution will assist victim with changes in academic and living arrangements if desired and if available? ..... ☐
(16) Procedures for disciplinary action for alleged sex offenses, including a clear statement that:
  (a) Accuser and accused are entitled to same opportunities to have others present during a disciplinary proceeding? ..... ☐
  (b) Accuser and accused must be informed of outcome of any institutional disciplinary proceeding alleging a sex offense? ..... ☐
(17) Sanctions the institution may impose following a final determination of a sex offense disciplinary proceeding? ..... ☐
(18) Statement advising campus community where law enforcement agency information provided by state concerning registered sex offenders may be obtained? ..... ☐



Remember, if your institution does *not* have a policy, procedure, practice, etc., for a category addressed in the regulations, you must say so.

APPENDIX C:

CASE MANAGEMENT DIVISION CONTACT INFORMATION

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The School Eligibility Channel—Case Management Teams

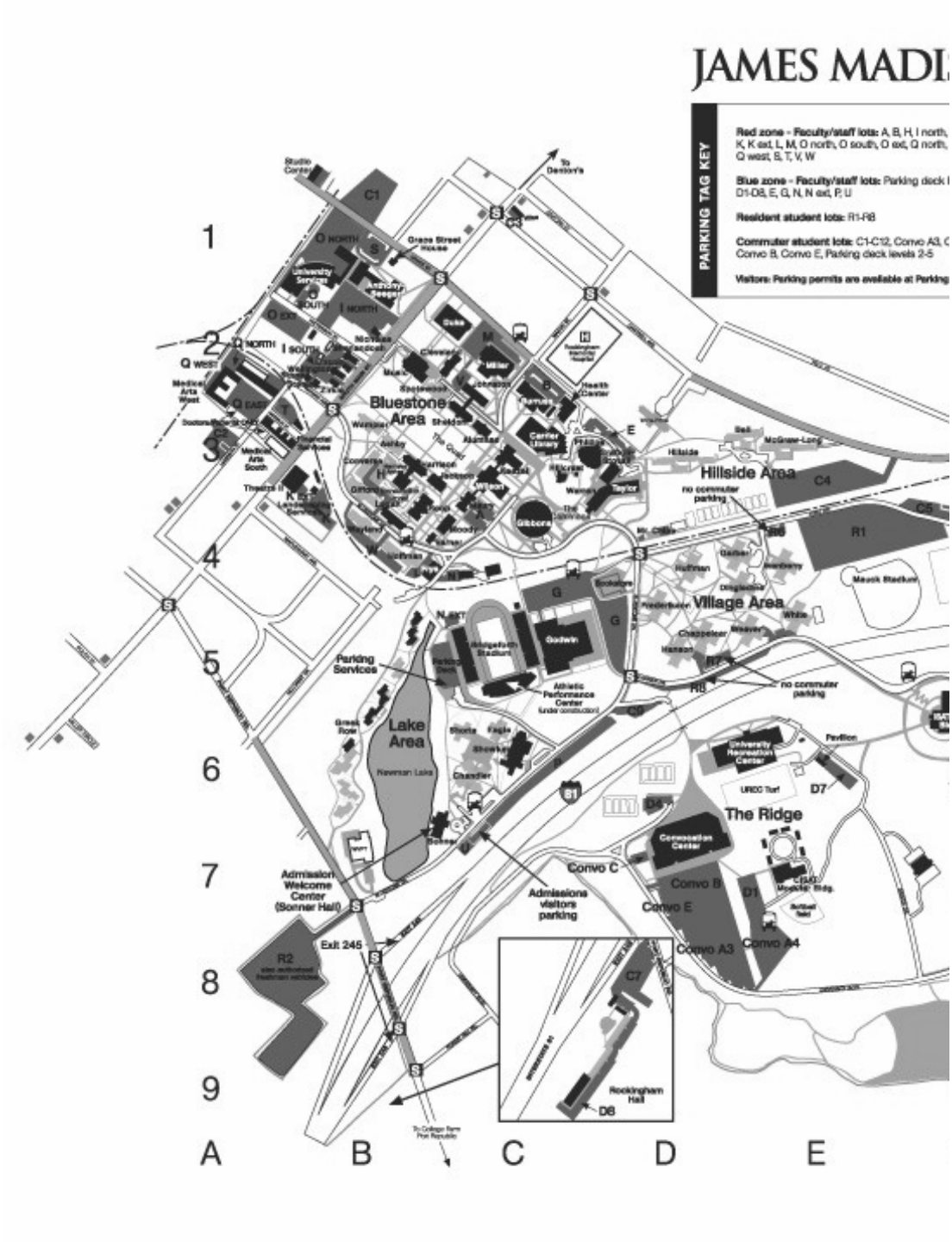
Your Location	Point of Contact	Telephone No.	Fax No.
Alabama	Atlanta Team	(404) 562-6315	(404) 562-6321
Alaska	Seattle Team	(206) 615-2594	(206) 615-2508
American Samoa	San Francisco Team	(415) 556-4295	(415) 437-8206
Arizona	San Francisco Team	(415) 556-4295	(415) 437-8206
Arkansas	Dallas Team	(214) 880-3044	(214) 880-2462
California	San Francisco Team	(415) 556-4295	(415) 437-8206
Canal Zone	New York Team	(212) 264-4022	(212) 264-5025
Colorado	Denver Team	(303) 844-3677	(303) 844-4695
Connecticut	Boston Team	(617) 223-9338	(617) 223-4305
Delaware	Philadelphia Team	(215) 656-6442	(215) 656-6499
District of Columbia	Philadelphia Team	(215) 656-6442	(215) 656-6499
Federated States of Micronesia	San Francisco Team	(415) 556-4295	(415) 437-8206
Florida	Atlanta Team	(404) 562-6315	(404) 562-6321
Georgia	Atlanta Team	(404) 562-6315	(404) 562-6321
Guam	San Francisco Team	(415) 556-4295	(415) 437-8206
Hawaii	San Francisco Team	(415) 556-4295	(415) 437-8206
Idaho	Seattle Team	(206) 615-2594	(206) 615-2508
Illinois	Chicago Team	(312) 886-8767	(312) 353-2836
Indiana	Seattle Team	(206) 615-2594	(206) 615-2508
Iowa	Kansas City Team	(816) 268-0410	(816) 823-1402
Kansas	Kansas City Team	(816) 268-0410	(816) 823-1402
Kentucky	Kansas City Team	(816) 268-0410	(816) 823-1402
Louisiana	Dallas Team	(214) 880-3044	(214) 880-2462
Maine	Boston Team	(617) 223-9338	(617) 223-4305
Maryland	Philadelphia Team	(215) 656-6442	(215) 656-6499
Massachusetts	Boston Team	(617) 223-9338	(617) 223-4305
Michigan	Denver Team	(303) 844-3677	(303) 844-4695
Minnesota	Chicago Team	(312) 886-8767	(312) 353-2836
Mississippi	Atlanta Team	(404) 562-6315	(404) 562-6321
Missouri	Kansas City Team	(816) 268-0410	(816) 823-1402
Montana	Denver Team	(303) 844-3677	(303) 844-4695
Nebraska	Kansas City Team	(816) 268-0410	(816) 823-1402

The School Eligibility Channel—Case Management Teams *(continued)*

Your Location	Point of Contact	Telephone No.	Fax No.
Nevada	San Francisco Team	(415) 556-4295	(415) 437-8206
New Hampshire	Boston Team	(617) 223-9338	(617) 223-4305
New Jersey	New York Team	(212) 264-4022	(212) 264-5025
New Mexico	Dallas Team	(214) 880-3044	(214) 880-2462
New York	New York Team	(212) 264-4022	(212) 264-5025
North Carolina	Atlanta Team	(404) 562-6315	(404) 562-6321
North Dakota	Denver Team	(303) 844-3677	(303) 844-4695
Northern Marianas	San Francisco Team	(415) 556-4295	(415) 437-8206
Ohio	Chicago Team	(312) 886-8767	(312) 353-2836
Oklahoma	Dallas Team	(214) 880-3044	(214) 880-2462
Oregon	Seattle Team	(206) 615-2594	(206) 615-2508
Pennsylvania	Philadelphia Team	(215) 656-6442	(215) 656-6499
Puerto Rico	New York Team	(212) 264-4022	(212) 264-5025
Republic of Palau	San Francisco Team	(415) 556-4295	(415) 437-8206
Republic of the Marshall Islands	San Francisco Team	(415) 556-4295	(415) 437-8206
Rhode Island	Boston Team	(617) 223-9338	(617) 223-4305
South Carolina	Atlanta Team	(404) 562-6315	(404) 562-6321
South Dakota	Denver Team	(303) 844-3677	(303) 844-4695
Tennessee	Kansas City Team	(816) 268-0410	(816) 823-1402
Texas	Dallas Team	(214) 880-3044	(214) 880-2462
U.S. Virgin Islands	New York Team	(212) 264-4022	(212) 264-5025
Utah	Denver Team	(303) 844-3677	(303) 844-4695
Vermont	Boston Team	(617) 223-9338	(617) 223-4305
Virginia	Philadelphia Team	(215) 656-6442	(215) 656-6499
Washington	Seattle Team	(206) 615-2594	(206) 615-2508
West Virginia	Philadelphia Team	(215) 656-6442	(215) 656-6499
Wisconsin	Chicago Team	(312) 886-8767	(312) 353-2836
Wyoming	Denver Team	(303) 844-3677	(303) 844-4695

Appendix D:

Sample Map


JAMES MADI
PARKING TAG KEY
Red zone – Faculty/staff lots: A, B, H, I north, K, K ext, L, M, O north, O south, O ext, Q north, Q west, S, T, V, W
Blue zone – Faculty/staff lots: Parking deck I D1-D8, E, G, N, N ext, P, U
Resident student lots: R1-R8
Commuter student lots: C1-C12, Convo A3, C Convo B, Convo E, Parking deck levels 2-5
Visitors: Parking permits are available at Parking
Bluestone Area
Hillside Area
Village Area
Lake Area
The Ridge
Parking Services
Admission Welcome Center (Sooner Hall)
Admissions visitors parking
Athletic Performance Center
Exit 245
Convo C
Convo B
Convo E
Convo A3
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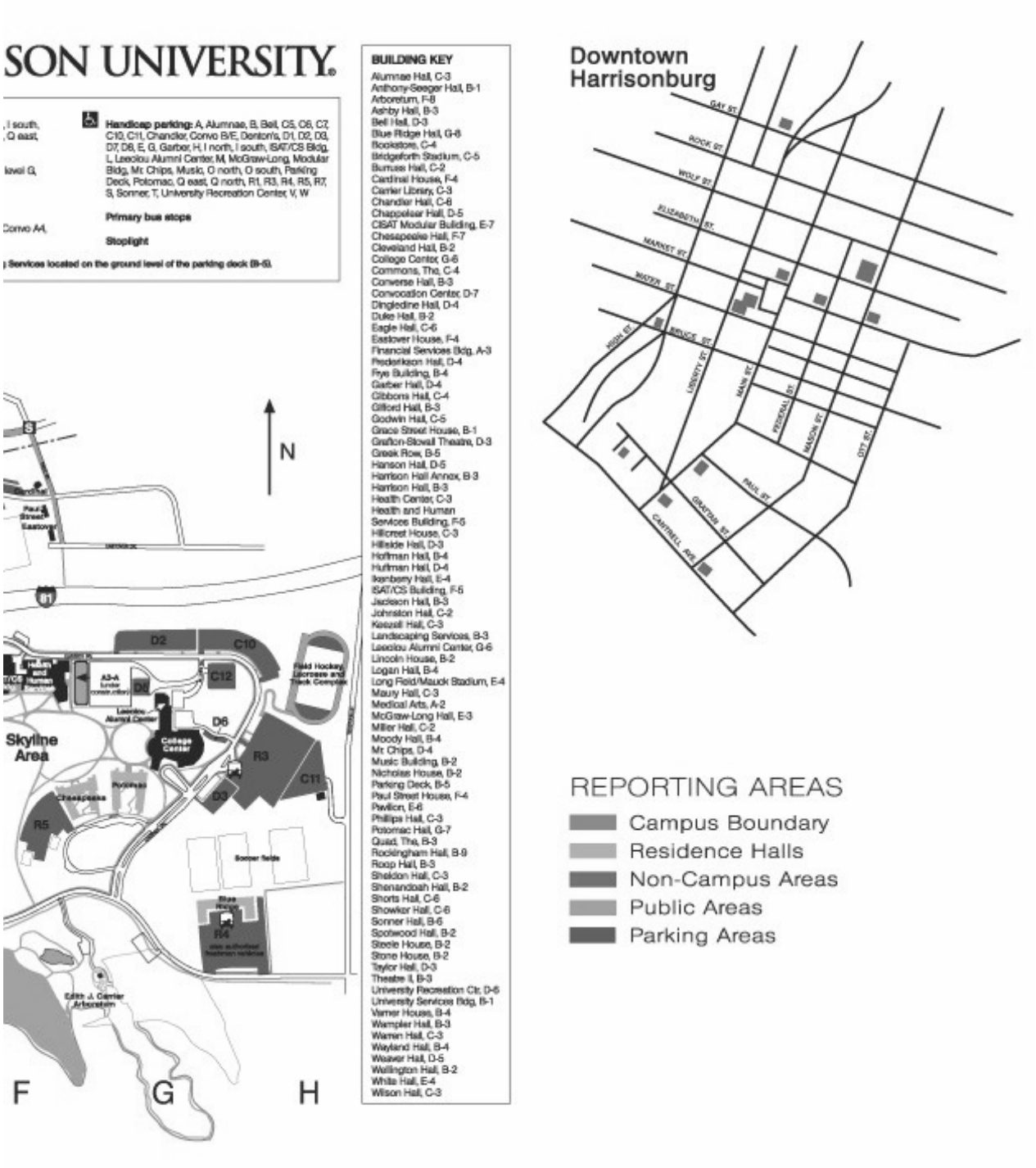

To view a current, color version of this map, please visit http://www.jmu.edu/pubsafety/RTKtable.shtml. Under the Right to Know Table of Contents, click on Map of Campus.

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Appendix E:

Additional FBI Guidance on Crime Classification

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UCR *State Program Bulletin* 02-1, March 2002

Scoring Offenses in Which "Date Rape" Drugs are Used

A local law enforcement agency recently asked for clarification on proper scoring, according to UCR definitions, of two scenarios involving a date rape drug.

The Summary system defines forcible rape as "the carnal knowledge of a female forcibly and against her will" (*Uniform Crime Reporting Handbook,* 1984, page 10).

The NIBRS definition of 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) (*UCR Handbook,* NIBRS Edition, 1992, page 21).

Scenario #1: A male slipped a date rape drug into a woman's drink. 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 the identity of 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.

Because the offender used the date rape drug to physically incapacitate the woman and intended to commit a sexual act "forcibly" and "against her will," the reporting agency should classify the offense as an attempted forcible rape. Agencies that report data via the Summary system should, "Score one offense for each female raped or upon whom an assault to rape or attempt to rape has been made" (*UCR Handbook,* 1984, page 10). Agencies that report data via NIBRS should capture Data Element 6, UCR Offense Code, as 11A Forcible Rape, and enter Data Element 7, Offense Attempted/Completed, as A = Attempted.

Scenario #2: An officer ascertained that a male had slipped a date rape drug into a woman's drink, but he was unable to determine the perpetrator's intent.

Because the investigating officer was unable to determine the suspect's intention, the incident cannot be counted as an attempted rape. Since the UCR Program considers a date rape drug as a poison and poisoning is among the offenses included in aggravated assault, this offense should be classified as an aggravated assault. (See *UCR Handbook,* 1984, page 16.)

U.S. Department of Justice
Federal Bureau of Investigation

Clarksburg, WV 26306
March 10, 2000

(name deleted)
Director
University Police
George Washington University
University Police
2033 G Street, N.W.
Washington, DC 20052

Dear (name deleted):

Reference is made to your February 22, 2000, letter in which you requested assistance with Uniform Crime Reporting (UCR) Program procedures. In your letter, you presented the following scenario:

1. If a student living in a residence hall room with other students reports an item missing from his/her room, some people are of the opinion that the incident should be recorded as a theft and not as a burglary, because the other students in the room have the "opportunity" to take the item.

Based on this scenario, the following are responses to your questions:

What is your opinion regarding this scenario? Classify this as Larceny or Burglary--unlawful entry --no force?

According to the scenario, if an item is missing from a structure and it is unknown who took the item, the proper classification would be Burglary. Page 20 of the Federal Bureau of Investigation's (FBI's) *UCR Handbook* defines **Burglary--Breaking or Entering** as "the unlawful entry of a structure to commit a felony or a theft."

If, on the other hand, a resident having lawful access to the structure takes an item from another resident, the proper classification would be Larceny--theft. Page 24 of the *UCR Handbook* defines **Larceny--theft** as "the unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another."

Does the answer to this scenario change if the room is left unlocked or opened versus being locked by the last person who left the room?

Page 21 of the FBI's UCR Handbook states,

5.a. Burglary--Forcible Entry

Count all offenses where force of any kind is used to unlawfully enter a structure for the purpose of committing a theft or felony. This act includes entry by use of

tools, breaking windows; forcing windows, doors, transoms, or ventilators; cutting screens, walls, or roofs; and where known, the use of master keys, picks, unauthorized keys, celluloid, or other devices which leave no outward mark but are used to force a lock. Burglary by concealment inside a building followed by the exiting of the structure is included in this category.

5.b. Burglary--Unlawful Entry-No Force

The entry in these burglary situations involves no force and is achieved by use of an unlocked door or window. The element of trespass to the structure is essential in this classification, which includes thefts from open garages, open warehouses, open or unlocked dwellings, and open or unlocked common basement areas in apartment houses where entry is committed other than by the tenant who has lawful access. If the area entered was one of open access, thefts from the area would not involve an unlawful trespass and would be scored as larceny.

Again, when a resident having lawful access to a structure takes an item from another resident, the proper classification would be Larceny--theft. However, if a person, other than a resident, enters an unlocked structure (room), or one where the door was left open, the proper classification would be Burglary--Unlawful Entry No Force.

2. If housekeeping and maintenance personnel have keys and are authorized to gain access and did gain access during the time period of the theft, how would you classify the incident?

5.a. Burglary--Forcible Entry

3. If a student lives alone in a residence hall room, it seems clearer to people that they should follow the definitions of forcible entry, if the room was locked by the student or unlawful entry--no force, if the student left the door unlocked. Is that a correct assessment?

As stated previously, offenses where force of any kind is used to unlawfully enter a structure for the purpose of committing a theft or felony are classified as a Burglary--Forcible Entry.

If entry is achieved by use of an unlocked door or window, the proper classification would be Burglary--Unlawful Entry--No Force.

4. Is there anything else in the definition of burglary as listed in the UCR Handbook that we should take into consideration when classifying incidents of larceny and burglary in residence hall facilities?

By citing the reference material contained in the FBI's *Uniform Crime Reporting Handbook*, I believe we have addressed all related concerns.

I am glad to provide you and your agency this information. I hope you find it helpful. If you have any further questions, please contact (name deleted) at 304-625-2859 or 1-888-827-6427.

Sincerely yours,

[signed (name deleted)]

(name deleted)
Chief
Programs Support Section
Criminal Justice Information Services Division

INFORMAL NOTE

April 25, 2000

This is in reference to the attached response to (name deleted), Director, University Police, George Washington University, dated March 10, 2000. (name deleted) was contacted by (name deleted) of the Education/Training Services Unit. The following clarification was made to scenario #l:

1. If a student living in a residence hall room with other students reports an item missing from his/her room, some people are of the opinion that the incident should be recorded as a theft and not as a burglary, because the other students in the room have the "opportunity" to take the item.

Based on this scenario, the following are responses to your questions:

What is your opinion regarding this scenario? Classify this as Larceny or Burglary-unlawful entry-no force?

According to the scenario, if an item is missing from a **structure** and it is unknown who took the item, and the investigating officer has exhausted all avenues leading toward the offense of Larceny--theft, then the proper classification would be Burglary. Page 20 of the Federal Bureau of Investigation's (FBI's) *UCR Handbook* defines **Burglary-Breaking or Entering** as "the unlawful entry of a structure to commit a felony or a theft."

One has to be cognizant of the fact that especially in the college dormitory setting many variables could be present. There is no **"all encompassing"** answer without first relying on the discretion of the investigating officer. A decision on the proper classification should not be made until all the facts are collected and analyzed. The whole premise of UCR is the application of facts known in each case to the Index Crime definitions set forth in the FBI's *UCR Handbook*.

Attachments

Please refer to the response correspondence dated March 10, 2000, as the attachment.

Thank you in advance.

APPENDIX F:

SAMPLE STATISTICAL REPORTING TEMPLATES

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TEMPLATE A

OFFENSE	LOCATION	YEAR	YEAR	YEAR
MURDER / NON-NEGLIGENT MANSLAUGHTER	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			
NEGLIGENT MANSLAUGHTER	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			
SEX OFFENSES, FORCIBLE	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			
SEX OFFENSES, NON-FORCIBLE	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			
ROBBERY	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			
AGGRAVATED ASSAULT	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			
BURGLARY	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			
MOTOR VEHICLE THEFT	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			
ARSON	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			
LIQUOR LAW ARRESTS	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			
LIQUOR LAW VIOLATIONS REFERRED FOR DISCIPLINARY ACTION	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			
DRUG LAW ARRESTS	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			
DRUG LAW VIOLATIONS REFERRED FOR DISCIPLINARY ACTION	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			

TEMPLATE A *(continued)*

OFFENSE	LOCATION	YEAR	YEAR	YEAR
ILLEGAL WEAPONS POSSESSION ARRESTS	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			
ILLEGAL WEAPONS POSSESSION VIOLATIONS REFERRED FOR DISCIPLINARY ACTION	ON CAMPUS			
	**RESIDENTIAL FACILITIES			
	NONCAMPUS			
	PUBLIC PROPERTY			
	OPTIONAL TOTAL			
****CRIMES REPORTED IN THE RESIDENTIAL FACILITIES COLUMN ARE INCLUDED IN THE ON-CAMPUS CATEGORY.**				

TEMPLATE B

OFFENSE	YEAR	ON CAMPUS PROPERTY	**RESIDENTIAL FACILITIES	NONCAMPUS PROPERTY	PUBLIC PROPERTY	OPTIONAL TOTAL
MURDER / NON-NEGLIGENT MANSLAUGHTER						
NEGLIGENT MANSLAUGHTER						
SEX OFFENSES, FORCIBLE						
SEX OFFENSES, NON-FORCIBLE						
ROBBERY						
AGGRAVATED ASSAULT						
BURGLARY						
MOTOR VEHICLE THEFT						
ARSON						
LIQUOR LAW ARRESTS						
LIQUOR LAW VIOLATIONS REFERRED FOR DISCIPLINARY ACTION						
DRUG LAW ARRESTS						
DRUG LAW VIOLATIONS REFERRED FOR DISCIPLINARY ACTION						
ILLEGAL WEAPONS POSSESSION ARRESTS						
ILLEGAL WEAPONS POSSESSION VIOLATIONS REFERRED FOR DISCIPLINARY ACTION						
**CRIMES REPORTED IN THE RESIDENTIAL FACILITIES COLUMN ARE INCLUDED IN THE ON-CAMPUS CATEGORY.						

TEMPLATE C

OFFENSE	ON CAMPUS			**RESIDENTIAL FACILITIES			NONCAMPUS			PUBLIC PROPERTY			OPTIONAL TOTAL		
	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR	YEAR
MURDER / NON-NEGLIGENT MANSLAUGHTER															
NEGLIGENT MANSLAUGHTER															
SEX OFFENSES, FORCIBLE															
SEX OFFENSES, NON-FORCIBLE															
ROBBERY															
AGGRAVATED ASSAULT															
BURGLARY															
MOTOR VEHICLE THEFT															
ARSON															
LIQUOR LAW ARRESTS															
LIQUOR LAW VIOLATIONS REFERRED FOR DISCIPLINARY ACTION															
DRUG LAW ARRESTS															
DRUG LAW VIOLATIONS REFERRED FOR DISCIPLINARY ACTION															
ILLEGAL WEAPONS POSSESSION ARRESTS															
ILLEGAL WEAPONS POSSESSION VIOLATIONS REFERRED FOR DISCIPLINARY ACTION															
OPTIONAL TOTAL															
****CRIMES REPORTED IN THE RESIDENTIAL FACILTIES COLUMN ARE INCLUDED IN THE ON-CAMPUS CATEGORY.**															

TEMPLATE D

	All On-Campus Property				Non-Campus Property				Public Property				GRAND TOTAL	On-Campus Residential Only			
	Reported to UPD 1	Reported to MPD 2	Reported to Non-Police 3	SUB-TOTAL	Reported to UPD 1	Reported to MPD 2	Reported to Non-Police 3	SUB-TOTAL	Reported to UPD 1	Reported to MPD 2	Reported to Non-Police 3	SUB-TOTAL		Reported to UPD 1	Reported to MPD 2	Reported to Non-Police 3	Section TOTAL
Murder/Non-Negligent Manslaughter																	
Negligent Manslaughter																	
Robbery																	
Aggravated Assault																	
Motor Vehicle Theft																	
Arson																	
BURGLARY TOTAL																	
Forcible Burglary																	
Non-Forcible Burglary																	
Attempted Burglary																	
SEX OFFENSES, FORCIBLE (TOTAL)																	
Forcible Rape																	
Forcible Sodomy																	
Sexual Assault with Object																	
Forcible Fondling																	
SEX OFFENSES, NON-FORCIBLE (TOTAL)																	
Incest																	
Statutory Rape																	
Larceny**		N/A				N/A				N/A					N/A		
Liquor Law Arrests																	
Liquor Law Violations Referred for Disciplinary Action		N/A				N/A				N/A					N/A		
Drug Law Arrests																	
Drug Law Violations Referred for Disciplinary Action		N/A				N/A				N/A					N/A		
Illegal Weapons Possession Arrests																	
Illegal Weapons Possession Violations Referred for Disciplinary Action		N/A				N/A				N/A					N/A		

****Denotes statistics not required by law.**

Crime Incident Report Form

This form should be completed by those individuals identified as "campus security authorities" who are required to report information they receive about specified crimes (described below) pursuant to the federal *Clery Act*. The information collected from these forms will be used to prepare a compilation of statistical crime information that will be included in the campus' Annual Security Report.

It is the policy of the University of California to ensure that victims and witnesses to crime are aware of their right to report criminal acts to the police, and to report University policy violations to the appropriate office (e.g., student conduct violations to the Office of Student Judicial Affairs). However, if a reporting person requests anonymity, this request must be honored to the extent permitted by law. Accordingly, no information should be included on this form that would personally identify the victim without his/her consent.

Campus Police will use this form to determine the category of crime and location under which the crime should be reported according to the requirements of the *Clery Act*. Please forward this completed form to: [Chief of Campus Police Department] [Address].

Person Receiving Report: _____ Phone Number: _____

Report Made by:

_____Victim

_____Third Party Please identify relationship to victim: _____

Date and Time the Incident occurred: _____

Description of the incident or crime: _____

_____

_____

_____

_____

_____

_____

Location of Incident
Identify building name, address, etc.; be as specific as possible): _____

_____

The location where this incident occurred was:

_____ On campus, but not in student housing
_____ On campus student housing
_____ Off-campus affiliated property (owned, controlled, or affiliated with the campus; e.g., leased property, fraternity, student co-op)
_____ Off-campus public property immediately adjacent to campus
_____ Off-campus, NOT affiliated with or not adjacent to campus
_____ Unknown

Sex Offenses
Examples of sex offenses are rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape.

Was this crime a sexual offense ? _____ Yes _____ No

If yes, were the victim and the assailant acquainted? _____ Yes _____ No

If yes, were either the victim or the assailant under the influence of alcohol or drugs?

Victim: _____ No Yes, alcohol _____ Yes, drugs _____

Assailant: _____ No Yes, alcohol _____ Yes, drugs _____

Hate Crimes
Hate crime information is required to be reported for each of the following crimes (criminal homicide, sex offense, robbery, aggravated assault, burglary, motor vehicle theft, and arson) and for any other crime involving bodily injury.

Was this incident motivated by hate or bias? _____ Yes ; _____ No .

If yes, identify the category of prejudice:

_____ Race _____ Ethnicity _____ National Origin

_____ Religion _____ Disability _____ Sexual Orientation

If yes, provide a brief explanation of the determination: _____

Alcohol, Drug and Weapons Law Violations
Check all that apply:

_____ Alcohol _____ Drugs _____ Weapons Describe: _____

Number of individuals arrested or referred for campus disciplinary action: _____

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Appendix G:

Section 102(a)–(d) of the *Higher Education Act*

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SEC. 120. DRUG AND ALCOHOL ABUSE PREVENTION.

(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; and

(B) 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) shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) as well as the results of the biennial review required by subsection (a)(2).

(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); 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) 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.

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