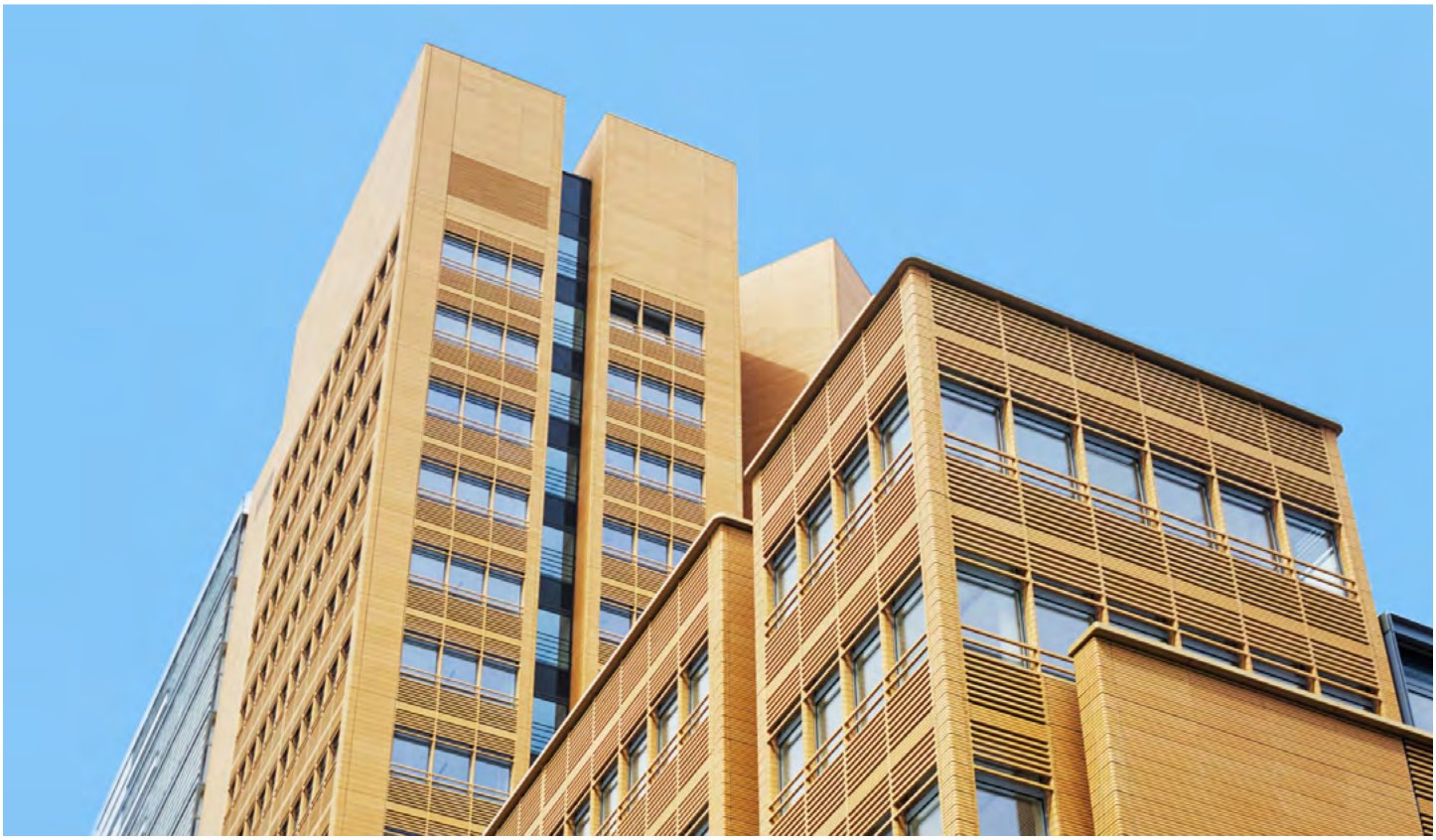
The Handbook for Campus Safety and Security Reporting

2016 Edition



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The Handbook for Campus Safety and Security Reporting

2016 Edition

U.S. Department of Education
Office of Postsecondary Education

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ABBREVIATIONS

AD: Athletics director

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

Clery Act geography: Buildings or property that meet the definition of On Campus, Public Property, or Noncampus buildings or property as defined by the *Clery Act* and discussed in Chapter 2 of this handbook

CSA: Campus Security Authority

DUI: Driving under the influence

DWI: Driving while intoxicated

FERPA: Family Educational Rights and Privacy Act

FBI: Federal Bureau of Investigation

FSEOGs: Federal Supplemental Educational Opportunity Grants

GO: General order

HEA: Higher Education Act of 1965

LEAP: Leveraging Educational Assistance Partnership

MOU: Memorandum of Understanding

NIBRS: Uniform Crime Reporting National Incident-Based Reporting System

PPA: Program Participation Agreement

RA: Resident assistant

SOP: Standard operating procedure

The Department: U.S. Department of Education

UCR: Uniform Crime Reporting

VAWA: Violence Against Women Act

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Introduction:
An Overview of Campus Safety And Security Reporting

CHAPTER 1

Choosing a postsecondary institution is a major decision for students and their families. Along with academic, financial and geographic considerations, the issue of campus safety is a vital concern. In 1990, Congress enacted the *Crime Awareness and Campus Security Act of 1990* (Title II of Public Law 101-542), which amended the *Higher Education Act of 1965* (*HEA*). This act required all postsecondary institutions participating in *HEA's* Title IV student financial assistance programs to disclose campus crime statistics and security information. The act was amended in 1992, 1998, 2000 and 2008. The 1998 amendments renamed the law the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* in memory of a student who was slain in her dorm room in 1986. It is generally referred to as the *Clery Act* and is in section 485(f) of the *HEA*.

On March 7, 2013, the *Violence Against Women Reauthorization Act of 2013 (VAWA)* (Public Law 113-14) was signed into law. *VAWA* includes amendments to the *Clery Act*. These changes require institutions to disclose statistics, policies and programs related to dating violence, domestic violence, sexual assault and stalking, among other changes. Specifically, these changes added or modified requirements related to

- disclosure of statistics of the number of dating violence, domestic violence, sexual assault and stalking incidents;
- disclosure of statistics of new categories of Hate Crimes;
- implementation by institutions and disclosure of programs to prevent dating violence, domestic violence, sexual assault and stalking, including
  - primary prevention and awareness programs for incoming students and employees; and

  - ongoing prevention and awareness campaigns for students and employees;

- disclosure of procedures victims should follow if a crime of dating violence, domestic violence, sexual assault or stalking has occurred; and

- implementation by institutions and disclosure of procedures for institutional disciplinary action in cases of dating violence, domestic violence, sexual assault and stalking, including

  - descriptions of each disciplinary proceeding used by the institution, the standard of evidence used during each disciplinary proceeding, possible sanctions imposed following the results of disciplinary proceedings, and the range of protective measures that the institution may offer a victim;

  - provisions to ensure that proceedings will be prompt, fair and impartial;

  - provisions that state that proceedings will be conducted by officials who receive annual training; and

  - ensuring equal opportunities for the accuser and accused to have others present during proceedings, including an advisor of their choice.

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

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

How to Determine If Your Institution Must Comply With the *HEA*

Does your institution participate in federal Title IV student financial assistance programs? All public and private postsecondary institutions that participate in any of the Title IV programs must comply with the *HEA*. Title IV institutions have signed Program Participation Agreements (PPAs) with the U.S.

Department of Education (the Department) to administer these financial assistance programs. The programs include Pell Grants, Federal Supplemental Educational Opportunity Grants (FSEOGs), the Federal Work-Study Program, Federal Perkins Loans, the Federal Direct Loan Program, and the Leveraging Educational Assistance Partnership (LEAP). If you are not sure whether your institution participates in the Title IV programs, contact your institution's financial aid officer or chief executive officer.

Note that:

- Your institution must comply with the *HEA*'s requirements beginning on the date your PPA goes into effect (i.e., the date it is signed by the secretary of education). 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* and other safety- and security-related *HEA* requirements for all locations. These requirements apply based on institutional eligibility, not location eligibility.

- If your institution primarily serves secondary school students, but enrolls even one postsecondary school student and participates in the Title IV programs, you must comply.

- If your institution does not participate in the Title IV programs 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 requirements described in this handbook.

Title IV institutions that are exempt from compliance:

- If your institution is a **distance education-only** school and your students are never present on a physical campus, you do not have to comply with the requirements discussed in this handbook. This means that students do not go to a physical location to enroll, seek guidance, study, work, intern, etc. The

only exception to this rule is an annual graduation ceremony. If the only time students are present on a physical campus is to attend a graduation ceremony at a location that your institution owns or controls, your institution is still exempt from compliance.

- **Foreign institutions** are exempt from the requirements; however, foreign campuses of U.S. institutions are not exempt and must comply with the *Clery Act* and other safety- and security-related requirements discussed in this handbook.

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

Purpose of the Handbook

This handbook reflects the Department's interpretations and guidance, as of the date of publication, and was written to assist you, in a step-by-step and readable manner, in understanding and meeting the various *HEA* requirements. It is intended for use by the Department's program reviewers who are responsible for evaluating an institution's compliance with the requirements as well as postsecondary institutions and outside reviewers.

This revised handbook replaces the previous versions of the handbook.

This revised handbook replaces the previous versions of the handbook. It does not supplant or replace the *HEA*. The *HEA* and its regulations take precedence if there are any differences between them and the handbook. Your institution is responsible for ensuring that it complies with any changes made to them.

Handbook Organization

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

- what crimes and fires to report and in which reporting categories to include them;

- from whom to collect crime and fire reports;
- whether a campus alert must be issued;
- whether a crime or a fire report must be entered into a log;
- what policy statements your institution must have on record;
- what training programs your institution must provide for your students and employees; and
- what annual reports your institution must publish.

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

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

The handbook also contains citations for the applicable laws and regulations, highlights important information in side notes, provides examples of crime and fire scenarios, and suggests helpful practices to assist you in determining if your policies and procedures are compliant. There are a number of appendices at the back of the handbook, which are referenced throughout the chapters, along with an index to help you locate specific terms and topics, and a list of abbreviations used frequently throughout the handbook. And, because no handbook could cover every situation, help desk contact information is provided if you need further assistance.

The Requirements

The *HEA* contains specific campus safety- and security-related requirements, but allows institutions a great deal of flexibility in complying with them. This flexibility acknowledges the myriad differences in types, locations and configurations of postsecondary schools. Although **all institutions have immediate, ongoing and annual**

Although all institutions have immediate, ongoing and annual requirements, compliance might differ in some respects from one institution to another.

requirements, compliance might differ in some respects from one institution to another. For example, compliance for an institution with on-campus student housing facilities differs from compliance for a small commuter school located in a strip mall. A single institution might have some different compliance requirements for each of its campuses. In any case, whatever the requirements are for your specific institution, they must be met completely and on time. As discussed throughout the handbook, remember to maintain detailed documentation of your compliance with each requirement. Institutions are routinely required to provide this documentation to Department officials during the conduct of program reviews.

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

1. **Every institution must do the following:**

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

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

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

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

  – issue an **emergency notification** upon the confirmation of a significant emergency or dangerous situation involving an immediate

threat to the health or safety of students or employees occurring on the campus.

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

- **Provide educational programs and campaigns.** To promote the awareness of dating violence, domestic violence, sexual assault and stalking, you must

  – provide primary prevention and awareness programs to all incoming students and new employees; and

  – provide ongoing prevention and awareness campaigns for students and employees.

  The regulatory requirements regarding these topics are discussed in detail in Chapter 8.

- **Have procedures for institutional disciplinary action in cases of dating violence, domestic violence, sexual assault and stalking.** Disclose your policy and procedures in the annual security report. The regulatory requirements regarding these topics are also discussed in detail in Chapter 8.

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

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

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

  The regulatory requirements for the data collection are discussed in Chapter 9. The comprehensive user's

guide for the survey is located online at **https://surveys.ope.ed.gov/campussafety**.

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

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

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

- disclose **missing student notification** procedures that pertain to students residing in those facilities; and

- disclose **fire safety information** related to those facilities. Specifically, you must

  – keep a **fire log** that is open to public inspection;

  – publish an **annual fire safety report** containing **policy statements** as well as **fire statistics** associated with each on-campus student housing facility, including the number of fires, cause of fires, injuries, deaths and property damage, and inform prospective students and employees about the availability of the report; and

  – submit **fire statistics** to the Department each fall in the Web-based data collection.

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

Compliance Timetable

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

Compliance with the *HEA's* campus safety- and security-related requirements is not a once-a-year event.

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

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

What to Do	When to Do It
Have emergency notification and evacuation procedures for alerting the campus community about significant emergencies or dangerous situations. Disclose your policies and procedures in the annual security report.	Use emergency notification procedures whenever there is an immediate threat to the health or safety of students or employees on campus.
Have in place primary and ongoing prevention and awareness programs and campaigns for students and employees. Disclose your policies and procedures in the annual security report.	Provide the primary education programs as part of the orientation process for new students and employees whenever they start. Ongoing campaigns should be visible throughout the year.
Issue timely warnings to alert the campus community about crimes that pose a serious or continuing threat to safety. Disclose your policy in the annual security report.	Issue a warning whenever there is a threat that a crime is ongoing or may be repeated.
Keep a crime log that records, by date reported, all crimes reported to the campus police or security department.[a]	Update your log within two business days of the crime report. Make the log available to the public during business hours.
Keep a fire log that records by date reported, all fires in on-campus student housing facilities.[b]	Update your log within two business days of the fire report. Make the log available to the public during business hours.
Collect crime reports from campus security authorities within the institution.	Identify campus security authorities at the beginning of the calendar year and collect crime reports on an ongoing basis.

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

What to Do	When to Do It
Request crime statistics from local law enforcement in the jurisdictions where the institution is located.	Make a request annually, ideally at the beginning of the calendar year.
Submit crime and fire statistics to the Department via a Web-based data collection.[b]	Submit statistics each fall, by the dates provided by the Department in a letter to your institution sent each year in July.
Have procedures for institutional disciplinary action in cases of dating violence, domestic violence, sexual assault and stalking. Disclose your policy and procedures in the annual security report.	Follow required procedures whenever a student or employee chooses to pursue institutional disciplinary action for alleged dating violence, domestic violence, sexual assault or stalking. Ensure prompt proceedings.
Have missing student notification procedures to aid in determining if a student is missing and in notifying law enforcement personnel. Disclose your policy and procedures in the annual security report.[b]	Follow required procedures whenever a student is determined to have been missing for 24 hours. Offer students the opportunity to register a contact annually.
Publish an annual security report containing campus security policy disclosures and statistics for the previous three years.	Publish and distribute your report or provide a notice of its availability annually by Oct. 1.
Publish an annual fire safety report containing policy disclosures and fire statistics for on-campus student housing facilities for the previous three years.[b]	Publish and distribute your report or provide a notice of its availability annually by Oct. 1.

[a]The crime log is mandatory for all institutions that maintain a campus police or security department.

[b]The fire log, annual fire safety report, disclosure of fire statistics and missing student notification procedures are mandatory for any institution that has an on-campus student housing facility.

Getting Additional Help

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

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

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

Before Moving On …

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

The Department can issue civil fines of up to $35,000 **per violation** for a substantial misrepresentation of the number, location or nature of the crimes required to be reported or for a violation of any other provision of the safety- and security-related *HEA* regulations. Final Program Review Determination Reports are public records. Note that the *HEA* includes a **whistle-blower protection provision** making it clear that nothing in the law shall be construed to permit a school to take retaliatory action against anyone with respect to the implementation of the *Clery Act* and the other *HEA* safety- and security-related requirements in the *HEA* and the Department's regulations.

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

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Geography:
Location, Location, Location

CHAPTER 2

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

- **where** the crimes occurred,
- **to whom** the crimes were reported,
- the **types** of crimes that were reported, and
- the **year** in which the crimes were reported.

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

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

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

The definitions for these geographic categories are *Clery Act*-specific and are the same for every institution regardless of its physical size or configuration.

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

properties associated with your institution that fit each defined area.

How to Identify Your On-campus Geography

On-campus definition citation
34 CFR 668.46(a)

Under the *Clery Act*, the **on-campus** category includes the following:

> *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 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).*

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

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

So what does this mean?

Controlled by means that your institution (or an institution-associated entity as described below) directly or indirectly rents, leases or has some other type of **written** agreement (including an informal one, such as a letter or an e-mail) for use of a building or property, or a portion of a building or property. Even if there is no payment involved in the transaction, for *Clery Act* purposes, a written agreement for the use of space gives your institution control of that space for the time period specified in the agreement. For example, if your campus consists of leased space comprising the entire third floor of an office building, you are in control of the third

floor. A reported crime that occurs on the third floor (rooms, hallway, restrooms), or in the lobby, stairwell or elevator that students must use to access the third floor, is considered to have occurred "on campus." If the agreement gives your institution use of the parking lot or specific spaces in the lot, the parking lot or the specified section of the lot is also part of your on-campus geography. To emphasize: Your control extends as far as the space specified in your written agreement along with any area your students and employees have to use to access that space. So, if you lease the third floor of the building and a crime occurs on an elevator in the building during the period of time covered by your lease, you must include that crime in your *Clery Act* statistics.

Note that for the purposes of the *Clery Act*, if you have an **institution-associated foundation, holding company, subsidiary, alumni association, athletic booster club, or any other institution-associated entity** that owns or controls a building or property that is operated in support of, or in relation to, your institution's educational purposes, your institution is considered to be in control of that building or property. **State ownership** of a building or property used in support of, or in relation to, the educational purposes of a state school also establishes institutional control of that building or property.

Institution-associated hospitals and/or medical centers that are controlled by your institution and reasonably contiguous with your campus should be included as part of your campus. Beyond formal legal arrangements, other factors that are considered in determining whether, for *Clery Act* purposes, the institution controls a hospital or medical center include overlapping faculty/doctors, overlapping boards of directors or officers, use of the hospital or medical center as part of the institution's educational program, geographic proximity, an ongoing relationship between the institution and the hospital, and whether students consider the hospital or medical center to be part of the campus.

Reasonably contiguous refers to a building or property your institution owns or controls that's in a location that you and your students consider to be, and treat as, part of your campus. An example might be a house two blocks from campus that's owned by your institution and which is used as an art studio for your students. Generally speaking, it is reasonable to consider locations within one mile of your campus border to be reasonably contiguous with your campus. However, this determination must be made on a case by case

basis by taking into consideration the circumstances of the campus and the location. A location that is within one mile of campus but separated from campus by a river or a six-lane highway might not be considered contiguous unless a pedestrian bridge or tunnel connects the two sides. If you exclude from the definition of campus for *Clery Act* purposes a building or property your institution owns or controls that is within one mile of your campus you must be able to explain your basis for this decision.

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

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

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

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

Other On-campus Considerations

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

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

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

- **Institutions that offer dual classes and degrees:** If your institution has a partnership with another institution to offer dual classes and degrees and the agreement specifies only that your students can attend classes at the other institution and that the other school's students can attend classes at your school, you do not have to disclose reported *Clery Act* crimes that occur on the other campus because you do not own or control it. The other institution will need to include any crimes in its statistics even if the crimes involve students from your institution.

- **Institutions that lease space in strip malls:** Your campus consists of any space within the strip mall

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

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

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

Institutions With More Than One Campus

If your institution has more than one campus, each campus must comply independently with all of the *Clery Act* and the fire- and safety-related *HEA* requirements described in this handbook, including publishing its own annual security report as discussed in Chapter 9 (or your institution may publish and distribute to students and employees a single annual security report as long as it clearly differentiates each campus's policies and statistics). For the purpose of these requirements, consider an additional location a **separate campus** if it meets all of the following criteria:

- Your institution owns or controls the site;
- It is not reasonably geographically contiguous with the main campus;
- It has an organized program of study; and
- There is at least one person on site acting in an administrative capacity.

An **organized program of study** means that the location offers courses in educational programs leading to a degree, certificate, or other recognized credential.

Administrative personnel encompass a variety of individuals who may have some responsibility for the activities that take place at the location; administrative personnel include, for example, a director, a building coordinator, a registrar or a secretary. It is not necessary for administrative personnel to be on site at all times for the location to qualify as a separate campus; the location might share a rotating administrator who is scheduled to be on site once a week. If your institution owns or controls noncontiguous academic locations where students take a course or two and there are no administrative personnel on site, those are not separate campuses. For *Clery Act* reporting purposes, they are noncampus locations and they are discussed later in this chapter under "How to Identify Your Noncampus Buildings or Property."

Branch campus definition citation
34 CFR 600.2

Examples of separate campuses

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

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

- **Other locations:** Other institution-owned or -controlled locations may include satellite, extension or similar types of noncontiguous sites that have an organized program of study and administrative personnel on-site. For example:

  – **Research campuses:** If your institution owns a farm, agricultural or horticultural center, or other noncontiguous research facility that has an administrator on-site and that is used by students for recurring classes, recurring field trips, internships, student jobs or other regularly scheduled use, it should be considered a separate campus. If student attendance at these locations is determined by individual research needs and there is no regularly scheduled use of the facility by students (i.e., student use is sporadic), it is not a separate campus.

  – **Athletic campuses or complexes**: If your institution owns a noncontiguous athletic complex that has administrators on site and houses classrooms used for courses that are part of an organized program of study (for example, the complex includes one or more large auditorium-style classrooms to be used by large courses in any department, or houses one or more regular classrooms used for courses towards a golf course management degree), the athletic complex is a separate campus.

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

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

On-campus Subset: On-campus Student Housing Facilities

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

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

- The total number of crimes that occurred on campus, **including** crimes that occurred in student housing facilities; and
- The number of crimes that occurred in on-campus student housing facilities as a subset of the total.

Definition of an On-campus Student Housing Facility

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

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

This definition includes the following types of housing:

- Undergraduate, graduate and married student housing.
- Single family houses that are used for student housing.
- Summer school student housing.
- Buildings that are used for student housing but also have faculty, staff or other individuals living there. (Do not include faculty-only housing in this category. Institution-owned or controlled faculty-only housing that is located on the campus belongs only in the "on-campus" category.)
- Buildings that are owned by a third party that has a written agreement with your institution to provide student housing. It doesn't matter whether the rent is paid to the third party by the institution on behalf of the students or paid directly by the students. These

locations could include buildings that are used exclusively for student housing, or hotels or apartment buildings in which a sub-set of the available units have been leased for student housing. In multi-use buildings that are reasonably contiguous with the campus, the portion of the building leased for student housing, as well as common areas and areas used to access the student housing, should be counted as an on-campus student housing facility. Include any unoccupied apartments that are specifically reserved for student housing. You do not have to include the apartments, rooms or floors of the building that are not reserved for student housing or apartments, or rooms or floors of the building that are reserved for faculty or staff.

- Housing for officially and not officially recognized student groups, including fraternity or sorority houses, that are owned or controlled by your institution or are located on property that your institution owns or controls.

- Parking facilities and dining halls that are physically attached to and accessed directly from student housing facilities must be included as part of the on-campus student housing facility.

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

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

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

Before Moving On …

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

How to Identify Your Public Property

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

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

Public property definition citation
34 CFR 668.46(a)

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

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

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

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

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

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

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

- A standard of use has been established by your students. This means that although some type of barrier is present, your students frequently ignore, overcome or even use it, to gain access to public property. Some examples are:

  – A wall that students frequently climb over.

  – A fence that students frequently climb over, under or through. This includes a fence with a hole in it that students frequently crawl through.

  – A fence with a missing or broken gate that students frequently walk or drive through.

Other Public Property Considerations

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

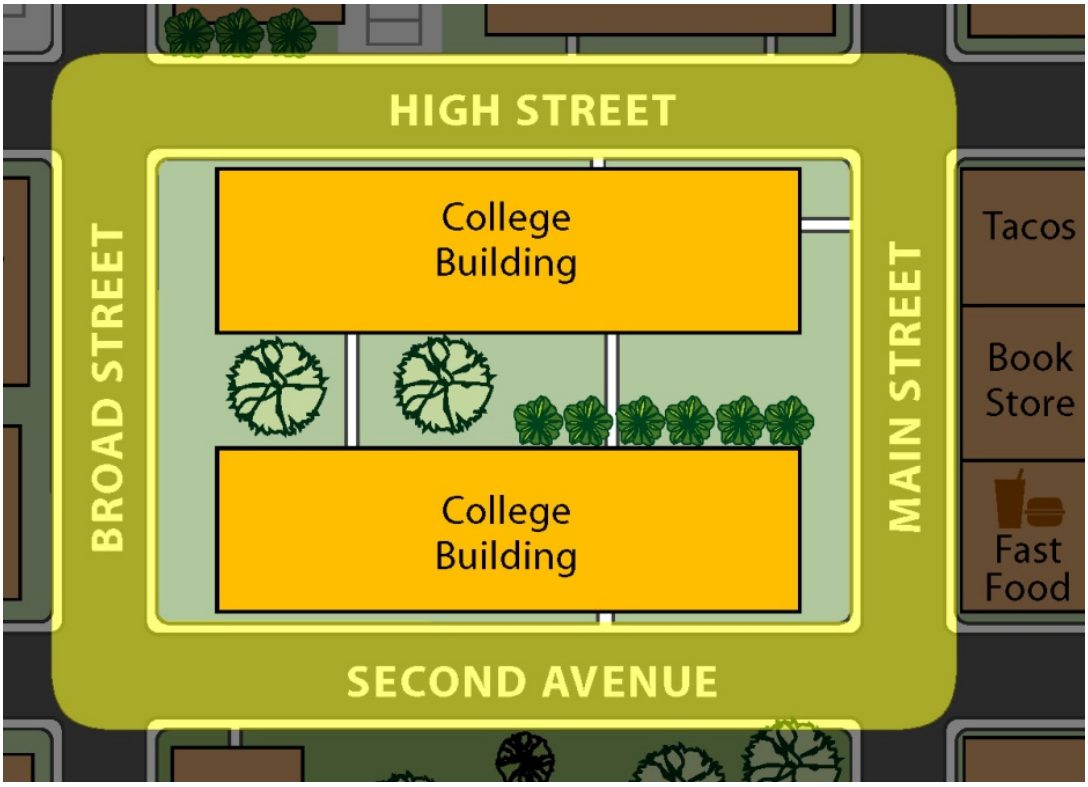

Figure 1. Example of public property: sidewalk, street, sidewalk. *In this illustration, the college's public property consists of the public sidewalk, street, and opposite sidewalk along all four borders of the campus. Nothing beyond the second sidewalk is included in the college's public property.*

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

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

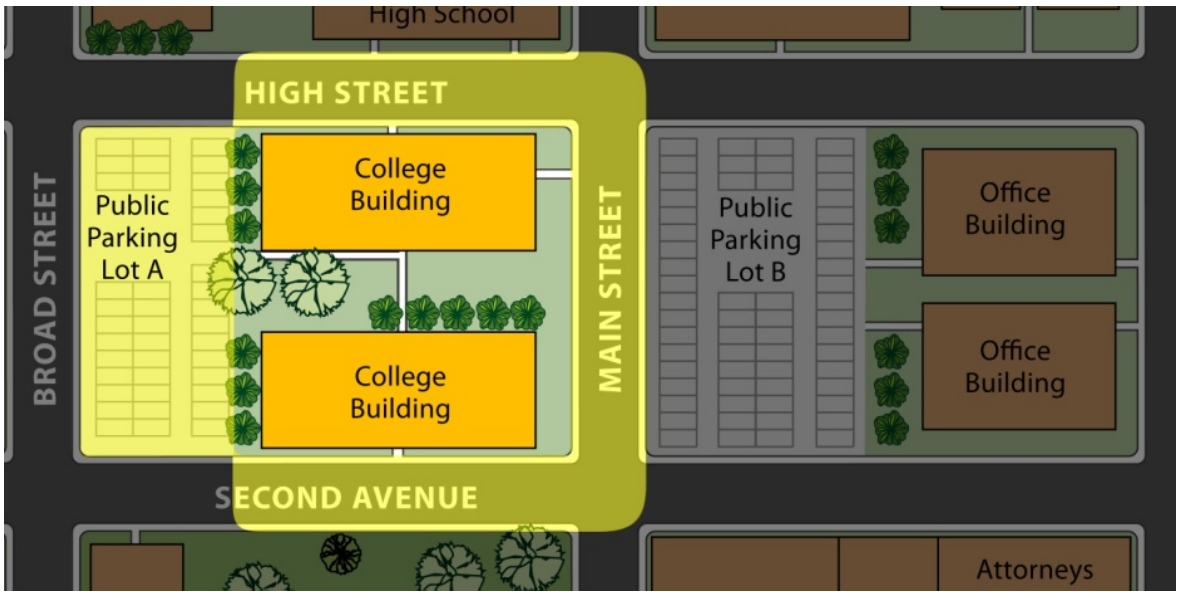

Figure 2. Example of public property: parking lot. *In this illustration, Public Parking Lot A is included in the college's public property category because it's immediately adjacent to and accessible from the campus. Public Parking Lot B is not included in the college's public property category because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

- **Public property associated with campuses in malls or office buildings:**
  - If your campus is within a mall or office building and you step outside onto a public sidewalk, include the sidewalk in your public property.
  - If your agreement includes use of the mall or office building parking lot, the lot is part of your on-campus geography because under the *Clery Act*, the contract is treated as giving you control of the lot. If there is a public street running adjacent to the parking lot, that's your public property.
  - If your agreement does not include use of the parking lot owned by the mall or office building, do not include the parking lot in your on-campus or your public property category. It is a private parking lot.
  - If there is a public parking lot bordering the mall or office building (i.e., a parking lot

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

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

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

- **Public transit stops:** A public transit stop (e.g., subway or metro station, trolley or bus stop) located on your campus or immediately adjacent to your campus is included in your public property category up to the point at which a rider is required to pay a fare. For a subway or metro station, your public property would end at the fare gates. For a trolley or bus stop, it would end when someone gets on the vehicle. Apply this guidance to all other types of transit stops as well. (If your institution has a campus police or security department whose patrol

jurisdiction extends beyond the point where a fare is required, crimes reported there would be included in your daily crime log. An example is campus police who patrol the waiting platform of a commuter train station. More about the crime log in Chapter 5.)

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

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

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

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

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

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

  – All property within your campus boundaries is owned or controlled by your institution and there are no public streets, sidewalks, thoroughfares or parking facilities immediately adjacent to your campus.

  – An institution that is located in a mall or office building if the parking lot and streets surrounding the building are privately owned by an individual or business.

– A campus entirely surrounded by a gated fence that restricts access (e.g., it is opened only by a guard or some type of pass). However, if the gate remains open for a specific period of time, and the gate opens onto a public road, the portion of the road along the gated side of the campus is public property during the times the gate is open. (Do not limit this public property to the area immediately in front of the gate.)

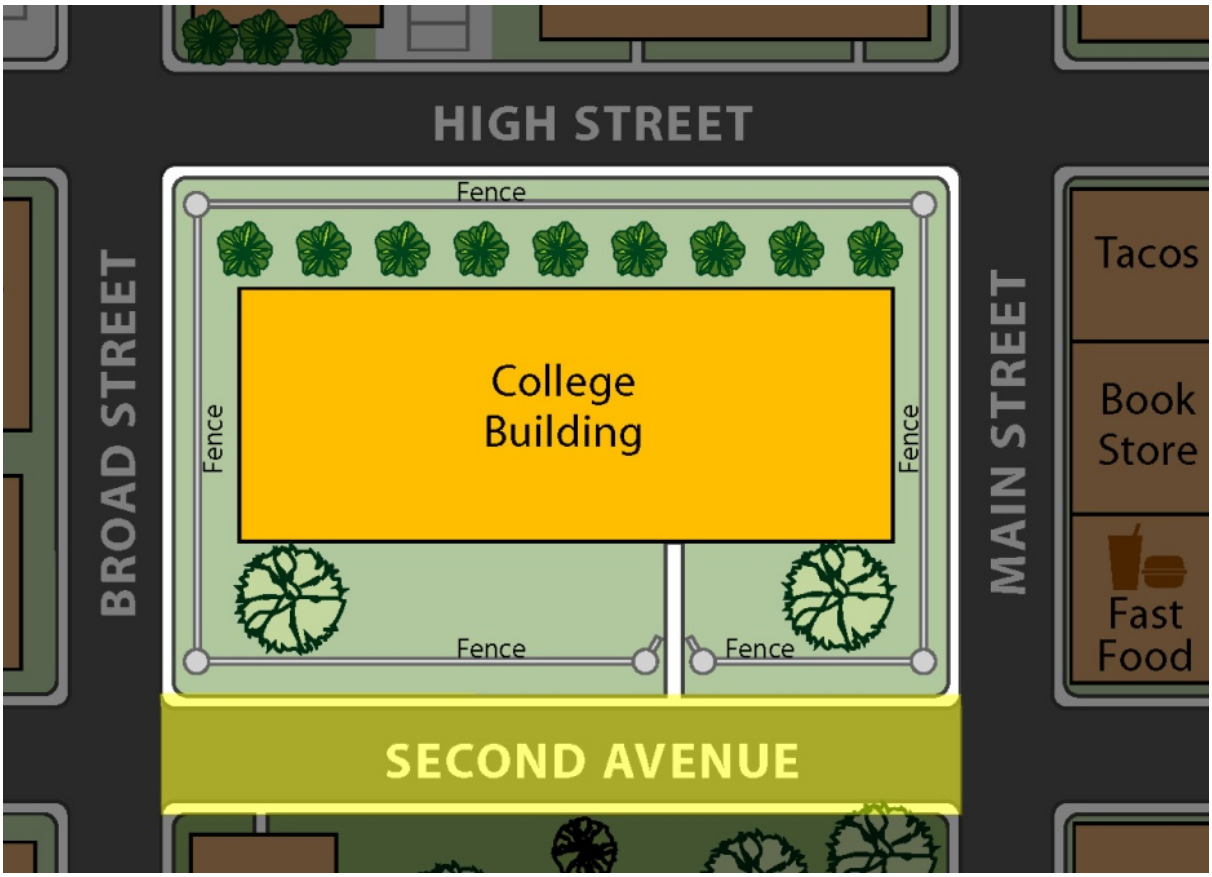

Figure 3. Example of public property: gated fence. *In this illustration, the college is bordered by a fence on all sides. When the gate is open, the college's public property consists of the public sidewalk, street and opposite sidewalk that border the gated side of the campus.*

Before Moving On …

It is important that all Title IV institutions use the same geographic parameters when disclosing statistics in the annual security report and reporting those statistics to the Department. However, we are aware that some institutions want to report statistics for public property that is near their campus but outside the public property definition for *Clery Act* purposes. In those cases, the institution may include statistics for those areas in a caveat or table that is clearly separate from the official *Clery Act* statistics.

How to Identify Your Noncampus Buildings or Property

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

Noncampus definition citation
34 CFR 668.46(a)

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

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

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

campus" even if the building is owned or controlled by the fraternity or sorority.

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

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

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

Other Noncampus Considerations

Noncampus locations do not have a public property reporting requirement.

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

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

- **Limits of control:** Suppose your institution rents one half of a building—for example, a public high school—for specific days and times in order to offer some classes but not an organized program of study. The rented section of the high school falls under the noncampus category for the dates and times it is rented, regardless of whether the institution rents it once or more than once. One night while one of your

classes is in session, a criminal incident occurs in the part of the building not leased by your institution. You are not required to include this crime in your statistics because your institution doesn't have control over the part of the building you don't lease. This is true even if the crime involved one of your students.

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

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

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

- **Military bases:** If you have a written agreement, such as a memorandum of understanding, giving you control over some part of a military base, include the

space in your noncampus category. Include statistics for crimes that occur in that space for the days and times specified in the agreement. If you simply send faculty to a military base, but do not have a written agreement with the base giving you control of any space there, do not include the base in your noncampus geography.

- **Research boats/ships/vans or other mobile classrooms:** If your institution owns or controls mobile classrooms that carry students for educational purposes, you must include *Clery Act* crimes that occur in or on those classrooms in your statistics. If the mobile classroom meets the criteria for a separate campus for any part of a calendar year, it should be considered a separate campus for *Clery Act* purposes for that full year.

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

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

Off-Campus Student Housing Considerations

- **Third-party contracts:** If there is an apartment building across town from your campus that's owned by a third party that has a written agreement with your institution to provide student housing, it is a noncampus location. Some examples of this type of arrangement are a hotel, apartment building or student housing facility on another campus used for overflow housing. The hotel rooms, apartments or housing facilities and associated common areas specified in your written agreement are considered noncampus property. It doesn't matter whether the rent is paid to the third party by your institution on behalf of the students or paid directly by the students.

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

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

- **Mixed-use apartment buildings:** If your school owns or controls an off-campus apartment building and reserves certain apartments or floors of apartments for student housing, the areas used for that housing, as well as common areas and areas used to access the student housing, are included in your noncampus category. Include any unoccupied

apartments that are specifically reserved for student housing. Do not include the apartments or floors of apartments that are not reserved for student housing. Do not include floors or apartments that are reserved for your faculty or staff.

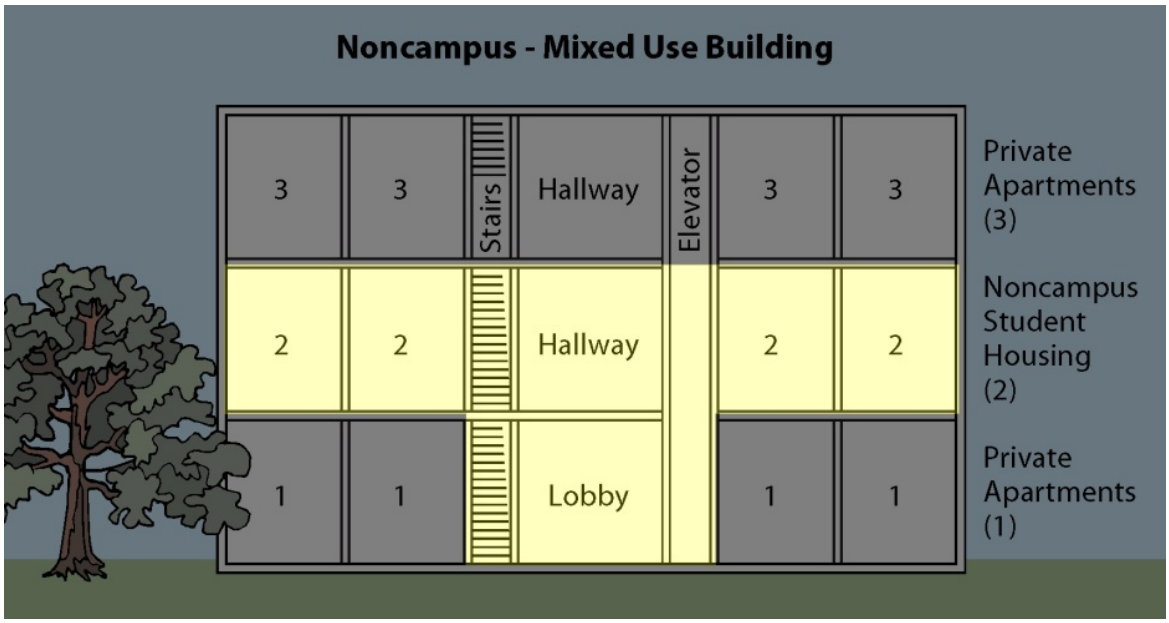

Figure 4. Example of noncampus location: mixed-use apartment building. *In this illustration, the college leases the second floor of an off-campus apartment building to house students. The college must disclose statistics in the noncampus category for crimes reported to have occurred on the second floor,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

- **Preferred leasing:** If you steer students toward recommended off-campus housing, but the housing is not owned or controlled by your institution (e.g., there is no written agreement between the third party and your institution to provide student housing, no residential life staff are located in the building, the building does not follow the institution's student housing policies), you aren't required to include statistics for crimes that occur there.

Considerations for Trips to Off-Campus Locations

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

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

- **Repeated use of a location for school-sponsored trips:** If your institution sponsors students on an overnight trip **every year** and the students stay in the **same hotel each year**, you must include portions of the hotel in your noncampus geography. For example, students in the debate club take a trip to Washington, D.C. and stay at the same hotel every year. You must include in your statistics any crimes that occur in the rooms used by your students and any common areas used to access the rooms (lobby, elevators, etc.) for the times and dates specified in the rental agreement. Note that what matters here is repeated use of a location that is owned or controlled by the institution, not the number of days it is used or whether it is used by the same students or different students.

- **Short-stay "away" trips:** If your institution sponsors short-stay "away" trips of more than one night for its students, all locations used by students during the trip, controlled by the institution during the trip and used to support educational purposes should be treated as noncampus property. An example is a three-week marine biology study trip to Florida. Any classroom or housing space specified in the agreement between the institution and a third-party providing the space would be noncampus property. If your institution has entered into a written agreement with a third-party contractor to arrange housing and/or classroom space for a school-sponsored trip or study program (either domestic or foreign), it is assumed that the contractor is operating on behalf of

the school as the school's agent, putting the institution in control of this space.

However, if your institution (or a contracted third party) does not have an agreement for the space used, your institution is not in control of the space and you are not required to count it. For example, there are some situations, such as sports tournaments, for which the host institution makes all of the housing arrangements for visiting students. In these situations, the visiting institutions do not have a written agreement for the use of space and are not required to disclose crime statistics for the housing in which their students are located. However, the host institution would be responsible for disclosing crime statistics for the housing since they hold the agreement for the housing.

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

Use of Maps

Although the *Clery Act* does not require institutions to provide a map to show their campus and noncampus buildings, or property or public property areas, some institutions choose to provide one in their annual security report to help the campus community better understand where reported crimes occurred. A map is also useful if your institution is subject to a program review to help identify the buildings and property that make up your institution's *Clery Act* geography, and to pinpoint the patrol jurisdiction of your campus police or security personnel, if you have any. If you use a map it must present an accurate picture of the geographic locations it depicts, and you should update it as necessary. If you have

several campuses and choose to provide maps, you must have a separate map for each campus.

When in Doubt …

Remember that keeping track of the buildings and properties your institution owns and controls, and what they are used for, is an institutional responsibility. If you are still unsure how to identify your *Clery Act* geography or if you have a unique situation that isn't covered here, help is always available. Please see "Getting Additional Help" in Chapter 1 (p. 1-11) for information on e-mailing our help desk.

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Crime Statistics:
Classifying and Counting *Clery Act* Crimes

CHAPTER 3

Consider the following scenarios:

> A student enters three unlocked rooms in an on-campus student housing facility and takes several items from two of them.
>
> Campus security breaks up a party in a noncampus student housing facility and six students get referred for disciplinary action for possession of marijuana.
>
> A school employee calls the police to report spray-painted racial slurs on the side of an on-campus dining hall.
>
> A student seems to show up at every activity attended by his ex-girlfriend and sends her several suggestive emails.

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

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

Reported crime statistics citation
34 CFR 668.46(c)

The *Clery Act* requires your institution to include four general categories of crime statistics:

- **Criminal Offenses**[1]**—**Criminal Homicide, including Murder and Non-negligent Manslaughter, and Manslaughter by Negligence; Sexual Assault,[2] including Rape, Fondling, Incest and Statutory Rape; Robbery; Aggravated Assault; Burglary; Motor Vehicle Theft; and Arson.

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

- ***VAWA* Offenses—**Any incidents of Domestic Violence, Dating Violence and Stalking. (Note that Sexual Assault is also a *VAWA* Offense but is included in the Criminal Offenses category for *Clery Act* reporting purposes); and

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

Statistics must be disclosed separately for each of these four general categories. This means that when an incident meets definitions in more than one of these categories, it must be reported in each category. For example, any Criminal Offense that is also a Hate Crime or *VAWA* Offense, or results in an arrest or disciplinary action for a Weapons, Drug Abuse or Liquor Law Violation, should be counted as a Criminal Offense and also as a Hate Crime, *VAWA* Offense, arrest, or disciplinary referral, as appropriate. The Hierarchy Rule discussed on pages 3-24 and 3-25 applies only when counting crimes within the Criminal Offenses category.

Note: Whenever "*Clery Act* crimes" or "crimes" are mentioned in this handbook, all of the categories above are included.

[1] Also referred to as Primary Crimes.

[2] Also referred to as Sex Offenses.

Crime Definitions

Under the *Clery Act*, for the purposes of counting and disclosing Criminal Offense, Hate Crime, arrest and disciplinary referral statistics you must do so based on definitions provided by the Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting (UCR) Program. The definitions for *Murder, Rape, Robbery, Aggravated Assault, Burglary, Motor Vehicle Theft, Arson, Weapons Carrying, Possessing, Etc. Law Violations, Drug Abuse Violations, and Liquor Law Violations* are from the *Summary Reporting System (SRS) User Manual* from the FBI's UCR Program. The definitions of *Fondling, Incest and Statutory Rape* are from the FBI's *National Incident-Based Reporting System (NIBRS) Data Collection Guidelines* edition of the UCR. Hate Crimes are classified according to the FBI's *Uniform Crime Reporting Hate Crime Data Collection Guidelines and Training Manual*. Note that, although the law states that institutions must use the UCR Program definitions, *Clery Act* crime reporting does not have to meet all of the other UCR Program standards.

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

For the categories of *Domestic Violence, Dating Violence and Stalking*, the *Clery Act* specifies that you must use the definitions provided by the *Violence Against Women Act of 1994* and repeated in the Department's *Clery Act* regulations.

Violence Against Women Act of 1994 definitions citation
34 CFR 668.46(c)(6)(A)(i)

It is possible that institutions may be asked to code incidents using different definitions for purposes other than *Clery Act* reporting. However, for *Clery Act* purposes, **it is essential that institutions classify and count reported incidents based on the definitions specified by the *Clery Act***.

In this chapter, crime definitions appear in italics. Some of the text that is provided to help you classify criminal incidents is taken directly from FBI materials or federal statutes and some has been condensed or paraphrased. Some crime examples are taken or adapted from FBI materials, and others were created for this handbook based on questions schools and practitioners have asked us over the years.

You must **include in your crime statistics the number of all reported offenses**, without regard to 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. More information on how to collect these statistics is found in Chapter 4.

You must include in your crime statistics the number of all reported offenses, without regard to the findings of a court, coroner or jury, or the decision of a prosecutor.

Types of Criminal Offenses

1. Criminal Homicide. These offenses are separated into two categories: Murder and Non-negligent Manslaughter, and Manslaughter by Negligence.

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

Include as Murder and Non-negligent Manslaughter:

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

Do not include as Murder and Non-negligent Manslaughter:

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

Examples of Murder and Non-negligent Manslaughter

Scenario 1: A gunman enters a classroom on campus and kills two students and a faculty member before being subdued and arrested. Include three incidents of on-campus Murder and Non-negligent Manslaughter in your crime 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. Include one incident of on-campus Murder and Non-negligent Manslaughter in your crime statistics.

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. Include one incident of noncampus Murder and Non-negligent Manslaughter in your crime statistics. Also include one incident of noncampus Domestic Violence. (Domestic Violence is discussed on pages 3-37 and 3-38.)

Scenario 4: A nonstudent is shot and killed during an armed Robbery on a city-owned sidewalk in front of a building on campus. Include one incident of public property Murder and Non-negligent Manslaughter in your crime statistics.

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 *Clery Act* statistics because the incident occurred at a private facility off campus.

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

Include as Manslaughter by Negligence:

Any death caused by the gross negligence of another. In other words, it's something that a reasonable and prudent person would not do.

Do not include as Manslaughter by Negligence:

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

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

Example of Manslaughter by Negligence

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

2. Sexual Assault (Sex Offenses). *Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent*. Include attempted Sexual Assaults, but do not include in your *Clery Act* statistics any Sexual Assaults other than the four types of Sexual Assaults described in this chapter.

a) **Rape** is *the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.* **Count one offense per victim.**

Include the crime as Rape, regardless of the age of the victim, if the victim did not consent or if the victim was incapable of giving consent. If the victim consented, the offender did not force or threaten the victim, and the victim was under the statutory age of consent, include the crime as Statutory Rape.

b) **Fondling** is *the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.* **Count one offense per victim.** Fondling is recognized as an element of the other sex offenses. Therefore, count Fondling only if it is the only sex offense.

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

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

The statutory age of consent differs by state and can get complicated. For example, in Maryland, the statutory age of consent is 16 years of age (which means the victim must be under 16); however, 14- and 15-year-olds may consent if the offender is less than four years older than the victim. In Nevada, the age of consent is 16; however, sexual intercourse with someone who is under 16 years of age is illegal only if the defendant is at least 18 years of age (the age at which the defendant can be prosecuted). We recommend that you consult your state's statutes to determine the statutory age of consent. **Remember, if force was used or threatened, or the victim was incapable of giving consent because of his/her age or temporary or permanent mental impairment, the offense is Rape, not Statutory Rape.** The ability of the victim to give consent must be a professional determination by a law enforcement agency.

Note that, while the definitions of Sexual Assault include lack of consent as an element of the offense, for the purposes of including a reported Sexual Assault in *Clery Act* statistics, no determination as to whether that element has been met is required. Therefore, all Sexual Assaults that are reported to a campus security authority must be included in your *Clery Act* statistics and also included in your crime log (if you are required to have one), regardless of the issue of consent.

All Sexual Assaults that are reported to a campus security authority must be included in your *Clery Act* statistics, regardless of the issue of consent.

Examples of Sexual Assault

Scenario 1: A female student reports that she was raped by an unidentified male while jogging along a campus trail. Include this as one on-campus Rape.

Scenario 2: A female student reports that her ex-boyfriend had sex with her in her campus residence hall room while she was unconscious after a night of drinking alcohol. Include this as one Rape in the on-campus category and one Rape in the on-campus student housing facility category. Also include one incident of Dating Violence in both the on-campus and on-campus student housing facility categories (Dating Violence is discussed on pages 3-36 and 3-37).

Scenario 3: A male student reports that another male student fondled him in a campus building while telling him that he was glad they could finally be alone. Include this as one on-campus Fondling.

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

Scenario 5: Three female students report that they were each raped by five male students at an off-campus fraternity house owned by a recognized fraternity. Each male raped each of the female students. Include this as three noncampus Rapes.

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. Include this as one public property Rape.

Scenario 7: A woman is walking on a public sidewalk in front of your campus and a man pinches her buttocks as he runs by her. Include this as one public property Fondling only if the victim reports that it was sexual in nature.

Scenario 8: A female student reports that she has been raped three times since January by someone who lives in the same on-campus student housing facility. All three of the sexual assaults occurred in this housing facility. Include this as three Rapes in both the on-campus category and on-campus student housing facility category.

Scenario 9: 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). Include this as one Statutory Rape in the on-campus category and one Statutory Rape in the on-campus student housing facility category.

Scenario 10: Campus police respond to a call from the dean reporting that an unknown man exposed himself to a group of female students on campus. Do not include this incident in your *Clery Act* statistics as it is not a *Clery Act* crime.

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

Essential Elements of a Robbery:

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

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

Aids to Classifying Incidents as Robberies

The classification of Robbery includes both armed robbery and robberies where only personal weapons are used. Armed robbery includes incidents commonly referred to as stickups, hijackings, holdups, heists, carjackings, etc. Carjacking is a Robbery offense in which a motor vehicle is taken through force or threat of force. In such case, following the Hierarchy Rule, report **only** a Robbery, **not** a Motor Vehicle Theft. (The **Hierarchy Rule** is discussed on pages 3-24 and 3-25). Robberies in which only personal weapons, such as hands, arms, fists, feet and teeth, are used or threatened to be used may be referred to as "strong-arms" or "muggings."

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

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

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

Example of Robbery

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

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

Include as Aggravated Assaults:

- Assaults or attempts to kill or Murder.
- Poisoning (including the use of date rape drugs).
- Assault with a dangerous or deadly weapon.
- Maiming.
- Mayhem.
- Assault with explosives.
- Assault with disease (as in cases when the offender is aware that he or she is infected with a deadly disease and deliberately attempts to inflict the disease by biting, spitting, etc.).

Count all assaults by one person upon another with the intent to kill, maim or inflict severe bodily injury with the use of any dangerous weapon. It is not necessary that injury result from an Aggravated Assault when a gun, knife or other weapon

that could cause serious personal injury is used. Also count attacks using personal weapons, such as hands, arms, feet, fists and teeth that result in serious or aggravated injury. In making determinations about whether or not an assault that is carried out using a body part such as hands and feet is aggravated, the institution must consider not only the intent of the attacker but also the extent of the injuries. If an attack results in broken bones, a loss of consciousness or significant blood loss, or requires medical treatment or hospitalization, such as stitches or casting (regardless of whether or not the victim accepts such assistance), the incident must be classified as an Aggravated Assault.

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

The use of drugs to subdue a victim, such as the use of date rape drugs, should be counted as Aggravated Assault because it can be assumed that the intent was to inflict aggravated bodily harm. However, if the use of the drugs results in Rape or Murder within the same incident, follow the Hierarchy Rule, and count the more serious offenses. (The **Hierarchy Rule** is discussed on pages 3-24 and 3-25.)

Be aware that assault cases might be categorized as assault and battery, disorderly conduct, domestic violence or simple assault by some local jurisdictions, even though a knife, gun or other weapon was used in the incident. These should be classified as Aggravated Assault for *Clery Act* reporting purposes.

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

Aid for Classifying Assaults

Carefully consider the following factors in classifying assaults:

- The type of weapon used or the use of an object as a weapon;
- The seriousness of the injury; and
- The intent of the assailant to cause serious injury. The intent to cause death or severe bodily harm can arise after the parties to an incident have already engaged in some consensual contact. For example, consider a situation where friends are on opposite teams in an intermural basketball game or where roommates are wrestling in their dorm room. Aggressive but consensual "horseplay" can become a violent altercation. For example, where one of the players in the basketball game punches a member of the opposing team instead of defending the goal, rendering him unconscious, or one roommate wants to stop wrestling and the other applies a violent headlock, causing a serious neck injury. Both of these examples count as Aggravated Assault.

Often, the weapon used or the extent of the injury sustained will be the deciding factor in distinguishing Aggravated from Simple Assault.

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

Examples of Aggravated Assault

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

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

Scenario 3: Brad and Tim are involved in a physical altercation in a campus parking lot behind their dormitory. Brad pulls a canister of Mace from his pocket and sprays Tim in the face, causing him severe burning and discomfort. Tim flees the scene and seeks medical attention. Include this as one on-campus Aggravated Assault.

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

Scenario 5: A male student slips a date rape drug into a female student's drink at a noncampus fraternity house. Before he can lure the victim away from her friends, however, someone notices what he had done and summons the police. Count this as one noncampus Aggravated Assault.

5. Burglary. Burglary is *the unlawful entry of a structure to commit a felony or a theft.* **Count one offense per each distinct operation.** It is imperative that institutions carefully evaluate the operative facts of each reported incident to determine if it fits into any subpart of this definition.

It is imperative that institutions carefully evaluate the operative facts of each reported incident to determine if it fits into any subpart of this definition.

Classify as Burglary:

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

- **Forcible Entry:** All offenses where force of any kind is used to unlawfully enter a structure for the purpose of committing a theft or felony. This rule applies

when a thief gains entry by using tools; breaking windows; forcing windows, doors, transoms or ventilators; cutting screens, walls or roofs; and where known, using master keys, picks, unauthorized keys, celluloid, a mechanical contrivance of any kind (e.g., a passkey or skeleton key) or other devices that leave no outward mark but are used to force a lock. This includes Burglary by concealment inside a building followed by exiting the structure.

- **Unlawful Entry–No Force:** The entry of a structure in this situation is achieved by use of an unlocked door or window. The element of trespass to the structure is essential in this category, which includes thefts from open garages, open warehouses, open or unlocked dwellings (such as dorm rooms) and open or unlocked common basement areas in apartment houses where entry is achieved by someone other than the tenant who has lawful access, or others whom the tenant allows to have free and regular access to the structure. If an item was taken from an unlocked dorm room and you can establish that neither the tenant nor those friends with free and regular access to the room have taken the item, then unlawful access has occurred. In this context, it is important to note that a "breaking" occurs when a perpetrator crosses the threshold of a boundary that results in a trespass. As such it is possible for a burglar to "break" an open doorway or window. There is no requirement that entry be forced in any way or that damage to a door, window or frame be evident.

- **Attempted Forcible Entry:** A situation where a forcible entry into a locked structure is attempted but not completed. An attempt to commit the crime of Burglary must be evaluated in context based on all available information. Such incidents must not be classified merely as "suspicious activity" or "vandalism" where the totality of facts indicates that a Burglary was in fact attempted. Possible indicators of an attempted Burglary may include, but are not limited to, damage to a door or window, the presence of Burglary tools, a recurring or similar modus operandi or "signature" that ties an incident to other similar offenses (sometimes referred to as "common

plan and scheme"), and/or proximity in time and place to a pattern of other similar crimes.

Do not classify as Burglary:

- Thefts from automobiles, whether locked or not.
- Shoplifting from commercial establishments.
- Thefts from coin boxes or coin-operated machines.
- Thefts from areas of open access. If a perpetrator steals an item from an area of open access (i.e., there is no unlawful entry), the incident is a Larceny, not Burglary. For example, if a student leaves his backpack under the table in a campus dining hall and another student takes it, it's a Larceny. However, if a student leaves his backpack under the table in a campus dining hall and another student breaks into the building after hours and steals the backpack, it's a Burglary.
- Robbery. A structure can be burglarized, but it cannot be robbed. It is possible, however, for an attempted Burglary to become a Robbery. For example, a student returns to her dorm room and surprises a burglar. The burglar physically attacks the student, steals her purse and flees. Because the burglar attacked the student and took her property, include this incident as a Robbery. If the student had not been physically confronted by the burglar and merely observed the burglar leaving her room, the incident would be a Burglary, even if the burglar left empty-handed.
- A forcible entry or unlawful entry in which no theft or felony occurs, but acts of vandalism, malicious mischief, etc., are committed, provided investigation clearly established that the unlawful entry was for a purpose other than to commit a felony or theft.

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

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

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

Examples of lawful access include:

- A student uses her keycard to enter her dorm. She lets five other students who do not have keycards for that dorm into the building. All six of the students have lawful access to the building.
- A student has a party in her dorm room with four guests. All five students have lawful access to the dorm room.
- A faculty member has an office in the science building. Students are in and out of the office while the science building is open. Anyone from the campus community going in the office during this time has lawful access.

Examples of unlawful access include:

- A student uses her keycard to enter a dorm. Without her knowing, a student without a keycard to the building walks in after her. The student without the keycard does not have lawful access to the building.
- A student has a party in her dorm room with four invited guests. When the party is over the host asks everyone to leave. She leaves the door unlocked while she goes to visit another student. One of the students who attended the party opens the door and takes some money off of the desk. That student does not have lawful access to the room.
- A faculty member has an office in the science building. One night when the science building is locked, a maintenance worker who does not have a work order for the building, uses a maintenance key to unlock the building and then unlock the faculty member's door and steals a computer. The maintenance worker does not have lawful access to the office.

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

The UCR definition of a structure includes:

- Apartment, barn, cabin, church, condominium, dwelling house, factory, garage, house trailer or houseboat (if used as a permanent dwelling), mill, office, other building, outbuilding, public building, railroad car, room, school, stable, storage facility, vessel (ship) and warehouse.

- Any house trailer or other mobile unit that is permanently fixed as an office, residence or storehouse.

The UCR definition of a structure does not include:

- Motor vehicles.

- Tents, tent trailers, motor homes, house trailers or other mobile units that are being used for recreational purposes.

- A telephone booth.

- A gym locker or cubby.

3) The structure was unlawfully entered to commit a felony or a theft. If the intent was not to commit a felony or a theft, the incident is not a Burglary. For example, if a homeless student unlawfully entered a structure to sleep, do not include the incident as a Burglary.

Special Rules for Counting Burglaries

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

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

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

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

Examples of Burglary

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

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

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

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

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

Examples of Burglary (continued)

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

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

Scenario 8: After his team practice session a member of the football team breaks into the locker of a teammate and takes his wallet. Because a locker is not a structure, this is a Larceny. Do not include this incident in your *Clery Act* statistics.

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

Scenario 10: A maintenance worker with a work order uses his keys to enter an on-campus office to fix an air conditioner, and while he is there he decides to steal a laptop. This incident is a Larceny because the maintenance worker had a right to be in the office at the time of the theft. Do not include this incident in your *Clery Act* statistics.

Scenario 11: A maintenance worker without a work order uses his keys to enter a locked on-campus office to search for something to steal. Include this as one on-campus Burglary because the maintenance worker did not have a right to be in the office at the time of the theft. He unlawfully entered the office with the intent to steal something. (Because the intent was to steal something, it's a Burglary even if the maintenance worker leaves empty-handed.)

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

Classify as Motor Vehicle Theft:

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

- All incidents where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned. Include joyriding in this category. If a vehicle is stolen in conjunction with another offense, classify the crime using the procedures for classifying multiple offenses (i.e., the **Hierarchy Rule**, pages 3-24 and 3-25).

Do not classify as Motor Vehicle Theft:

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

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

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

- Thefts **from** motor vehicles. Theft from a motor vehicle is Larceny, which is not a *Clery Act* crime unless it's motivated by bias (i.e., a Hate Crime). (More about this in the Hate Crimes section of this chapter on pages 3-25 through 3-35.)

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. Include one on-campus Motor Vehicle Theft.

Scenario 2: A car stereo and CDs are reported stolen from a car parked along a city-owned street on campus. Do not include this incident in your *Clery Act* statistics 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 classroom five miles from campus. Do not include this incident in your *Clery Act* statistics because it occurred on public property adjacent to a noncampus location.

7. Arson. Arson is *any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.* **Count one offense for each distinct incident of Arson occurring on your *Clery Act* geography.**

Classify as Arson:

- Only fires determined to have been willfully or maliciously set.
- Attempts to burn.
- Any fire that investigation determines to meet the UCR definition of Arson regardless of the value of any property damage.
- Incidents where an individual willfully or maliciously burns his or her own property.

The *Clery Act* requires institutions to disclose all Arsons that occur on their *Clery Act* geography. This includes seemingly minor fires such as burning wastebaskets or bulletin boards, regardless of whether they are discovered while burning or after being extinguished. **All of the evidence for any fire not known to be accidental (such as a cooking fire) must be considered by the institutional official designated to make such determinations.** Some jurisdictions have specific rules that state that a fire is not to be classified as Arson unless and until a fire marshal makes a determination of malicious burning. The *Clery Act's* Arson definition does

All of the evidence for any fire not known to be accidental (such as a cooking fire) must be considered by the institutional official designated to make such determinations.

not require that any findings be made by a fire official before classifying an incident.

Do not classify as Arson:

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

Cautions in Disclosing Arson statistics

Point of origin:

- If a fire (determined to be Arson) starts in a privately owned house located next to your campus and spreads to a building on your campus, you are not required to include the fire in your Arson statistics because the point of origin for the Arson was not your *Clery Act* geography.
- If the situation is reversed, and an on-campus fire (determined to be Arson) spreads to the house, you **must** include the on-campus Arson in your *Clery Act* statistics.
- If the private home and the on-campus building are burning, and investigators later determine that the cause was Arson, but the point of origin could not definitively be determined, your school is responsible for including the Arson in your statistics for the on-campus building.
- Count incidents in which persons are killed as a direct result of Arson as both Criminal Homicides and Arson. Similarly, report the number of persons severely injured during an Arson as Aggravated Assaults along with the Arson. When other reportable offenses are committed during the same distinct operation as the Arson offense, report the most serious offense along with the Arson. (More about the **Hierarchy Rule** on pages 3-24 and 3-25.)

An important note for institutions that have **on-campus student housing facilities:** Arsons in on-campus student housing facilities must also be included in your fire statistics. This means that in Scenario 5, for example, you must also include the incident as one intentional fire in the on-campus

student housing facility in which the fire occurred. (See Chapter 13 for more information on fire statistics.)

Examples of Arson

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

Scenario 2: A suspicious fire is reported in a campus academic building, but fire authorities cannot determine if it was intentionally set. Do not include this incident as Arson in your *Clery Act* statistics.

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

Scenario 4: A fire is reported in a campus dormitory. Ten students are killed as a direct result of the flames and asphyxiation. Two more students die from internal injuries when they attempt to jump to safety. Six people are hospitalized with second- and third-degree burns. Investigation determines that the fire was intentional. Include this as one Arson in the on-campus category and the on-campus student housing facility category and 12 Murder and Non-negligent Manslaughters and six Aggravated Assaults in the on-campus category and the on-campus student housing facility category. This Arson, along with the resulting deaths and injuries, must also be included in your fire statistics described in Chapters 12 and 13.

Scenario 5: A student is seen setting fire to a paper advertisement on an on-campus dormitory bulletin board. Investigation determines that the student willfully set fire to the paper. Include this as one Arson in the on-campus and the on-campus student housing facility categories and also as one intentional fire in your fire statistics described in Chapters 12 and 13.

Beyond the Basics—Additional Rules for Counting and Disclosing Crimes

The Hierarchy Rule

Hierarchy rule citation
34 CFR 668.46(c)(9)

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

- Murder and Non-negligent Manslaughter
- Manslaughter by Negligence
- Sexual Assault
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft

An example based on the Hierarchy Rule might be if a student is both raped and robbed during a single incident. In this case, include only the Rape in the statistics, because it is classified as the more serious crime in the hierarchy.

There are exceptions to using the Hierarchy Rule when counting Arson, Sexual Assaults and Hate Crimes.

There are **exceptions** to using the Hierarchy Rule when counting offenses. They apply to Arson, Sexual Assaults, Hate Crimes and *VAWA* Offenses. Arson and Sexual Assaults are defined above and the rules for counting them are discussed here. (See pages 3-25 through 3-35 in the Hate Crime section for the rules for counting Hate Crimes. See page 3-42 in the *VAWA* Offenses section for the rules for counting *VAWA* Offenses.)

The rules for counting Arson are:

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

The rules for counting Sexual Assaults are:

- If Rape, Fondling, Incest or Statutory Rape occurs in the same incident as Murder, count both the sexual assault and the Murder.
- Fondling is recognized as an element of the other Sexual Assaults. Include a Sexual Assault as Fondling only if it is the only Sexual Assault. If Fondling occurs in the same incident as Murder, count both the Fondling and the Murder.

Hate Crimes

Hate crime citation
34 CFR 668.46(c)(4)

The second category of statistics you must disclose after Criminal Offenses is Hate Crimes. A **Hate Crime** is *a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim.*

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

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

- **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 actual or perceived sexual orientation.* Sexual Orientation is the term for a person's physical, romantic, and/or emotional attraction to members of the same and/or opposite sex, including lesbian, gay, bisexual, and heterosexual (straight) individuals.

- **Gender.** *A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., male or female.*

- **Gender Identity.** *A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals.* Gender non-conforming describes a person who does not conform to the gender-based expectations of society, e.g., a woman dressed in traditionally male clothing or a man wearing makeup. A gender non-conforming person may or may not be a lesbian, gay, bisexual, or transgender person but may be perceived as such.

- **Ethnicity.** *A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language, common culture (often including a shared religion) and/or ideology that stresses common ancestry.* The concept of ethnicity differs from the closely related term "race" in that "race" refers to a grouping based mostly upon biological criteria, while "ethnicity" also encompasses additional cultural factors.

- **National Origin.** *A preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth.* This bias may be against people that have a name or accent associated with a national origin group, participate in

certain customs associated with a national origin group, or because they are married to or associate with people of a certain national origin.

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

For *Clery Act* purposes, Hate Crimes include any of the following offenses that are motivated by bias.

- Murder and Non-negligent Manslaughter
- Sexual Assault
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson
- Larceny-Theft
- Simple Assault
- Intimidation
- Destruction/Damage/Vandalism of Property

The first seven offenses are defined and discussed in the Criminal Offenses section earlier in this chapter. In addition to those offenses, **Larceny-Theft, Simple Assault, Intimidation, and Destruction/Damage/Vandalism of Property are included in your *Clery Act* statistics only if they are Hate Crimes.**

Larceny-Theft, Simple Assault, Intimidation, and Destruction/ Damage/ Vandalism of property are included in your *Clery Act* statistics only if they are Hate Crimes.

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

but is in a position to exercise dominion or control over a thing.

Classify as Larceny:

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

Do not classify as Larceny:

- Motor Vehicle Theft.
- Attempted Motor Vehicle Theft.
- Embezzlement.
- Confidence games.
- Forgery.
- Worthless checks.

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

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

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

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

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

   Classify as Destruction/Damage/Vandalism of Property a wide range of malicious behavior directed at property, such as:

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

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

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

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

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

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

b. Bias-related oral comments, written statements or gestures were made by the offender, that indicate the offender's 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, anti-Islamic statements on the wall of a mosque, or anti-gay graffiti on the door of an LGBTQ center.

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

e. The victim is a member of a racial, religious, disability, sexual orientation, ethnicity, national origin, gender or gender identity group that is overwhelmingly outnumbered by other residents in the student housing facility where the victim lives and the incident took place. This factor loses significance with the passage of time (i.e., it is most significant when the victim first moved into the facility, and becomes less and less significant as time passes without incident).

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

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

h. The victim was engaged in activities related to his or her race, religion, disability, sexual orientation, ethnicity, national origin, gender or gender identity. For example, the victim was a member of the National Association for the Advancement of Colored People (NAACP) or participated in an LGBTQ Pride celebration.

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

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

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

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

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

Additional considerations in determining whether an incident is a Hate Crime:

- **Need for a case-by-case assessment of the facts.** The aforementioned factors are not all-inclusive of the types of objective facts that evidence bias motivation. Therefore, examine each case for facts that clearly provide evidence that the offender's bias motivated him or her to commit the crime.

- **Misleading facts.** Be alert to misleading facts. For example, the offender used an epithet to refer to the

victim's race, but the offender and victim were of the same race.

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

- **Offender's mistaken perception.** Even if the offender was mistaken about the victim's race, religion, disability, sexual-orientation, ethnicity, national origin, gender or gender identity, 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 LGBTQ meeting in a noncampus fraternity house is followed back to campus and attacked behind a dorm by six teenagers who mistakenly believed the victim is gay. Although the offenders were mistaken, the offense is a Hate Crime because it was motivated by the offenders' anti-gay bias.

Remember, it is the perception of the offender, not the perception of the victim that determines whether a crime is classified as a Hate Crime.

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

Rules for Counting Hate Crimes

Hate Crimes are counted in the same manner that the offenses are when they are not Hate Crimes except that the **Hierarchy Rule does not apply to Hate Crimes**. This means that:

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

- In reporting the number of Hate Crimes, you must include only the crimes that are bias-motivated as Hate Crimes in a multiple-offense incident. For example, three armed men commit a Robbery on the porch of a fraternity house. Two of the offenders go inside the house intending to rob more students. One of them spots a Hispanic woman, grabs her, and rapes her. The two offenders were later arrested and the investigation showed that although the Robbery was not bias-motivated, the Rape was. Include only the Sexual Assault as a Hate Crime.

- For any Criminal Offense that is also a Hate Crime, your statistics should indicate the offense and also the offense with the category of bias. For example, if an Aggravated Assault is a Hate Crime, include one Aggravated Assault in the statistics in the Criminal Offenses category and one Aggravated Assault motivated by (category of bias) in the Hate Crime category.

- The exception is when the Aggravated Assault is not included in the Criminal Offenses category because of the hierarchy rule. For example, for a single incident involving both a Rape and an Aggravated Assault that were both Hate Crimes, include only the Rape in the Criminal Offenses category and both the Rape and the Aggravated Assault in the Hate Crimes category.

Examples of Hate Crimes

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

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

Examples of Hate Crimes (continued)

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

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

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

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

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

Examples of Hate Crimes (continued)

Scenario 8: The office of the Arab-American Student Center on the third floor of the campus student union contains both Arabic and English writing on the outside of the door. One night the office is vandalized, with anti-Arab threats and disparaging anti-Arab messages. Include this as one on-campus Destruction/Damage/Vandalism of Property incident characterized by Ethnicity bias.

Scenario 9: Two students are walking on campus, speaking Spanish. Five other white students surround them, shove them and throw them to the ground, shouting "You're in America. This is our country. We speak English here! Go back to your own country if you don't like it!" Include this as two on-campus Simple Assaults characterized by National Origin.

Scenario 10: A white student ran by another student in front of the Student Union, shoved him to the ground, and forcibly pulled his Dastaar (Sikh Turban) and said, "Take that thing off your head—we don't want your kind in this neighborhood!" In the process of the attack, the Sikh student suffered a concussion. When campus police responded to the scene, a witness to the attack identified the perpetrator as a part-time clerk at a local convenience store near a predominately Sikh community. Include this as one on-campus Aggravated Assault characterized by religious bias.

Scenario 11: A transgender women was leaving the campus bookstore when three men walking toward her said, "Hey, what's your problem? Huh?" She kept walking, trying to ignore them. However, as they got close, one yelled "We don't want no she-males around here!" and a second one knocked her to the ground. Include this as one on-campus Simple Assault characterized by Gender Identity bias.

Scenarios 12: For a fraternity prank, two students forcibly bring a developmentally disabled student back to their house on campus. They shave the student's head, spelling out the word "retard" in his remaining hair. They record the incident on their cell phones and post it on the fraternity website, all the while mocking his disability and his slurred-speech protests. Include this as one on-campus Simple Assault characterized by Disability bias.

VAWA Offenses

VAWA Offenses citation
34 CFR 668.46(c)(1)(iv)

The third category of crime statistics you must disclose are those added to the *Clery Act* by the *Violence Against Women Act.* These are Dating Violence, Domestic Violence, Sexual Assault and Stalking. Sexual assault is included by the FBI as a Criminal Offense and is discussed in the Criminal Offense section earlier in this chapter. Domestic Violence, Dating Violence and Stalking are considered crimes for the purposes of *Clery Act* reporting and are defined and discussed in this section.

Dating Violence is defined as *violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.* For the purposes of this definition—

- *Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.*
- *Dating violence does not include acts covered under the definition of domestic violence.*

We caution that differences in the culture of different people and their use of terms may mean that a reporting party may describe a dating relationship using different terms from how an institutional official might describe "dating." When the reporting party asserts that there was a dating relationship, you should assume that the victim and perpetrator were in a dating relationship to avoid incorrectly omitting incidents. The victim's use of terms such as "hanging out" or "hooking up" rather than "dating," or whether or not the relationship is described as "monogamous" or "serious" should not be the determining factor. No matter who reports the incident, whether it is the victim or a third party, it is the responsibility of the institution to determine whether the incident should be included as Dating Violence.

Examples of Dating Violence

Scenario 1: A female student cuts her ex-boyfriend with a knife during an altercation in an on-campus dining hall. Include this as one incident of on-campus Dating Violence and one on-campus Aggravated Assault.

Scenario 2: A female student reports that her boyfriend forced her into nonconsensual sex in her on-campus dorm room. Include one Rape in both the on-campus category and the on-campus student housing facility category, and one incident of Dating Violence in both the on-campus category and the on-campus student housing facility category.

Scenario 3: After a party on campus, John walked back to his apartment in a noncampus housing complex with Matt, whom he has hooked up with a few times over the past month. When they reached John's apartment, it became clear that Matt was angry that John had been talking with other men at the party, causing Matt to punch two holes in the wall and threaten to beat John if he sees him flirting with any other men on campus. John now fears for his safety around Matt. Include one incident of noncampus Dating Violence for the threat of physical abuse.

Scenario 4: A dating couple is arguing on a public sidewalk in front of a campus building. The male slaps the female and her face is red. Include this as one public property incident of Dating Violence.

Domestic Violence is defined as *a felony or misdemeanor crime of violence committed—*

- *By a current or former spouse or intimate partner of the victim;*
- *By a person with whom the victim shares a child in common;*
- *By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;*
- *By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;*
- *By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.*

To categorize an incident as Domestic Violence, the relationship between the perpetrator and the victim must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

Examples of Domestic Violence

Scenario 1: A student's wife is waiting for her husband outside of his on-campus classroom building. She attacks her husband with a knife when he exits the building. Include this as one on-campus incident of Domestic Violence and one on-campus Aggravated Assault.

Scenario 2: A neighbor reports yelling in the apartment next door in a university housing complex. The officer who arrives at the apartment finds a husband and wife having an argument. Neither party reports any physical injuries and neither party reports being intimidated. Do not include this incident in your *Clery Act* statistics.

Scenario 3: An employee reports to the campus police that her ex-husband has physically assaulted her four times. All four assaults occurred at the employee's private residence; however, he has also recently showed up in the noncampus parking lot outside her office and threatened to hurt her. Include one noncampus Domestic Violence incident for the Intimidation that occurred in the noncampus parking lot. Do not include the Aggravated Assaults in your *Clery Act* statistics because they did not occur on *Clery Act* geography. Do not include the Intimidation as a Hate Crime in your *Clery Act* statistics because there was no evidence that it was motivated by bias. Also include one incident of noncampus Stalking (Stalking is discussed below).

Scenario 4: A father argues with his son at a football game in the on-campus stadium. He eventually hits his son, breaking his jaw. Include this as one on-campus incident of Domestic Violence and one Aggravated Assault.

Stalking is defined as *engaging in a course of conduct directed at a specific person that would cause a reasonable person to—*

- *Fear for the person's safety or the safety of others; or*
- *Suffer substantial emotional distress.*

For the purposes of this definition—

- **Course of conduct** means *two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or*

about a person, or interferes with a person's property.

- **Reasonable person** means *a reasonable person under similar circumstances and with similar identities to the victim.*

- **Substantial emotional distress** means *significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.*

Additional Guidance for Counting Stalking

Record each report of Stalking as occurring at only the first location within the institution's *Clery Act* geography in which either the perpetrator engaged in the Stalking course of conduct or the victim first became aware of the Stalking. It is not necessary for all activities in the course of conduct to occur on *Clery Act* geography in order to count the incident. A Stalking incident in which only one or some of the activities took place on *Clery Act* geography must be included in the reported statistics.

It is not necessary for all activities in the course of conduct to occur on *Clery Act* geography in order to count the incident.

A single course of conduct may include varying Stalking activities and may include acts committed over electronic communication (e.g., emails, texts or social media).

When recording reports of Stalking that include activities in more than one calendar year, an institution must record a crime statistic for each and every year in which the course of conduct is reported to a local police agency or to a campus security authority.

Although not required in the statistical reporting, an institution may provide additional information to further describe the reports of Stalking included in the crime statistics.[3] For example, you may find it useful to explain whether a report represents Stalking that continued across multiple calendar years, whether the Stalking continued despite interventions by the institution or other parties, whether it lasted for a short but intense period or occurred intermittently over several months, and whether the perpetrator or the victim was located on or within the institution's *Clery Act* geography.

[3] This information can be included as text in the Annual Security Report and/or in a caveat box of the online survey.

However, in providing any additional information the institution must not include information that will identify the victim or the perpetrator.

You are not required to follow up with victims each year to determine whether the behavior has continued, although you are not precluded from doing so. If the institution learns that the behavior has continued into another calendar year, the institution must record the behavior as a new report of Stalking in that year. Otherwise, institutions must record only reports that they receive in each year.

If Stalking occurs on more than one institution's *Clery Act* geography and is reported to a campus security authority at each institution, both institutions must include the Stalking in their statistics. Although the *Clery Act* does not require an institution that learns of Stalking occurring on another campus to alert the other campus, other laws may require such an alert and we strongly encourage an institution in this situation to do so.

Examples of Stalking

Scenario 1: A female student reports that she is being followed by a man she met at her job at a café off-campus. He began showing up at the café and would not leave her alone. Since then she has also noticed him following her around campus and she fears for her safety. Include this as one incident of Stalking on-campus since the first occurrence on *Clery Act* geography occurred when the victim noticed the perpetrator following her on-campus.

Scenario 2: Several students belonging to the university association of Hispanic students have reported being watched or followed by the same unknown man on various parts of campus. All of the students reported fearing for their safety as a result of his behavior but none of the students saw the man more than once. Do not include this as Stalking in your *Clery Act* statistics because, given that the man has never approached the same student more than once, the course of conduct was not directed at a single individual,

Scenario 3: A female student reported that she is afraid for her safety because her ex-boyfriend has been sending harassing emails to her private email account over the past several weeks. She opened the first five emails in her off-campus apartment. However, earlier that day she opened another email on her mobile phone while walking on campus. She came directly to the Campus Police to report the behavior. The location of the ex-boyfriend when he was sending the harassing messages is unknown. Include this as one on-campus Stalking because the first incident in the course of conduct to occur on *Clery Act* geography was the victim reading the email on-campus.

Examples of Stalking (continued)

Scenario 4: A male student reports that his ex-girlfriend has been sending him harassing text messages. The ex-girlfriend attends another university 200 miles away. While at home over summer break, the ex-girlfriend showed up at the student's house every day asking if he has a new girlfriend at school. Now that he has returned to school, she sends him daily text messages threatening to "check-in" on him on-campus. The ex-girlfriend sends these text messages late at night and the victim receives them when he is inside his on-campus dorm room. Include one incident of Stalking in both the on-campus category and in the on-campus student housing facility category **if the male student fears for his safety as a result of this behavior.**

Scenario 5: A male student reported a Stalking course of conduct to Campus Police during the spring semester. During the investigation, Campus Police established that the first incident in the Stalking course of conduct to occur on *Clery Act* geography took place on public property. When the student returned to campus for the fall semester, the Stalking continued when the perpetrator repeatedly waited for the victim in the hallway outside the victim's dorm room in an on-campus student housing facility. Since the spring and fall Stalking incidents involved the same victim and the same perpetrator, the fall incidents should be considered a continuation of the Stalking course of conduct that started in the spring. Include this as one Stalking incident on public property.

Rules for Counting *VAWA* Offenses

The Hierarchy Rule does not apply to *VAWA* Offenses. Therefore, for any Criminal Offense, Hate Crime, or arrest for Weapons, Drug or Liquor Law Violations that is also a *VAWA* Offense, your statistics must reflect the original offense and the *VAWA* Offense. For example, if an Aggravated Assault is also Domestic Violence, include the incident as one Aggravated Assault in the Criminal Offenses category and as an incident of Domestic Violence in the *VAWA* Offenses category.

Arrests and referrals citation
34 CFR 668.46(c)(1)(ii)

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

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

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

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.

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

If an individual is both arrested and referred for disciplinary action for an offense, **include only the arrest in your statistics.**

Note that arrests and referrals for these law violations are not covered by the Hierarchy Rule used to count Criminal Offenses.

Note that **arrests and referrals for these law violations are not covered by the Hierarchy Rule used to count Criminal Offenses. Therefore, you must count arrests for Weapons, Drug Abuse and Liquor Law Violations in addition to the most serious Criminal Offense when occurring in a single incident.** For example, if an Aggravated Assault is committed with the use of a firearm in violation of a weapons law, count both the Aggravated Assault and the arrest or referral for the Weapons Law Violation.

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

Classify as arrests:

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

Do not classify as arrests incidents in which:

- Police contact a juvenile who has not committed an offense.
- Police take a juvenile into custody for his or her own protection, but the juvenile did not commit a crime.
- Officers make call backs or follow-up contacts with young offenders for the purpose of determining their progress.
- An individual makes a "citizen's arrest."
- The arrest was for something other than a violation of a weapons, drug abuse or liquor law (e.g., an arrest for an Aggravated Assault).
- A civil citation is issued.

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

- Count the number of arrests for Weapons: Carrying, Possessing, Etc., the number of arrests for Drug Abuse Violations and the number of arrests for Liquor Law Violations.

- If a single incident involving a Liquor Law Violation resulted in the arrest of 10 students, count this as 10 arrests.

- If the same person is arrested for multiple incidents in the same calendar year (e.g., one arrest in February and one arrest in March), count this as two arrests. Count this as two arrests even when both arrests are for the same type of violation (e.g., both were Drug Abuse Violations).

- If an individual is arrested for one type of law violation and referred for disciplinary action for a different type of law violation during a single incident (e.g., arrested for a Drug Abuse Violation and referred for a Liquor Law Violation), count only the arrest.

- If a person is both arrested and referred for disciplinary action for a single incident involving a law violation (e.g., a Drug Abuse Violation), count only the arrest.

- If a person is arrested for multiple violations during a single incident (e.g., violations of both drug abuse and liquor laws), law enforcement or security officer discretion should be used to determine which violation to count. We recommend that you document the justification for this determination. Officer discretion is allowed only for Weapons, Drug Abuse and Liquor Law Violation arrests *resulting from a single incident.*

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

Documentation of the arrest must be maintained for purposes of *Clery Act* compliance for three years from the latest publication of the annual security report to which they apply, even if the record is expunged by the court. (See Chapter 9 for more on documentation requirements.)

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 established and which may result in the imposition of a sanction.*

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

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

Note that a disciplinary action can be initiated in an informal as well as a formal manner. It can include an interview or an initial review of names submitted to an official. So too, sanctions can be formal or informal, punitive or educational. For example, requiring completion of a "Dangers of Alcohol" education seminar in lieu of an arrest for underage alcohol possession must be included as one referral for disciplinary action for a Liquor Law Violation.

Documentation of the referral must be maintained for purposes of *Clery Act* compliance for three years from the latest publication of the annual security report to which they apply. (See Chapter 9 for more on documentation requirements.)

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

- Count the number of persons who were referred for Weapons: Carrying, Possessing, Etc., the number referred for Drug Abuse Violations and the number referred for Liquor Law Violations.

- Do not count the number of persons who were referred for disciplinary action solely for violation of institutional policy. Only count the number of persons referred for violations of the law.

- If a person is referred for disciplinary action for multiple incidents in the same calendar year (e.g., one referral in February and one referral in March), count this as two referrals for disciplinary action. It is counted as two referrals even if both referrals are for the same type of violation (e.g., both were Drug Abuse Violations).

- If an individual is arrested for one type of law violation and referred for disciplinary action for a different type of law violation during a single incident (e.g., arrested for a Drug Abuse Violation and referred for a Liquor Law Violation), count only the arrest.

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

- If a person is issued a civil citation for a law violation (e.g., in lieu of an arrest) do not count as an arrest. If the person is also referred for disciplinary action for the same violation, count the disciplinary referral.

How to Classify the Law Violations

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

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

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

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

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

The relevant substances include opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics—manufactured narcotics that can cause true

addiction (Demerol, methadone); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

Classify as a Drug Abuse Violation:

- All drugs, without exception, that are illegal under local or state law where your institution is located. This means that if you have campuses in different states, the laws may differ for each of them.
- All illegally obtained prescription drugs.

Do not classify as a Drug Abuse Violation:

- Possession of a small amount of marijuana in states that have decriminalized this conduct, meaning that the conduct is no longer a criminal offense. Referrals that occur for this decriminalized conduct should not be counted for *Clery Act* reporting purposes.
- Use of legally obtained, personal prescription drugs used by the owner in a manner not consistent with the instructions provided by the physician.

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

Classify as a Liquor Law Violation:

- The manufacture, sale, transporting, furnishing, possessing, etc., of intoxicating liquor.
- Maintaining unlawful drinking places.
- Bootlegging.
- Operating a still.
- Furnishing liquor to a minor or intemperate person.
- Underage possession.
- Using a vehicle for illegal transportation of liquor.
- Drinking on a train or public conveyance.

- Attempts to commit any of the above.

Do not classify as a Liquor Law Violation:

- Drunkenness (unless state law classifies drunkenness as internal possession and a violation of possession laws).
- Driving under the influence.

We recommend that you review your state laws and local ordinances to determine all of the applicable Weapons, Drug Abuse and Liquor Law Violations in your jurisdiction.

Examples of Arrests and Referrals

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

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

Scenario 3: A 21-year-old student is referred for disciplinary action for possessing a beer at an on-campus fraternity house on a "dry" campus. Do not include this incident in your *Clery Act* statistics 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 in your *Clery Act* statistics as they occurred on private property off campus.

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

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

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

Examples of Arrests and Referrals (continued)

Scenario 8: A faculty member is referred for disciplinary action for having a firearm in his or her office in violation of school policy. The state in which the campus is located does not have a law against possessing a firearm on campus. Do not include this incident in your *Clery Act* statistics because there was no violation of the law.

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

Scenario 10: A resident assistant (RA) has the duty of loading disciplinary information into an electronic database. She enters the names of 15 students who were referred for disciplinary action as a result of being at an on-campus party where there was underage drinking in violation of state law. The RA's supervisor begins the disciplinary action process by reviewing the information in the database. She determines that five of those students were present in a location where illegal drinking took place but that these five students did not violate any liquor laws. Nothing more is done in terms of disciplinary action for those five individuals. The disciplinary process continues for the remaining 10 individuals who were at the party. Include this as 15 referrals for disciplinary action in the on-campus category because 15 students were referred for underage drinking.

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

Scenario 12: A Burglary occurs at a business down the street from campus. The suspect is chased by police and apprehended on campus. The suspect is carrying a firearm in violation of state law and arrested for both Burglary and a Weapons Violation while on campus property. Include this as one on-campus arrest for Weapons: Carrying, Possessing, Etc. Do not include the Burglary in your *Clery Act* statistics because the Burglary did not occur on *Clery Act* geography.

Unfounded Crimes

Unfounded crimes citation
34 CFR 668.46(c)(2)(iii)

Beginning with the reports due in 2015, institutions have been required to include in the Web-based survey and the annual security report statistics for the total number of crime reports that were ''unfounded'' and subsequently withheld from crime statistics during each of the three most recent calendar years.

For *Clery Act* purposes, the standard for unfounding a reported crime is very high. You may classify a crime as unfounded only after a full investigation by sworn or commissioned law enforcement personnel. A crime is considered unfounded for *Clery Act* purposes **only if sworn or commissioned law enforcement personnel make a formal determination that the report is false or baseless.** Crime reports can be properly determined to be false only if the evidence from a complete and thorough investigation establishes that the crime reported was not, in fact, completed or attempted in any manner. Crime reports can be determined to be baseless only if the allegations reported did not meet the elements of the offense or were improperly classified as crimes in the first place. **A reported crime cannot be designated ''unfounded'' if no investigation was conducted or the investigation was not completed. Nor can a crime report be designated unfounded merely because the investigation failed to prove that the crime occurred; this would be an inconclusive or unsubstantiated investigation.** As such, for *Clery Act* purposes, the determination to unfound a crime can be made only when the totality of available information specifically indicates that the report was false or baseless.

A case cannot be designated ''unfounded'' if no investigation was conducted or the investigation was not completed.

The recovery of stolen property or the low valuation of stolen property is not adequate grounds for unfounding a reported Robbery, Burglary, or Larceny-Theft. Similarly with regard to sex offenses, subsequent acts or inactions on the part of a victim, a witness, or a third party are not an independent ground for unfounding a reported crime. A reported crime may not be unfounded solely because a victim or witness fails to follow an institution's rules for filing a complaint or is unwilling to provide additional information or evidence, or to otherwise assist in an investigation or prosecution. Moreover, a crime may not be unfounded simply because a complainant agrees to execute a "Declination to Prosecute" form or because a prosecutor subsequently decides not to pursue criminal charges. The mere lack of sufficient evidence to make an arrest is not adequate grounds to unfound a crime report either.

Finally, determinations by a coroner, court or jury may not be used to unfound reports of offenses or attempts. A verdict that a particular defendant is not guilty of a particular charge (or, more technically, that there was not sufficient admissible evidence introduced demonstrating beyond a reasonable doubt that the accused committed the crime) does not mean that the crime did not occur. The inclusion of a reported crime in the *Clery Act* statistics is not based on the identity of a specific perpetrator.

Aid for Counting Unfounded Crimes

To count a crime as unfounded for *Clery Act* purposes, the reported crime must have been

- a *Clery Act* crime;
- reported to have occurred on *Clery Act* geography;
- thoroughly investigated by sworn or commissioned law enforcement personnel; and
- found through investigation to be false or baseless, meaning that **the crime did not occur and was never attempted.**

Do not count as unfounded crimes:

- Crimes that were initially misclassified. Do not count a crime as unfounded if investigation shows that a crime has occurred but the initial description of the crime was inaccurate. For example, an Aggravated Assault is reported to authorities but police investigation determines that the crime is Simple Assault, not Aggravated Assault. The initial crime report was not unfounded. The crime was reclassified.
- Crimes that were initially reported as occurring on *Clery Act* geography but determined through investigation to have occurred outside of *Clery Act* geography.
- Burglary, Robbery, or Larceny-Theft incidents in which the property was returned. The crimes still occurred. (Unfounded Larceny-Theft would be included only if it was reported as a Hate Crime.)

- Reports of Weapons: Carrying, Possessing, Etc. Violations, Drug Abuse Violations, or Liquor Law Violations in which officers were unable to substantiate the report and no arrests were made. For example, if an officer investigates a report of marijuana smoke and does not find any Drug Abuse Violation, the report is unsubstantiated, not unfounded. There is no crime to unfound.

- Reports from local law enforcement of unfounded arrests. Arrests cannot be unfounded.

- Disciplinary referrals in which it is determined through the disciplinary process that no law violation occurred or no sanction is imposed. Once a student has been referred for disciplinary action, a record has been initiated and the referral must be counted. Disciplinary referrals cannot be unfounded.

- Reports from local law enforcement of crimes that were unfounded because the victim refused to cooperate with authorities or there was not enough evidence to press charges. To be unfounded, investigation must prove that the crime did not occur and was never attempted.

- Findings of a judge, jury, disciplinary committee or any other person or entity that is not a sworn or commissioned law enforcement officer. A district attorney may unfound a crime only if he or she is also a sworn or commissioned law enforcement officer.

- Reports of crimes where the victim later retracts his or her statement, or withdraws a complaint, unless a thorough investigation proves that the crime did not occur and was never attempted. A victim might retract his or her statement because he or she does not want to continue to answer questions or is being pressured by the perpetrator or other parties. A retracted statement or withdrawal of a complaint alone is not sufficient evidence to prove that the crime did not occur.

Do count as unfounded crimes:

- Motor Vehicle Thefts where investigation determined that the car was misplaced by the owner and a Motor Vehicle Theft did not occur and was never attempted.

- Burglaries where investigation determined that the items were misplaced by the owner and Burglary did not occur and was not attempted.

If a crime is unfounded, it should not be included in the *Clery Act* statistics for the associated crime category, and should be removed from any previously reported statistics for that crime category. The unfounded crime should be included in the total count of unfounded crimes for the year in which the crime was originally reported. Consistent with other recordkeeping requirements that pertain to the Title IV, *HEA* programs, if a crime was not included in the *Clery Act* statistics for the associated crime category because it was unfounded, you must maintain accurate documentation of the reported crime and the basis for unfounding the crime. This documentation must demonstrate that the determination to unfound the crime was based on the results of the law enforcement investigation and evidence.

In addition, institutions that have a campus security or police department must include all reported crimes in their crime log. The crime log must include the nature, date, time and general location of each crime, as well as the disposition of the complaint. If a crime report is determined to be unfounded, you must update the disposition of the complaint to unfounded in the crime log within two business days of that determination. You may not delete the report from the crime log.

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

Excluded Crimes

There are some crimes that you should not include in your institution's *Clery Act* statistics and others that you may exclude under particular circumstances. They are:

- **Non-*Clery Act* crimes.** If you disclose statistics for non-*Clery Act* crimes, disclose them in a manner separate from your *Clery Act* statistics. (More about how to present your statistics in Chapter 9.)

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

A Final Reminder …

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

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Collecting Statistics:
Authorities and Law Enforcement Agencies

CHAPTER 4

Now that you know all of the categories of crimes, arrests and referrals to disclose and how geography fits into compliance with campus safety and security regulations, you need to know how to obtain reportable statistics associated with that geography. This requirement involves collecting information from individuals and organizations associated with your institution (i.e., campus security authorities or CSAs) about crimes, arrests and referrals that have been reported to them, and requesting crime and arrest statistics from local law enforcement agencies. We'll begin by discussing campus security authorities.

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

Under the *Clery Act*, a crime is "reported" when it is brought to the attention of a campus security authority, the institution's police department or campus safety office, or local law enforcement personnel by a victim, witness, other third party or even the offender. It doesn't matter whether or not the individuals involved in the crime, or reporting the crime, are associated with the institution. If a campus security authority receives a report, he or she must include it as a crime report using whatever procedure has been specified by your institution.

What you must include, therefore, are **statistics based on reports of alleged criminal incidents.** It is not necessary for the crime to have been investigated by the police or a campus

It is not necessary for the crime to have been investigated by the police or a campus security authority, nor must a finding of guilt or responsibility be made to include the reported crime in your institution's crime statistics.

security authority, nor must a finding of guilt or responsibility be made to include the reported crime in your institution's crime statistics.

How to Identify Your Institution's CSAs

Campus security authority definition citation
34 CFR 668.46(a)

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

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

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

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

- *An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings.* An

official is defined as *any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution.*

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

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Examples of individuals (outside of a police or security department) who generally meet the criteria for being campus security authorities include

- a dean of students who oversees student housing, a student center or student extracurricular activities;
- a director of athletics, all athletic coaches (including part-time employees and graduate assistants);
- a faculty advisor to a student group;
- a student resident advisor or assistant;
- a student who monitors access to dormitories or buildings that are owned by recognized student organizations;
- a coordinator of Greek affairs;
- a Title IX coordinator;
- an ombudsperson (including student ombudspersons);
- the director of a campus health or counseling center;
- victim advocates or others who are responsible for providing victims with advocacy services, such as

assisting with housing relocation, disciplinary action or court cases, etc.;

- members of a sexual assault response team (SART) or other sexual assault advocates; and
- officers from local law enforcement who are contracted by the institution to provide campus safety-related services.

If your institution directs students or employees to report crimes to other individuals, then those individuals are also CSAs. These individuals could include

- physicians in a campus health center;
- counselors, including peer counselors (except for professional or pastoral counselors addressed later in this chapter); and
- health educators, including peer health educators.

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; and
- clerical or cafeteria staff.

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

Remember, too, that because personnel and job positions can change, someone who is a CSA one year might not be a CSA the following year or vice versa. For example, suppose that you have a computer science instructor who is teaching at

the main campus. She isn't a CSA because she doesn't have any responsibility for student and campus activity beyond the classroom. The following year, this instructor is teaching computer science at one of your institution's **noncampus** locations. Because there aren't any security personnel on site, your institution's security policy identifies this instructor as the person to whom students should report crimes or other emergencies that occur there. This instructor is now a campus security authority. Institutions are advised to reevaluate the CSA status of all employees (including student employees) on at least an annual basis and document the rationale of the determinations.

Please note that, while there may be some overlap, persons considered to be CSAs for *Clery Act* reporting are not necessarily the same as those defined as "responsible employees" for Title IX.

While there may be some overlap, persons considered to be CSAs for *Clery Act* reporting are not necessarily the same as those defined as "responsible employees" for Title IX.

What Does a Campus Security Authority Do?

The function of a campus security authority is to report to the official or office designated by the institution to collect crime report information, such as the campus police or security department, those allegations of *Clery Act* crimes that he or she receives. CSAs are responsible for reporting allegations of *Clery Act* crimes that are reported to them in their capacity as a CSA. This means that CSAs are **not** responsible for investigating or reporting incidents that they overhear students talking about in a hallway conversation; that a classmate or student mentions during an in-class discussion; that a victim mentions during a speech, workshop, or any other form of group presentation; or that the CSA otherwise learns about in an indirect manner.

Examples of Collecting Crime Information

Scenario 1: A resident assistant who has been identified as a CSA is told by a fellow student that she has been raped and is seeking emotional and medical support. The resident assistant should forward the report to the institution's designated official for inclusion in the statistics regardless of whether the victim chooses to file a report with law enforcement or press charges.

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

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

Scenario 4: Jane, a resident advisor, is attending a Take Back the Night rally at her school. She attends the event as a participant and is not involved in providing any counseling services. As part of the event's programming, a student gives a speech in which she says that she was raped on campus last year. In response to hearing the speech, three other students decide to address the crowd and disclose their own experiences being sexually assaulted. After the event, Jane returns to her room where a student from her housing facility knocks on her door and tells her that she was sexually assaulted at an on-campus party in another housing facility three months ago. Jane should forward the report of the incident that was reported to her as she was acting in her capacity as an RA for her housing facility. Jane should not report the Sexual Assaults that she heard discussed at the Take Back the Night event.

What Shouldn't a Campus Security Authority Do?

A campus security authority is not responsible for determining authoritatively whether a crime took place—that is the function of law enforcement personnel. A campus security authority should not try to apprehend the alleged perpetrator of the crime. That too is the responsibility of law enforcement.

It's also not a CSA's responsibility to try and convince a victim to contact law enforcement if the victim chooses not to do so.

Exemption for Pastoral and Professional Counselors

Campus security authority exemptions citation
34 CFR 668.46(a)

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

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

The pastoral or professional counselor exemption is intended to ensure that these individuals can provide appropriate counseling services without an obligation to report crimes they may learn about. This exemption is intended to protect the counselor-client relationship. However, even the legally recognized privileges acknowledge some exemptions, and there may be situations in which counselors are in fact under a legal obligation to report a crime.

To be exempt from disclosing reported offenses, pastoral or professional counselors must be acting in the role of pastoral or professional counselors. State licensing requirements for professional counselors typically include completion of a minimum of 3,000 hours of post-master's degree supervised clinical experience, performed within two years before a license is awarded. If an unlicensed counselor has completed his or her master's degree course work, and is acting in the role of a licensed counselor under the supervision of a licensed professional in order to gain the required supervised clinical

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

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

In most cases it is possible for a CSA to fulfill his or her responsibilities while still maintaining victim confidentiality. CSA reports are used by the institution to compile statistics for *Clery Act* reporting and to help determine if there is a serious or continuing threat to the safety of the campus community that would require an alert (i.e., a timely warning or emergency notification discussed in Chapter 6). However, those responsibilities can usually be met without disclosing personally identifying information.[4] A CSA report does not need to automatically result in the initiation of a police or disciplinary investigation if the victim does not want to pursue this action.

[4] "Personally identifying information" is defined in section 40002(a)(20) of the *Violence Against Women Act of 1994* and is incorporated into the *Clery Act* regulations; therefore, this handbook uses the term "personally identifying information" when discussing *Clery Act* requirements.

Recommendations

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

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

This can be particularly helpful for schools with a large number of CSAs. Assign someone who is knowledgeable about the *Clery Act* to coordinate everything from identifying your institution's CSAs to making sure all CSAs provide information on any crimes reported to them.

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

- **Make sure your campus security authorities know they are campus security authorities.**

To do this, we suggest that you update the job descriptions of individuals at your institution who fit the definition of a CSA. Make this designation an official part of their job description so that they know what's required of them. You may also want to contact all CSAs annually in writing to

remind them of this obligation. Because of turnover, or a change in job descriptions, you may have to notify some individuals mid-year.

- **Provide training.**

CSAs have an important job to do and providing them with training will help to ensure that they do it properly. Training can be provided in a variety of ways, ranging from sending materials in an e-mail to face-to-face meetings that include PowerPoint presentations and training manuals. Whatever form your training takes, page 4-11 provides some elements you might want to include.

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

Provide a simple mechanism for CSAs to report information to the person or office responsible for compiling the institution's crime statistics. CSA crime reports should include sufficient detail, such as dates and locations, and, where appropriate, personally identifying information, including name and contact information if available. Encourage CSAs to immediately forward reports of crimes to the designated officials, whether they be your campus police or security department if you have one, or to another official charged with this responsibility. This is because a CSA crime report may be the basis for determining if there is a serious or continuing threat to the safety of the campus community that would require an alert (i.e., a timely warning or emergency notification). Also, if your institution has a campus police or security department and a crime is reported to a non-police/security CSA, the report should be forwarded to your campus police or security department so that it will be entered in your institution's daily crime log in a timely manner. (More about the crime log in Chapter 5.)

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

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

If your institution contracts with a third party to provide security services, ensure that the contracted company shares documentation of all incidents so that you can meet *Clery Act* requirements for retaining records. As discussed further in Chapter 9, you must retain all records used in compiling your annual security report for three years from the latest publication of the report to which they apply.

Figure 5. Suggested Training Elements for Campus Security Authorities

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

- fulfill its responsibility to annually disclose accurate crime statistics; and
- to issue or facilitate the issuance of timely warnings or emergency notifications for crimes that pose a serious or continuing threat to the campus community.

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

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

- descriptions, a map, or both, of the school's *Clery Act* geography;
- a list of *Clery Act* crimes and definitions; and
- hard copy or electronic Crime Report forms for documenting criminal incidents.

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

- Stress the importance of providing as much information about a reported incident as possible to aid law enforcement in addressing and categorizing the crime.
- Explain that CSA crime reports should include personally identifying information if available. This is important for law enforcement purposes and to avoid double counting crimes. If a victim doesn't want the report to go any further than the CSA, the CSA should explain that he or she is required to submit the report for statistical purposes, but it can be submitted without identifying the victim.

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

- how to submit their crime reports in a timely manner; and
- to whom reports should be submitted.

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

Requesting Statistics From Local Law Enforcement Agencies

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

You must ask for law enforcement statistics for *Clery Act* crimes that occurred on any area included in your institution's *Clery Act* geography: on campus, public property and noncampus locations, if you have any.

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

Good-faith Effort

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

statistics you receive cover your *Clery Act* geography and not other areas. Remember that, in most cases, you will need to request only crime statistics, not the actual law enforcement reports, unless there are known issues with the way incidents were classified by a particular law enforcement agency.

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

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

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

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

- Statistics for Incest and Statutory Rape. Because one doesn't expect many of these crimes on *Clery Act* geography, it's very likely that the crimes were committed in locations other than your *Clery Act* geography.

How Do You Obtain Statistics From Local Law Enforcement?

Other than making a good-faith effort, the *Clery Act* doesn't specify how an institution has to obtain the statistics. For institutions that are not experienced in these matters, we offer the following suggestions:

- **Determine the correct law enforcement authorities and develop a relationship with them.**

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

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

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

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

- **Document your good-faith effort to obtain the statistics, including follow-up requests.**

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

What you need. Ask for statistics for all *Clery Act* crimes for

- your campus;
- on-campus student housing facilities, if you have any;
- public property; and
- noncampus buildings or property, if you have any.

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

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

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

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

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

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

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

What to Do If You Are Directed to a Website

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

What to Do If an Agency Requests Payment for the Statistics

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

What to Do If You Obtain Non-UCR Statistics

The *Clery Act* requires institutions and the Department to use the definitions of crimes in the FBI's Uniform Crime Reporting Program when compiling crime statistics for *Clery Act* purposes, but not all law enforcement agencies use these definitions. If you know that the statistics you obtained aren't classified according to UCR definitions, and you have campus police personnel familiar with UCR definitions, they might be able to reclassify the crimes. For example, if under the Robbery classification you received statistics for "robbery of an apartment" or "safe robbery," the UCR equivalent would be

"Burglary." (See "Burglary" in Chapter 3.) An incident classified by some agencies as "breaking and entering with intent to commit a larceny," is also classified as "Burglary" in the UCR. You can also request clarification from the local law enforcement agency if you are not sure how a crime should be listed. If you cannot reclassify the statistics, include them in your disclosures with an explanation that UCR classifications were not used for crimes reported to local law enforcement agencies and included in the statistics.

What to Do If You Obtain Statistics That You Can't Attribute to Your *Clery Act* Geography

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

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

What to Do If Your Request for Statistics Is Denied

If a law enforcement agency that you contact does not comply with your request for crime statistics, document both your request for the statistics and the response, or lack of response, from the agency. You should also consult state and local open records laws to see if law enforcement agencies are required to provide crime statistics to citizens and organizations that request them. If some of the agencies provide you with statistics and others don't, be sure to include

the statistics you did receive in your reported crime statistics. Add an explanation to tell the reader that not all of the agencies responded to your request for statistics, or that not all of the agencies could provide the statistics as requested.

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

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

CHAPTER 5

Daily crime log citation
34 CFR 668.46(f)

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

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

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

- local law enforcement personnel who patrol on or near your campus, but the local law enforcement agency does not have a written agreement or contract with your institution for these services;
- an individual or individuals with limited responsibility for campus security (e.g., someone monitoring access to a campus building by checking student IDs) but who does not perform other security services; or
- security personnel employed or contracted by a landlord from whom your institution rents classroom space.

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

Purpose of the Daily Crime Log

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

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

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

What to Do If Your Institution Also Has a State Crime Log

Many institutions are also required by state law to maintain a log. If your institution maintains such a log, you may use it for your daily crime log as well, if it meets all *Clery Act* requirements. However, if the state crime log requires the victims' names to be listed, the log would not meet the requirements of the *Clery Act,* which provides that a crime log entry may not jeopardize the confidentiality of the victim.

Combining the Daily Crime Log and the Fire Log

If your institution has any on-campus student housing facilities, you are required to maintain a fire log. You may, but are not required to, use one log to meet the crime log and the fire log requirements if you label the log accordingly and the common log meets all of the requirements for both logs. To learn what information must be contained in the fire log, please see Chapter 12.

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

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

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

  A patrol jurisdiction (also referred to as a "patrol zone") is any property that does not meet any of the

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

A patrol jurisdiction (also referred to as a "patrol zone") is any property that does not meet any of the *Clery Act* geographic area definitions, but which is regularly provided with police or security patrol services by the campus agency.

Clery Act geographic area definitions, but which is regularly provided with police or security patrol services by the campus agency. These services are typically performed by the campus agency pursuant to a formal agreement with the local or state government, a local civic association or other public entity. Your institution should document the security or patrol jurisdiction. For example, you may have a map of the patrol jurisdiction, a standard operating procedure (SOP) or a general order (GO) that describes the patrol jurisdiction.

Creating Your Log

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

Figure 6. Sample Daily Crime Log With Required Elements

Daily Crime Log
Calendar Year 2015

Nature (classification)	Case Number	Date/Time Reported	Date/Time Occurred	General Location	Disposition
Larceny	2015-0003	01/20/15 1505hrs	01/10/15 0800hrs	Admin. Building	Closed 05/24/15
Vandalism	2015-00010	01/27/15 1231hrs	01/17 - 01/22/15	Jacobson Hall	Closed 05/24/15
Vandalism	2015-00035	04/12/15 1937hrs	04/12/15 1930hrs	Lester Hall	Open
Liquor Law Violation	2015-0040	04/23/15 0300hrs	04/23/15 0300hrs	South Parking Lot	Judicial Referral
Simple Assault – Dating Violence	2015-0042	05/01/15 1735hrs	05/01/15 1735hrs	Smith Student Union	Closed 07/23/15

Required Crime Log Elements

The sample log above is meant to be illustrative, not prescriptive. The law requires you to have a written log that can be easily understood. It also mandates specific categories of information that you must include. If you omit a category, your institution is not in compliance with the crime log requirement. The daily crime log is not intended to be a general, catch-all incident log. You may include other data elements or columns in your crime log in keeping with internal campus security record-keeping procedures, but such

additional information is not required by the *Clery Act*. For example, the sample log includes a column for case numbers, which aids in recording and tracking a crime report.

The Date the Crime Was Reported

Enter a crime into the log by the date it was reported to the campus police or security department. A reported crime must be logged **regardless of how much time has passed** since it occurred. Crime reports received from local law enforcement agencies (for example, in response to your request for annual statistics) that cannot be matched to other crimes already entered in the crime log should be entered into the log by the date your campus police or security department received the report from the local law enforcement agency.

The Date and Time the Crime Occurred

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

The Nature of the Crime

Enter a description of the reported criminal incident. This can be a brief description such as "Simple Assault," or a more detailed description such as "Simple Assault—non-student victim involved in an encounter with a student offender." Use an easy-to-understand text definition as opposed to using a code, terms such as "agency assist" or initials for the crime. You can use state crime classifications (i.e., non-UCR classifications) for the crime log; however, using UCR classifications may help in ensuring that your institution's crime statistics are consistent with the reports in the crime log.

If a crime is reported and entered into the crime log but the resulting investigation shows that the initial description was inaccurate, you should update the description. Do not list the initially recorded crime as unfounded due to misclassification, or delete an entry once it has been made. Update the nature of the crime instead.

The General Location of the Crime

Record any crime that occurs on your *Clery Act* geography: on campus, in or on noncampus buildings or

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

The Disposition of the Complaint, if Known

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

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

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.

Maintaining Your Log

An entry, an addition to an entry or a change in the disposition of a complaint must be recorded within **two business days** of the reporting of the information to the campus police or the campus security department. For example, if the disposition of a crime is "pending" and you later receive word that an arrest has been made, you have two business days to update the disposition on the original entry to reflect the arrest. A business day is Monday through Friday, except for days when the institution is closed (for example, closed for holidays or other scheduled breaks when no security personnel are present). The only exceptions to this rule are

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

We suggest that you have more than one person responsible for making entries in your log in case of personnel changes or work absences. Note that your institution is not required to update the disposition of a crime log entry if the disposition changes after 60 days have passed. This means 60 days after the entry was made in the log—not 60 days after the crime occurred. You may temporarily withhold information

only if there is clear and convincing evidence that the release of information would

- jeopardize an ongoing investigation;
- jeopardize the safety of an individual;
- cause a suspect to flee or evade detection; or
- result in the destruction of evidence.

Your institution may withhold only that information that could cause a specifically identified adverse effect, and you must disclose such information once the adverse effect is no longer present. This means that if it is determined that information you would normally include in the crime log would cause a harmful effect, you may withhold that information temporarily until the information is no longer likely to prove harmful. The individual making the judgment to withhold information should document the reason for doing so. If your institution has a security department but not a campus police department we suggest that you consult with local law enforcement with regard to withholding crime log information.

If a reported crime is fully investigated by sworn or commissioned law enforcement personnel, and, based on the results of the investigation, they make a formal determination that the crime report is false or baseless, the log should indicate, as the disposition of the report, that the crime is "unfounded." Only sworn or commissioned law enforcement authorities that investigate the crime can make this determination. A campus security authority who is not a sworn or commissioned law enforcement authority cannot unfound a crime. (See Chapter 3, under "Unfounded Crimes," for a more detailed discussion of the process required to unfound a crime.)

Making Your Log Available

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

- **Format:** Your log may be either hard copy or electronic. If your institution has an electronic log and there are technical problems that make it

unusable, use a hard copy log as a temporary replacement until the problems are resolved.

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

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

Entries in the crime log should be used, along with additional information, to gather the statistics that are required for inclusion in the annual security report and the annual Web-based data collection. Use only *Clery Act* crimes that occur in the geographic locations described in Chapter 2 of the handbook for this purpose. Archived logs should be kept for seven years in a location where they can be accessed if necessary. As noted above, members of the public may request to review past logs. You may be required to produce logs during a Department program review. (See "Retaining Records" in Chapter 9 for more information regarding records retention.)

Emergency Notification And Timely Warnings:
Alerting Your Campus Community

CHAPTER 6

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

Emergency Response and Evacuation Procedures

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

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

The emergency response and evacuation requirements are intended to ensure that your institution has sufficiently prepared for an emergency situation on campus, that you are testing these procedures to identify and improve any weaknesses and that you have considered how you will inform the campus community and other individuals, such as parents

and guardians, in the event of an emergency. In other words, you must **have an emergency plan, test it, evaluate it and publicize it**.

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

When is an emergency notification necessary?

Under the *Clery Act*, every institution is required to immediately notify the campus community upon confirmation of a significant emergency or dangerous situation occurring on the campus that involves an immediate threat to the health or safety of students or employees. An **"immediate" threat** as used here includes an imminent or impending threat, such as an approaching forest fire, or a fire currently raging in one of your buildings.

Some other examples of significant emergencies or dangerous situations are

- outbreak of meningitis, norovirus or other serious illness;
- approaching tornado, hurricane or other extreme weather conditions;
- earthquake;
- gas leak;
- terrorist incident;

- armed intruder;
- bomb threat;
- civil unrest or rioting;
- explosion; and
- nearby chemical or hazardous waste spill;

Examples of situations that would not necessitate an emergency notification under the *Clery Act*:

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

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

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

Your emergency response and evacuation procedures statement must include items 1–4 below.

1. **The procedures the institution will use to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus.**

What does this mean?

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

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

Include all of your procedures and describe them in a manner that lets the campus community and others know what you will do, and who or what office or organization will be responsible for each step along the way. Be sure to provide information about how an individual can report an emergency.

The regulations don't require your institution to use a particular mode of communication. For example, in the case of a gas leak, your institution may determine that the most effective mode of communication is a fire alarm, whereas in other situations, it might be best to use a text message system. We encourage you to consider overlapping means of communication in case one method fails or malfunctions. Make a complete disclosure of whatever methods will be used (or will potentially be used depending on the situation): a public address system, text messaging, e-mail messaging, electronic signboards, emergency phone lines, phone trees, bulletins posted on building entrances and exits, etc. If any of the emergency notification services require the campus community to sign up, include specific information on how to do this. Institutions must ensure that notifications and warnings can be transmitted quickly to all students and employees. Therefore, an institution would not be able to rely solely on a text messaging system if all members of the campus community are not required to participate in that system. Similarly, relying on an e-mail would not be adequate for institutions that do not establish an e-mail account for all students and employees, or require each member of the campus community to register an e-mail address with the institution.

Figure 7. Example of Emergency Notification via Text Message

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

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

a. confirm that there is a significant emergency or dangerous situation as described in no. 1 above

What does this mean?

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

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

What does this mean?

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

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

c. determine the content of the notification

What does this mean?

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

d. initiate the notification system

What does this mean?

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

3. A statement that the institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to or otherwise mitigate the emergency.

What does this mean?

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

- take into account the safety of the campus community;
- determine what information to release about the situation; and

- begin the notification process.

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

- assist a victim;
- contain the emergency;
- respond to the emergency; or
- otherwise mitigate the emergency.

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

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

What does this mean?

Provide a list of individuals (by title or position) or organizations (by name) responsible for carrying out the procedures you describe in your annual security report. If different people or organizations will be responsible for different procedures or for responding to different types of emergency or dangerous situations, make this clear. For example, you might indicate that the local Public Health Department will be asked to confirm a serious virus outbreak. A campus located in a strip mall might call upon the mall security office to confirm a significant emergency situation. When designating individuals and organizations for your plan, avoid potential conflicts of responsibilities. For example, if the individual responsible for issuing an emergency notification is also responsible for containing the emergency, efforts to mitigate the emergency may be compromised.

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

What does this mean?

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

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

    a. **tests that may be announced or unannounced**

What does this mean?

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

- be scheduled. You cannot say that an actual emergency situation or a false emergency alarm served as a test of your institution's procedures.

- contain drills. A drill is an activity that tests a single procedural operation (e.g., a test of initiating a cell phone alert system or a test of campus security personnel conducting a campus lockdown).

- contain exercises. An exercise is a test involving coordination of efforts (e.g., a test of the coordination of first responders, including police, firefighters and emergency medical technicians).

- contain follow-through activities. A follow-through activity is an activity designed to review the test (e.g., a survey or interview to obtain feedback from participants).

- be designed for assessment of emergency plans and capabilities. This means that your test should have measureable goals. For example, "Everyone involved in the emergency response and notification procedures will understand his or her role and responsibility."

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

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

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

What does this mean?

This part of your statement addresses **how** your institution gets the word out about its emergency procedures. Time the publication to coincide with one test every calendar year. You may conduct more tests and you may publicize your procedures along with other tests, but you aren't required to do so. Use a method that will attract attention to the information you're disseminating; don't make people search for it. Sending a "blast" e-mail or text message containing a link to your institution's procedures would suffice; however, simply posting a notice on your school's website would not.

Determine the appropriate means of reaching different target audiences. You may use a combination of methods. For example, you might want to include parents and guardians on a blast e-mail, but issue a press release to the local media. Another method might be informing parents and guardians that they can sign up for e-mail alerts. The alert can direct them to a website or radio station for details.

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

What does this mean?

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

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

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

The Timely Warning

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

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

Timely Warning Policy

Timely warning citation
34 CFR 668.46(e)

All Title IV institutions, without exception, are subject to the timely warning regulation. You are required to include in your annual security report a policy statement that accurately reflects your institution's current timely warning procedures (See Chapter 7 for more information about policy statements.)

Crimes Subject to a Timely Warning

You must issue a timely warning for all *Clery Act* crimes that occur on your *Clery Act* geography that are

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

The requirement for timely warnings is not limited to violent crimes or crimes against persons so you should not have a timely warning policy that contains this restriction. Timely warnings could be needed for crimes that represent threats to property. For example, it's possible to have a rash of dormitory Burglaries or Motor Vehicle Thefts that merit a warning because they present a continuing threat to your

campus community. A number of incidents involving the possession of date rape drugs may also trigger the need for a warning.

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

Crimes Exempt From the Timely Warning Requirement

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

Making the Decision to Issue a Timely Warning

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

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

- **The continuing danger to the campus community.** This means that after a *Clery Act* crime is reported you should consider whether your students and employees are at risk of becoming victims of a similar crime. For example, if a Rape is reported on campus and the alleged perpetrator has not been caught, there is a risk of similar crimes. If the alleged perpetrator was reported or apprehended, there may not be a continuing risk. However, you should still

evaluate other factors such as whether the apprehended perpetrator had accomplices or had already set other attacks in motion. Does a criminal incident appear to be a one-time occurrence or does it fall into a pattern of reported crimes? For example, if your students set some posters on fire after your school's team lost the homecoming football game, the Arsons are probably a one-night event. If an unknown person is randomly setting fires on campus, there is a continuing threat.

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

We recommend that your institution consult with campus security personnel and/or local and state law enforcement authorities to discuss the timely warning requirement. We also recommend that your institution request that local law enforcement keep you informed on an immediate basis of crimes that may require timely warnings. This request may be made as part of your annual letter to law enforcement agencies requesting crime statistics. (See Chapter 4 for more information about this letter.) Institutions cannot outsource the requirement to issue timely warnings to local law enforcement agencies and must not enter into agreements that prohibit the issuance of such warnings.

Determining the Content of a Timely Warning

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

The Department's *Clery Act* regulations do not specify what information has to be included in a timely warning. However, because the intent of the warning is to enable members of the campus community to protect themselves, the warning should include all information that would promote safety and that would aid in the prevention of similar crimes. Issuing a warning that cautions the campus community to be

careful or to avoid certain practices or places is not sufficient. You must include pertinent information about the crime that triggered the warning. Your institution's policy regarding timely warnings should specify what types of information will be included.

Issuing a Timely Warning

Although there is no required format for a timely warning, the warning must be reasonably **likely to reach the entire campus community**. Therefore, timely warnings must be issued in a manner that gets the word out quickly and effectively communitywide. The warning may be e-mailed, posted around campus, provided as a text message or otherwise **distributed according to your institution's policy**. A combination of dissemination methods may be used.

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

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

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

An institution may, in appropriate circumstances, include personally identifiable information in a timely warning. Although personally identifiable information is generally protected from disclosure under *FERPA*, such information may be released in an emergency situation. The Department's *FERPA* regulations, at 34 CFR 99.36, describe the rule relating to the disclosure of information in health and safety emergencies.

Emergency Notification and Timely Warnings: Sorting Out the Differences

Emergency Notification

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

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

Where: Applies to situations that occur on your campus.

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

Timely Warning

Scope: Narrow focus on *Clery Act* crimes.

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

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

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

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

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

Figure 8. Sample Scenarios Regarding Emergency Notification and the Timely Warning

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

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

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Policy Statements:
What You Do and How You Do It

CHAPTER 7

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

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

This chapter focuses on policies regarding

- how students and others should report crimes or other emergencies occurring on campus;
- security of and access to campus facilities;
- crime prevention;
- campus law enforcement and security; and
- alcohol and drugs.

Chapter 8 discusses policies, procedures and programs regarding

- dating violence, domestic violence, sexual assault, and stalking; and
- obtaining registered sex offender information.

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

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

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

make sure your policy statements accurately reflect the current policies and practices of each separate campus. Do not just repeat your policy statements from year to year; make sure that the statements of policy actually reflect your institutions' procedures and practices.

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

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

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

The required policy statements are presented in the following section. Where applicable, the statements are broken down into components to emphasize the content you must include. Explanations of statements are preceded by "What does this mean?" **Your institution's policy statements must reflect your institution's unique security policies, procedures and practices.**

You may present your policy statements in any order. You may also combine statements as long as they are clearly labeled. For example, if your institution has a combined alcohol and drug policy, you may identify it as a combined policy and present it that way.

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

1. Provide a statement of **current campus policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus.** This statement **must include** the institution's policies

concerning its response to these reports, and must specifically address the following areas:

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

What does this mean?

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

- Circumstances for which a warning will be issued;
- Identity of the individual(s) or office(s) responsible for issuing the warning; and
- Manner in which the warning will be disseminated.

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

What does this mean?

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

c. A list of titles of each person or organization to whom students and employees should report *Clery Act* crimes for the purpose of making timely warning reports and the annual statistical disclosure.

d. Describe institutional policies or procedures for victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual security report.

What does this mean?

Part c. of this statement asks you to list the titles of each individual or organization your institution has designated for

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

Part d. 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 about this fact.

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

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

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

What does this mean?

Part (a) of this statement addresses the security of campus facilities and access to campus facilities, including campus residences in both instances. If your institution does not have any campus residences, your policy statement should note this. Address such topics as what your institution does to keep its facilities secure, and how individuals gain access or are prevented from gaining access to these facilities. For example, do you issue keycards for student housing facilities? Do you have individuals monitoring access to your campus buildings?

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

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

a. The law enforcement authority and jurisdiction of security personnel.

What does this mean?

Your statement must describe the scope of the enforcement authority and jurisdiction of your school's security personnel. For example, do you have any sworn or commissioned law enforcement personnel? Can any security personnel make arrests? The term "security personnel" encompasses anyone who meets the description in Chapter 5. If your institution does not have any security personnel, you must state this.

b. The working relationship of campus security personnel with state and local law enforcement agencies, including whether those security personnel have the authority to make arrests, and any agreements, such as written memoranda of understanding between the institution and such agencies, for the investigation of alleged criminal offenses.

What does this mean?

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

c. Policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies, when the victim of a crime elects to, or is unable to, make such a report.

What does this mean?

You must have a policy that encourages people to report all crimes in an accurate and timely manner to the campus police, if you have a campus police department, **and** to law enforcement agencies for your institution's jurisdiction. The language in this statement, including the phrase "unable to report," is intended to strike a balance between empowering victims to make the decision about whether and when to report a crime, and encouraging members of the campus community to report crimes of which they are aware. If your institution does not have campus police, you must state this.

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

What does this mean?

Describe any procedures your institution has 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 the Department. This includes verbal or written encouragement. If your institution does not have these procedures, state this.

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

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).

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

What does this mean?

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

6. Provide a **statement of policy concerning the monitoring and recording, through local police agencies, of criminal activity in which students engaged at noncampus locations of student organizations officially recognized by the institution, including student organizations with noncampus housing facilities.**

What does this mean?

This statement addresses whether or not local police monitor and document criminal activity by your students at **noncampus locations of student organizations if your institution is aware of such a practice.** This includes student organizations that have noncampus housing facilities. Note that this concerns only those student organizations that are officially recognized by your institution. If you do not have any

officially recognized student organizations with noncampus locations you must disclose this.

7. Provide a **statement of policy regarding the possession, use and sale of alcoholic beverages and enforcement of State underage drinking laws.**

What does this mean?

There are two parts to this statement. The first part addresses your policy concerning the possession, use and sale of alcohol. The second part addresses your policy on the enforcement of state laws relating to underage drinking.

8. Provide a **statement of policy regarding the possession, use and sale of illegal drugs and enforcement of Federal and State drug laws.**

What does this mean?

There are two parts to this statement. The first part addresses your policy concerning the possession, use and sale of illegal drugs. The second part addresses your policy for the enforcement of federal **and** state drug laws.

9. Provide a **description of any drug or alcohol abuse education programs as required under Section 120(a) through (d) of the *HEA* (otherwise known as the Drug-Free Schools and Communities Act of 1989). 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*.**

What does this mean?

To participate in any Title IV federal student financial aid program, an institution must verify that it has a drug and alcohol abuse prevention program available to students and employees. The Department's *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 Drug-Free Schools and Communities Act of 1989. 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 C of this handbook.

10. Provide a statement that **the institution will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in section 16 of title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.**

Disciplinary proceeding results for violent crime or non-forcible sex offense citation
HEOA Sec. 493(a)(1)(A)

What does this mean?

This statement addresses disclosure procedures for a student disciplinary proceeding for any **violent crime or non-forcible sex offense (Incest or Statutory Rape).** You must disclose results upon written request to a victim's next of kin in cases where the crime resulted in the victim's death.

Institutions are required to provide both the accused and the accuser with simultaneous written notification of any result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault or stalking. **In these cases, it is not necessary for a victim to make a written request.**

11. Provide a statement of policy **regarding your institution's emergency response and evacuation procedures.**

This statement of policy is multi-faceted and requires the disclosure of a number of procedures. "Emergency Response and Evacuation Procedures" in Chapter 6 discusses this requirement in detail.

Additional policy statement for institutions with on-campus student housing facilities:

If your institution has any on-campus student housing facilities as described in "Definition of an On-campus Student Housing Facility" in Chapter 2, you must include an additional policy statement in your annual security report that addresses **missing student notification.** This policy statement is explained in detail in Chapter 10. If your institution has multiple campuses, **this policy statement applies only to those campuses that have on-campus student housing facilities.**

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Policies, Procedures and Programs:

Dating Violence, Domestic Violence, Sexual Assault and Stalking

CHAPTER 8

As mentioned in Chapter 7, the *Clery Act* requires you to include statements of policy in your annual security report that address your institution's programs to prevent dating violence, domestic violence, sexual assault and stalking, and the procedures your institution will follow when one of these crimes is reported. The regulations include some requirements for these programs but institutions have some discretion in the specifics of their statements and in how the policies and procedures are put into practice. This chapter breaks down the statements' components and indicates which aspects and procedures are required and where you have flexibility. As always, your policy statements must accurately reflect what your institution currently does to prevent dating violence, domestic violence, sexual assault and stalking, and the procedures it follows when one of these crimes is reported. The website www.notalone.gov, which was launched in connection with the White House Task Force to Protect Students from Sexual Assault, includes links to resources that may be helpful to institutions developing or updating policies, programs or procedures.

For purposes of the *Clery Act*, "dating violence," "domestic violence," and "stalking" are defined in the Department's regulations.

Dating violence is defined as *violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition*

- *dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.*
- *dating violence does not include acts covered under the definition of domestic violence.*

Domestic Violence is defined as *a felony or misdemeanor crime of violence committed*

- *by a current or former spouse or intimate partner of the victim.*
- *by a person with whom the victim shares a child in common.*
- *by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner.*
- *by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;*
- *by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.*

Stalking is defined as *engaging in a course of conduct directed at a specific person that would cause a reasonable person to*

- *fear for the person's safety or the safety of others; or*
- *suffer substantial emotional distress.*

Sexual Assault is defined as an offense that meets the definition of Rape, Fondling, Incest or Statutory Rape as used in the FBI's UCR program and included in Appendix A of 34 CFR Part 668.

With these definitions in mind, your statement must address your institution's programs to prevent dating violence, domestic violence, sexual assault and stalking, and the procedures your institution will follow when one of these

crimes is reported to your institution, whether the offense occurred on or off campus.

Educational Programs and Campaigns

Educational programs and campaigns citation
34 CFR 668.46(j)

Your statement **must** include

a. a description of the institution's educational programs and campaigns to promote the awareness of dating violence, domestic violence, sexual assault and stalking.

The statement must include a description of the institution's primary prevention and awareness programs for all incoming students and new employees.

What does this mean?

Your statement must describe the programs you have in place to promote awareness and to educate people about preventing dating violence, domestic violence, sexual assault and stalking. We encourage institutions to reach out to organizations that assist victims of dating violence, domestic violence, sexual assault and stalking, such as local rape crisis centers, local law enforcement officials, social services personnel, and State and territorial coalitions against domestic and sexual violence, when developing these programs.

Programs to prevent dating violence, domestic violence, sexual assault and stalking are defined as *comprehensive, intentional and integrated programming, initiatives, strategies and campaigns intended to end dating violence, domestic violence, sexual assault and stalking that are*

- *culturally relevant,*
- *inclusive of diverse communities and identities,*
- *sustainable,*
- *responsive to community needs,*
- *informed by research or assessed for value, effectiveness or outcome, and*

- *consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.*

The programs you implement at your institution must be tailored to your institution's community and the needs of your students and employees. The programs must be culturally relevant and inclusive of, and responsive to, all parts of your community. The programs must also be informed by research. "Informed by research" includes research conducted according to scientific standards as well as assessments for efficacy carried out by institutions and other organizations. This does not preclude you from using promising practices that have been assessed by members of your institution, or other institutions, for value, effectiveness or outcome but not yet subjected to scientific review.

Programs to prevent dating violence, domestic violence, sexual assault and stalking must be directed at all incoming students and new employees.

Programs to prevent dating violence, domestic violence, sexual assault and stalking must include **primary prevention** and **awareness programs.**

- **Primary prevention programs** are defined as *programming, initiatives and strategies intended to stop dating violence, domestic violence, sexual assault and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.* Examples of these programs might include programs that promote good listening and communication skills, moderation in alcohol consumption and common courtesy.

- **Awareness programs** are defined as *community-wide or audience-specific programming, initiatives and strategies that increase audience knowledge, and share information and resources to prevent violence, promote safety and reduce perpetration.*

Programs to prevent dating violence, domestic violence, sexual assault and stalking must be directed at **all incoming students and new employees.** The statute and regulations do not require that all students and employees take or attend the training, but we encourage institutions to mandate training to increase its effectiveness. You are required to make a good faith effort to reach all incoming students and new employees

with this training. This means providing all incoming students and new employees with active notification of the training's availability, and providing the training in a format and timeframe that encourages and allows for maximum participation.

Institutions may choose how to deliver the programming to students and employees; for example, you could use in-person interactive workshops, theater performances, presentations or videos with follow-up discussion, webinars, online videos, online interactive training, etc. You may also use multiple means of delivery for a multi-pronged approach. The means of the training should fit the circumstances of your community. If you have a commuter campus it would make sense to provide online training that can be accessed on a student or employee's own time. In the case of a commuter campus, an in-person training session offered only once per year would most likely not be considered a good faith effort to reach all incoming students and new employees.

You can combine one or more of the required elements (e.g., primary prevention, awareness, bystander intervention and risk reduction) into a single training, as long as the training meets all of the requirements. You are not required to conduct separate trainings on each topic. You are also not prohibited from addressing behaviors or concerns outside of dating violence, domestic violence, sexual assault and stalking in the training. For example, the bystander intervention training principles described below can be extended to other types of behavior.

Your description of the institution's primary prevention and awareness programs for all incoming students and new employees must include

- **a statement that the institution prohibits the crimes of dating violence, domestic violence, sexual assault and stalking as those terms are defined for purposes of the *Clery Act*;**

What does this mean?

Your statement must say that your institution prohibits dating violence, domestic violence, sexual assault and stalking, as they are defined for purposes of the *Clery Act*. Definitions of these crimes for *Clery Act* purposes are provided at the beginning of this chapter and discussed further in Chapter 3.

- **the definition of "dating violence," "domestic violence," "sexual assault" and "stalking," as those terms are defined in the applicable jurisdiction;**

What does this mean?

You must provide the definitions of the terms "dating violence," "domestic violence," "sexual assault" and "stalking" in your institution's local jurisdiction. If your local jurisdiction does not define one of these terms, state that there is no definition of the term in your local jurisdiction. These definitions may be different than the definitions used for *Clery Act* purposes. The definitions from local jurisdictions must be provided to the community for educational and awareness purposes; however, **these definitions are not used for the purposes of reporting *Clery Act* statistics**. Use the definitions provided in Chapter 3 for reporting *Clery Act* statistics.

- **the definition of "consent" in reference to sexual activity, in the applicable jurisdiction;**

What does this mean?

Your statement must include the definition of "consent" in reference to sexual activity in your institution's local jurisdiction. If your local jurisdiction does not define consent, state that there is no definition of consent in your local jurisdiction. If your institution has an institutional definition of consent, you should also state your institution's definition of consent and the purposes for which that definition is used.

The definitions of consent in your local jurisdiction and for institutional purposes must be provided to the community for educational and awareness purposes. A definition of consent is not needed for the administration and enforcement of the *Clery Act*. For the purposes of *Clery Act* reporting, all sexual assaults that are reported to a campus security authority must be included in an institution's *Clery Act* statistics and, if reported to the campus police, must be included in the crime log, regardless of the issue of consent. Section 485(f)(1)(F)(i) of the *HEA* requires schools to include in their statistics crimes that are reported to the campus police or non-law enforcement campus safety department.

- **a description of safe and positive options for bystander intervention; and**
- **information on risk reductions.**

What does this mean?

Bystander intervention is defined as *safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes*

- *recognizing situations of potential harm;*
- *understanding institutional structures and cultural conditions that facilitate violence* (this might include fraternity or sports cultures at some institutions);
- *overcoming barriers to intervening;*
- *identifying safe and effective intervention options; and*
- *taking action to intervene.*

Risk reduction is defined as *options designed to*

- *decrease perpetration and bystander inaction;*
- *increase empowerment for victims in order to promote safety; and*
- *help individuals and communities address conditions that facilitate violence.*

This means that your training to incoming students and new employees must describe positive options for bystander intervention and information on risk reduction; however, it is up to your institution to determine the appropriate strategies to include in your training based on the needs of your community. Information about risk reduction must not be presented in a manner that encourages victim blaming.

Information about risk reduction must not be presented in a manner that encourages victim blaming.

b. description of the institution's ongoing prevention and awareness campaigns for students and employees. These campaigns must provide the same information as primary awareness and prevention programs.

What does this mean?

In addition to the primary prevention and awareness programs provided to incoming students and new employees, you must also provide ongoing prevention and awareness campaigns for all current students and employees. Ongoing prevention and awareness campaigns means programming, initiatives and strategies that are **sustained over time.** The programming, initiatives and strategies must also focus on increasing the understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault and stalking, using a range of strategies with audiences throughout the institution. Your campaign should also promote awareness of the services and programming that your institution has available to address these issues.

Your campaign should use multiple strategies in a coordinated way throughout the year to reach all populations of students and employees at the institution. Campaigns might include but are not limited to:

- communication strategies, such as social media posts, email blasts, notices on bulletin boards, posters, and/or radio and newspaper advertisements;
- programming, such as Take Back the Night events or a Safe Walk service, and the materials used to promote these activities;
- programming coordinated with and delivered to individual groups on campus (e.g., presentations or workshops for individual sports teams, fraternity or sorority houses, or residence halls);
- booths at student fairs or other campus events; and/or
- faculty discussing issues and available services in the classroom, or advertising programs or events.

Your ongoing prevention and awareness campaigns must meet all of the same standards as the primary prevention and

awareness programs provided to incoming students and new employees, as described in section (a.) above.

Procedures Victims Should Follow in the Case of Alleged Dating Violence, Domestic Violence, Sexual Assault or Stalking

Procedures victims should follow citation
34 CFR 668.46(b)(11)(ii)

Your statement **must** include

c. the procedures victims should follow if a crime of dating violence, domestic violence, sexual assault or stalking has occurred, including

- **written information about the importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;**

What does this mean?

This part of your statement addresses what students should do in the case of dating violence, domestic violence, sexual assault or stalking. Institutions must provide written information to victims about the importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or that may be helpful in obtaining a protection order. Although not required, we recommend that institutions provide information about where to obtain forensic examinations, include specific contact information, make clear that completing a forensic examination would not require someone to file a police report, and advise students that having a forensic examination will help preserve evidence in case the victim decides at a later date to file a police report.

- **how and to whom the alleged offense should be reported;**

What does this mean?

"How and to whom the alleged offense should be reported" refers to any person or organization that can assist the victim, such as a rape crisis counselor. Although you must have procedures concerning who should be contacted, it is up

to your institution to decide who those people or organizations are. In addition to listing institutional resources, we recommend that you reach out to community organizations that assist victims of dating violence, domestic violence, sexual assault and stalking, such as local rape crisis centers and state and territorial coalitions against domestic and sexual violence, when developing this list. You must include specific contact information for these resources or other information about how victims can report the alleged offense.

- **options about the involvement of law enforcement and campus authorities, including notification of the victim's option to**
  - **notify proper law enforcement authorities, including on-campus and local police;**
  - **be assisted by campus authorities in notifying law enforcement authorities if the victim chooses; and**
  - **decline to notify such authorities;**

What does this mean?

You must let students know about their options regarding the involvement of law enforcement authorities and campus authorities. You must tell students that they have several options, including the option to notify law enforcement authorities about the offense, the option to be assisted by campus authorities in notifying law enforcement if they choose to do so, and the option to decline to notify such authorities. You must provide appropriate and specific contact information for the authorities, for example, your campus police or a local law enforcement agency. Your statement must explain what is involved in making a police report. The statement that your institution will comply with a student's request for assistance in notifying authorities is **mandatory**.

- **where applicable, the rights of victims and the institution's responsibilities for orders of protection, "no contact" orders, restraining orders, or similar lawful orders issued by a criminal, civil or tribal court, or by the institution.**

What does this mean?

You must disclose all rights that a victim may have to obtain an order of protection, a "no contact" order, a restraining order or a similar lawful order issued by a criminal, civil or tribal court, or by the institution. You must let students know what legal options are available to them and under what circumstances. You must tell students how to request information about the available options and provide specific contact information. You must also provide instructions for how to file a request for each of the options. Again, include specific contact information. Your statement must also disclose the institution's responsibilities for honoring such requests and complying with these orders. You must also provide clear information about what the victim should do to enforce an order of protection. If your institution does not issue orders of protection, state that the institution does not issue orders of protection. However, your statement should provide information on other available options in your jurisdiction, such as orders of protection issued by a criminal, civil or tribal court, as well as your institution's responsibilities for complying with and enforcing those orders.

Procedures institutions should follow citation
34 CFR 668.46(b)(11)(iii)

Procedures Your Institution Will Follow In the Case of Alleged Dating Violence, Domestic Violence, Sexual Assault or Stalking

Your statement **must** include

d. information about how the institution will protect the confidentiality of victims and other necessary parties, including how the institution will

- **complete publicly available recordkeeping, including *Clery Act* reporting and disclosures, without inclusion of personally identifying information about the victim; and**
- **maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.**

What does this mean?

This part of your statement addresses how you will protect a victim's confidentiality, even if the victim does not specifically request confidentiality. First, you must disclose your procedures for ensuring that the victim's personally identifying information will not be included in any publicly available recordkeeping, including *Clery Act* reporting and disclosures such as the annual security report and the daily crime log. Personally identifying information is defined in Section 40002(a) of the *Violence Against Women Act of 1994* as *individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault or stalking, regardless of whether the information is encoded, encrypted, hashed or otherwise protected, including*

- *a first and last name;*
- *a home or other physical address;*

- *contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);*
- *a social security number, driver's license number, passport number or student identification number; and*
- *any other information, including date of birth, racial or ethnic background, or religious affiliation that would serve to identify any individual.*

CSA crime reports should include sufficient detail such as dates and locations and, where appropriate, personally identifying information, including name and contact information if available. This is important for law enforcement purposes to ensure that all crimes are counted and to avoid double counting crimes. The *Clery Act* statistics that are included in the Annual Security Report must not include any personally identifying information about the individuals involved in the crimes reflected in the statistics. In addition, no personally identifying information should be disclosed in the Daily Crime Log, as detailed in Chapter 5.

Institutions must protect a victim's confidentiality while also recognizing that, in some cases, an institution may need to disclose some information about a victim to a third party to provide necessary accommodations or protective measures. Your policy should state who is responsible for determining what information about a victim should be disclosed and to whom this information will be disclosed. Your policy should also state how this decision will be made. Institutions may disclose only information that is necessary to provide the accommodations or protective measures in a timely manner. You must carefully consider who may have access to this information to minimize the risk to a victim's confidentiality. We recommend that your policy include informing victims before sharing personally identifying information that the institution believes is necessary to provide an accommodation or protective measure. You should tell the victim which information will be shared, with whom it will be shared and why.

e. a statement that the institution will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available for victims, both within the institution and in the community.

What does this mean?

Your statement should identify and provide specific information about appropriate and available services for victims at your institution. Provide information about how a student or employee can access these services or request information. Provide specific contact information. Be sure to include both on- and off-campus services, as applicable. We recommend that institutions reach out to organizations that assist victims of dating violence, domestic violence, sexual assault and stalking, such as local rape crisis centers and state and territorial coalitions against domestic and sexual violence, when developing this list of services. If there **are no on- or off-campus services, you must state this fact in your policy statement.**

As with all information provided in the Annual Security Report, this statement of available services should be updated annually to reflect currently available services.

f. a statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation and working situations or protective measures. The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement

What does this mean?

State that your institution is **obligated** to comply with a student's reasonable request for a living and/or academic situation change following an **alleged** sex offense. Your statement should identify all of the available options. Your statement should also identify how you will determine what

measures to take and who will be responsible for making that decision. Note that this requirement allows your institution flexibility in terms of what is reasonable. Factors that might be considered during this process include, but are not limited to the following: the specific need expressed by the complainant; the age of the students involved; the severity or pervasiveness of the allegations; any continuing effects on the complainant; whether the complainant and alleged perpetrator share the same residence hall, dining hall, class, transportation or job location; and whether other judicial measures have been taken to protect the complainant (e.g., civil protection orders).

Protective measures should minimize the burden on the victim. For example, if the complainant and alleged perpetrator share the same class or residence hall, the school should not, as a matter of course, remove the victim from the class or housing while allowing the alleged perpetrator to remain without carefully considering the facts of the case.

Protective measures should minimize the burden on the victim.

Procedures for institutional disciplinary action citation
34 CFR 668.46(k)

g. a clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault or stalking and that

- **describes each type of disciplinary proceeding used by the institution; the steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding; how to file a disciplinary complaint; and how the institution determines which type of proceeding to use based on the circumstances of an allegation of dating violence, domestic violence, sexual assault or stalking;**

What does this mean?

"Proceeding" is defined as *all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, factfinding investigations, formal or informal meetings, and hearings. Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.* In this statement you must disclose all of your institution's procedures for campus disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, and stalking. For each type of proceeding, list all of the steps involved and the

anticipated timeline for each step, and describe the decision-making process, including who is responsible for making decisions. Describe, in detail, how an individual can file a complaint. Provide contact information for the person or office to which the complaint should be made, the location of any forms required, and the options for filing the complaint (i.e., in-person, electronically, by phone). Also, describe how your institution decides which type of proceeding will be used for which cases and who makes that decision
(i.e., do sexual assaults automatically get assigned a formal hearing).

This requirement is not limited to students. If your institution has disciplinary procedures for faculty and staff (e.g., any form of adjudication for a code of conduct ranging from disciplinary action from a supervisor to a formal hearing), you are required to describe them here. If your institution has disciplinary procedures related to incidents other than the *VAWA* crimes listed, you are not required to describe them in this statement but you may include that information. You must follow the procedures described in your statement **regardless of where the alleged case of dating violence, domestic violence, sexual assault or stalking occurred** (i.e., on or off your institution's *Clery Act* geography).

- **describes the standard of evidence that will be used during any institutional disciplinary proceeding arising from an allegation of dating violence, domestic violence, sexual assault or stalking;**

What does this mean?

Different legal proceedings may have different standards of evidence. The most common standards are "preponderance of the evidence," "clear and convincing evidence" and "beyond a reasonable doubt." The *Clery Act* does not require a specific standard of evidence. However, the *Clery Act* does require that each institution choose which standard of evidence they will use in their disciplinary proceedings arising from allegations of dating violence, domestic violence, sexual assault or stalking, and describe that standard in this statement. The institution must use the standard of evidence described in the statement in all such proceedings.

- **lists all the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault or stalking;**

What does this mean?

The *Clery Act* does not specify the sanctions an institution may impose. An institution must determine which sanctions it may impose for each of the *VAWA* offenses and list all of the possible sanctions in this statement. An institution may have different potential sanctions for different crimes. For example, the possible sanctions for an allegation of stalking may be very different from the possible sanctions for an allegation of sexual assault. In this statement, you must list all of the possible sanctions you have identified for each *VAWA* Offense. Be specific. For example, if suspension is a possible sanction, describe the type and length of the suspension, and any requirements that must be met for reinstatement. You are not prohibited from using a sanction not listed in this statement as long as your policy statement is updated to include the sanction for the next published annual security report.

An institution must determine which sanctions it may impose for each of the *VAWA* offenses and list all of the possible sanctions in this statement.

- **describes the range of protective measures that the institution may offer to the victim following an allegation of dating violence, domestic violence, sexual assault or stalking;**

What does this mean?

Institutions are not required to list all examples of acceptable protective measures here but must describe the range of protective measures they may offer. These may include, but are not limited to

- orders of protection, including no-contact orders, restraining orders, or similar lawful orders issued by a criminal, civil or tribal court, or by the institution;
- transportation assistance or security escorts;
- modifications to academic requirements or class schedules; and/or
- changes in living or working situations.

- **provides that the proceedings will include a prompt, fair and impartial process from the initial investigation to the final result;**

What does this mean?

A prompt, fair and impartial proceeding is defined as a proceeding that is

- *completed within reasonably prompt timeframes designated by the institution's policy, including a process that allows for the extension of timeframes for good cause, with written notice to the accuser and the accused of the delay and the reason for the delay;*

- *conducted in a manner that*

  – *is consistent with the institution's policies and transparent to the accuser and the accused;*

  – *includes timely notice of meetings at which the accuser or accused, or both, may be present; and*

  – *provides timely and equal access to the accuser, the accused and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and*

- *conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused.*

Earlier we explained that institutions must describe the steps and timeframes involved in their disciplinary proceedings. This statement requires that those policies be followed and also remain flexible without allowing undue delays. The proceeding must be one that lacks hidden agendas and conditions, makes appropriate information available to each party, and is fair and clear to all parties. Care should be taken to ensure that the official conducting a disciplinary proceeding does not have a conflict of interest or bias either for or against the accuser or the accused.

- **be conducted by officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault and stalking and on how to conduct an investigation and hearing process that protects the safety of the victims and promotes accountability;**

What does this mean?

The officials who are chosen to conduct proceedings to address allegations of dating violence, domestic violence, sexual assault and stalking must receive training at least once a year. Your statement must describe this training. It is important that this training be updated as necessary to address the latest issues and techniques for conducting proceedings on these topics from beginning to end. Training for these officials should address but not be limited to the following topics:

- relevant evidence and how it should be used during a proceeding;
- proper techniques for questioning witnesses;
- basic procedural rules for conducting a proceeding; and
- avoiding actual and perceived conflicts of interest.

This training may be delivered in person or by electronic means, such as a webinar or video. Since different officials may conduct different parts of the proceedings, it is not necessary for every official to receive every part of the training. For example, if certain officials conduct only the initial investigation, they do not need to receive training on how to conduct a hearing. However, institutions may train all selected officials on all related topics.

The officials who are chosen to conduct proceedings to address allegations of dating violence, domestic violence, sexual assault and stalking must receive training at least once a year.

- **provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice;**

What does this mean?

You must state that both the accuser and the accused will be provided with the same opportunities to be accompanied by an advisor of their choice. This requirement is not limited to students. Employees must be provided with the same opportunities. An advisor is *any individual who provides the accuser or accused support, guidance or advice*. Institutions are prohibited from limiting the choice of advisor, or an advisor's presence for either the accuser or the accused, in **any meeting or institutional disciplinary proceeding**. Institutions may form a pool of individuals, including members of the campus community, who may serve as advisors as long as the choice of advisor by the accused or the accuser is not limited to such a pool. The advisor of their choice can be anyone — a friend, parent, professor, attorney or anyone else the accuser or accused would like to have with them. The regulations do not require an advisor to attend disciplinary proceedings in person or even to attend at all, but they merely require that each party have the same opportunity to have an advisor present. Institutions are not required to permit an advisor to attend without the advisee but may find that permitting an advisor to attend alone with the advisee's agreement will make it easier to arrange procedural meetings. Similarly, the regulations do not prohibit the advisor from acting as a proxy for either the accused or the accuser in the interest of protecting the parties' privacy. In such case, the accuser or the accused would need to authorize their advisor to serve as a proxy and consent to any disclosures of their records. Institutions are not required to cancel or delay meetings simply because an advisor could not be present — as long as the institution gave proper notice of the meeting. However, we encourage institutions to consider reasonable requests to reschedule.

Institutions are prohibited from limiting the choice of advisor, or an advisor's presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding.

- **not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;**

What does this mean?

While institutions may not limit an accused or accuser's choice of advisor, they may restrict the advisor's role, such as prohibiting the advisor from speaking during the proceeding, addressing the disciplinary tribunal or questioning witnesses. Institutions may remove or dismiss advisors who become disruptive or who do not abide by the restrictions on their participation. Institutions should inform all parties of any limitations on the advisor's participation before a proceeding is scheduled so that both parties understand and respect these limitations.

- **require simultaneous notification, in writing, to both the accuser and the accused of**
  - **the result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault or stalking;**
  - **the institution's procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding, if such procedures are available;**
  - **any change to the result; and**
  - **when such results become final.**

What does this mean?

"Result" is defined as *any initial, interim and final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result must include any sanctions imposed by the institution. Notwithstanding section 444 of the General Education*

Provisions Act (20 U.S.C. 1232g), commonly referred to as the Family Educational Rights and Privacy Act (FERPA), the result must also include the rationale for the result and the sanctions.

In explaining the rationale for the result and sanctions, the official or entity must explain how it weighted the evidence and information presented during the proceeding, and explain how the evidence and information support the result and sanctions. You must describe how the institution's standard of evidence was applied. It is not sufficient to say only that the evidence presented either met or did not meet the institution's standard of evidence.

This means that there can be no substantive discussion of the findings or conclusion of the decision maker, or discussion of the sanctions imposed, with either the accuser or the accused prior to simultaneous notification to both of the result.

h. a statement that, when a student or employee reports to the institution that the student or employee has been a victim of dating violence, domestic violence, sexual assault or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options.

What does this mean?

State that you will provide victims of dating violence, domestic violence, sexual assault or stalking with written documentation of their rights and options. This documentation must be a prepared, standardized and written set of materials including detailed information regarding victims' rights and options. This does not mean that you hand the student a copy of the annual security report or the policy statements contained in the annual security report.

Advising the Campus Community About Sex Offenders

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

Your institution must provide a statement advising the campus community about where law enforcement agency information provided by a state concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus or a computer network address.

What does this mean?

Upon release from prison, individuals convicted of sex crimes may be required by law to register with law enforcement agencies (some of these laws are referred to as "Megan's Laws"). If registered sex offenders are **enrolled at** or **employed at** a postsecondary institution, the offenders also must provide this information to the state. The state then provides the information to campus police departments or to other law enforcement authorities in the jurisdiction where the institution is located.

Your institution is not required to request this information from the state; rather, the state must provide this information to the campus police department or other law enforcement authorities in your school's jurisdiction. In turn, **your institution is required to advise the campus community how to access this information**. The law doesn't, however, require you to disseminate additional information about the offenders. You are responsible for notifying the campus community if there is a change in how the data can be obtained. For example, if you were directing people to a local law enforcement agency for information and the agency tells you that they are now using a website to maintain the data, you must then provide the URL for the site to the campus community.

If the state in which your institution is located does not currently register sex offenders, or does not provide campus police or your local law enforcement agency with this information, include a statement to this effect in your annual security report. However, you would be required to advise the campus community about obtaining registered sex offender information should the state provide it at a future date.

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The Annual Security Report: Publishing Policy Statements and Crime Statistics

CHAPTER 9

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

Annual security report requirement citation
34 CFR 668.41(e)

Specifically, you must

- publish the report by the deadline;
- include the required policy statements;
- include three years' worth of *Clery Act* statistics;
- determine who gets the report;
- distribute the report; and
- retain records associated with the report.

When is the deadline? You must **publish and distribute your annual security report by Oct. 1** each year. This is a firm deadline. There is **no grace period** and there are **no exemptions.** Every eligible postsecondary institution that participates in any Title IV federal student financial assistance program must publish an annual security report.

You must publish and distribute your annual security report by Oct. 1 each year. This is a firm deadline. There are no grace periods and there are no exemptions.

What should the publication look like? Whether you produce the report as a separate publication or as part of another publication, it must be **contained within a single document**. You cannot publish it in sections or multiple volumes. If you post the report on your institution's website, clearly identify it as a single, separate part of the site. You may include the report in a publication, such as a campus directory that is given to all students and employees, provided the report appears in its entirety within that publication. You don't have

to provide the report to both students and employees in the same publication, however. If the report is incorporated into a larger publication, the cover must identify the inclusion of the annual security report.

If your institution has **multiple campuses,** remember that *Clery Act* requirements must be met individually for each separate campus. (See "Other On-campus Considerations" in Chapter 2 for more information on separate campuses.) You may publish a single document covering all campuses as long as you clearly identify the policy statements and crime statistics that are associated with each campus.

Presenting Your Policy Statements in the Annual Security Report

Disclosure of policy statements in annual security report citation
34 CFR 668.46(b)(2)–(14)

As you compile the section on policy statements, keep the focus of the requirement in mind: disclosure of the procedures, practices and programs your institution uses to keep students and employees safe and its facilities secure. Present your statements in an accurate, concise, readable and organized manner.

The required policy statements are discussed in detail in chapters 7 and 8. They may precede or follow the crime statistics in your report.

Presenting General Crime Statistics and Arrest and Disciplinary Referral Statistics

Disclosure of crime statistics in annual security report citation
34 CFR 668.46(b)(1)

Present all statistics other than those for Hate Crimes and unfounded crimes in a **tabular format.** This means that all Criminal Offenses, *VAWA* Offenses, and arrests and referrals for disciplinary action for Weapons, Drug Abuse and Liquor Law Violations should be presented in a table or tables. Use clear and consistent labeling to make the information presented easy to read. Include caveats as necessary to explain the data in the table. For example, if your institution housed students in an on-campus dormitory for the first time last year, it would be helpful to provide a caveat explaining why crime statistics for the "on-campus student housing facilities" category are included for only the most recent year. If you are including **non-*Clery Act* statistics** in your annual security report

(i.e., non-*Clery Act* crimes and/or crimes that occurred outside of your *Clery Act* geographic locations), present those statistics in a clearly labeled separate table or in a caveat.

Use the following guidelines when presenting your crime statistics. (See Chapter 3 for crime definitions and information on counting crimes.)

- **Years reported.** Include statistics for the three most recent completed calendar years. Enter statistics for each year separately. For example, for your 2015 report, enter statistics separately for 2012, 2013 and 2014.

- **Geographic category.** Include categories for all required geographic locations (on-campus, public property and noncampus) that pertain to your institution. If your institution has on-campus student housing facilities include that category as well. Remember that statistics for on-campus student housing facilities must be included in the on-campus statistics and also disclosed separately in the on-campus student housing facility category. If your institution does not have any on-campus student housing facilities or any noncampus buildings or property, include a caveat stating this.

- **Crime category.** Include all required crime categories and list each one separately as shown in the sample table on the next page.

- **Categories with no crimes.** Do not leave any cells blank even if you have no crimes to disclose for a particular category. Zero (0) is a statistic; enter a zero whenever there are no reported crimes to disclose in a particular table cell.

- **Required sources.** Include all *Clery Act* crimes reported to campus police or security (if applicable), other campus security authorities and local law enforcement agencies (if the agencies have provided statistics).

  A sample table follows; however, there is no prescribed format for how your table or tables should look.

Figure 9. Sample Criminal Offenses Reporting Table

OFFENSE	YEAR	GEOGRAPHIC LOCATION			
		ON-CAMPUS PROPERTY	ON-CAMPUS STUDENT HOUSING FACILITIES	NONCAMPUS PROPERTY	PUBLIC PROPERTY
MURDER / NON-NEGLIGENT MANSLAUGHTER					
MANSLAUGHTER BY NEGLIGENCE					
RAPE					
FONDLING					
INCEST					
STATUTORY RAPE					
ROBBERY					
AGGRAVATED ASSAULT					
BURGLARY					
MOTOR VEHICLE THEFT					
ARSON					

Figure 10. Sample *VAWA* Offenses Reporting Table

OFFENSE	YEAR	GEOGRAPHIC LOCATION			
		ON-CAMPUS PROPERTY	ON-CAMPUS STUDENT HOUSING FACILITIES	NONCAMPUS PROPERTY	PUBLIC PROPERTY
DOMESTIC VIOLENCE					
DATING VIOLENCE					
STALKING					

Figure 11. Sample Arrests and Disciplinary Referrals Reporting Table

OFFENSE	YEAR	GEOGRAPHIC LOCATION			
		ON-CAMPUS PROPERTY	ON-CAMPUS STUDENT HOUSING FACILITIES	NONCAMPUS PROPERTY	PUBLIC PROPERTY
ARRESTS: WEAPONS: CARRYING, POSSESSING, ETC.					
DISCIPLINARY REFERRALS: WEAPONS: CARRYING, POSSESSING, ETC.					
ARRESTS: DRUG ABUSE VIOLATIONS					
DISCIPLINARY REFERRALS: DRUG ABUSE VIOLATIONS					
ARRESTS: LIQUOR LAW VIOLATIONS					
DISCIPLINARY REFERRALS: LIQUOR LAW VIOLATIONS					

Presenting Hate Crime Statistics in the Annual Security Report

You may present Hate Crime data in either a **tabular format** or in a **narrative or descriptive format**. Either way, use the following bulleted guidelines when presenting the statistics. (See Chapter 3 for information on categorizing and counting Hate Crimes.)

- **Years.** Include statistics for the three most recent calendar years.
- **Geographic category.** Present statistics by geographic location. (For more information on geographic locations, see Chapter 2.)
- **Crime category.** Include all *Clery Act* offenses that are classified as Hate Crimes as well as incidents of Larceny-Theft, Simple Assault, Intimidation and Destruction/Damage/Vandalism of Property that are classified as Hate Crimes. For *Clery Act* reporting purposes, Negligent Manslaughter, arrests and referrals for disciplinary action for Weapons, Carrying, Possessing, Etc., Drug Abuse Violations or Liquor Law Violations are not reported as Hate Crimes. (For more information on crime categories, see Chapter 3.)
- **Bias category.** Include the category of bias for each Hate Crime. (For more information on categories of bias, see "Hate Crimes" in Chapter 3.)

Figure 12. Examples of Descriptive Hate Crime Reporting

Example 1: Hate Crimes

2014: One on-campus Intimidation incident characterized by religious bias.
2013: One noncampus Robbery characterized by National Origin bias, and one public property Aggravated Assault characterized by Sexual Orientation bias.
2012: No Hate Crimes reported.

Example 2: Hate Crimes

There were no reported Hate Crimes for the years 2012, 2013 or 2014.

Presenting Statistics for Unfounded Crimes in the Annual Security Report

You may present statistics for unfounded crimes in either a **tabular format,** or in a **narrative or descriptive format**. Either way, include one statistic for each of the three most recent calendar years. For each of the three years, you are required to report the total number of unfounded crimes across all *Clery Act* geographic categories and *Clery Act* crimes. You are not required to break down the number of unfounded crimes by geographic category or type of crime. Do not include unfounded crimes that were originally reported to have occurred outside of your *Clery Act* geography, or unfounded crimes that were not *Clery Act* crimes. (See Chapter 3 for a detailed discussion of Unfounded Crimes.)

Figure 13. Examples of Descriptive Unfounded Crime Reporting

Example 1: Unfounded Crimes

2015: Five unfounded crimes.
2014: Ten unfounded crimes.
2013: Three unfounded crimes.

Example 2: Unfounded Crimes

There were three unfounded crimes in 2013, 10 unfounded crimes in 2014 and five unfounded crimes in 2015.

Distributing the Annual Security Report

Who gets the annual security report? You must distribute the report to all **currently enrolled students** (including those attending less than full-time and those not enrolled in Title IV programs or courses) and all **employees** by Oct. 1 each year. You also must provide the report to any prospective student or prospective employee upon request. A **prospective student** is defined as *an individual who has contacted an eligible institution requesting information about admission to that institution.* A **prospective employee** is defined as *an individual who has contacted an eligible institution requesting information concerning employment with that institution.*

If you have students who are enrolled in your institution but who are currently taking courses at another school or who are not taking courses but are completing thesis or dissertation work, you are still required to provide them with your annual security report.

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

1. **Directly by publications and mailings. You may give a copy of your annual security report directly to each individual or by direct mailing the report to each individual through**

   - the United States Postal Service or any other direct mail service (i.e. Federal Express);
   - campus mail;
   - e-mail; or
   - a combination of these methods.

2. **Posting the annual security report on an Internet or intranet website that is reasonably accessible to enrolled students and to current employees.** You may use this method **only** if you distribute an individual notice about the annual security report to each student and employee by Oct. 1. Do not bury the notice in another document where a student or employee may be unlikely to read it. The notice should include

   - a statement of the report's availability.
   - a list and brief description of the information contained in the report.
   - the exact address (URL) of the Internet or intranet website at which the report is posted. This means that you must provide a direct link to the annual security report. It is not acceptable simply to give the URL for the institution's website.

This does not mean that all of your *Clery Act*-related items must be located at this URL. You may provide links from this URL to such items as your crime log, additional annual security reports for your separate campuses, etc.

- a statement that the school will provide a paper copy of the annual security report upon request. This request does not have to be made in writing. You may not charge fees to individuals for copies of the annual security report, nor can you include the annual security report in any publication for which you charge a fee.

Important note for institutions with on-campus student housing facilities:

If your institution has any on-campus student housing facilities you must also publish an annual fire safety report as described in Chapter 14. You may publish both reports together as long as the title of the document clearly states that it contains both the annual security report and the annual fire safety report. If you choose to publish the two reports separately, you must include information in each of the two reports about how to **directly access** the other report. Do not simply state that the other report is available.

Providing the Annual Security Report to Prospective Students and Employees

As stated previously, you must also make the report available to prospective students and employees. Do this by providing prospective students and prospective employees with a notice containing

- a statement of the report's availability;
- a description of its contents; and
- the opportunity to request a copy.

You may provide this notice to prospective students and prospective employees along with other information your institution provides to them. If your institution solicits applications for a faculty or an adminstrative position through an advertisement, the institution is required to provide a notice of the availability of the annual security report to those

individuals it interviews. However, you are not required to include notification in the job advertisement, nor are you required to notify an individual to whom you simply sent a rejection letter based on his or her unsolicited employment application.

If you choose to provide your annual security report to prospective students and prospective employees by posting the report on an Internet site, the notice provided to each individual must include

- the exact URL for where the report is posted;
- a brief description of the report; and
- a statement that the institution will provide a paper copy of the report upon request.

Note that you may **not** use an intranet site to make disclosures to prospective students and employees.

Correcting the Annual Security Report

If your institution makes corrections to your statistical disclosures or changes its safety and security policies at any time after publishing your annual security report for a particular year (no later than Oct. 1), you must update your annual security report.

If your institution corrects the crime statistics for a previous calendar year, you must correct the statistics in all previous annual security reports that included the statistics. For example, if your institution discovers in December 2015 that the numbers reported for 2013 on-campus disciplinary actions were incorrect, you must correct the 2013 statistics in the 2014 and 2015 annual security reports.

If your institution makes changes to its safety and security policies, you must update the information in your most recent annual security report to reflect your new policies. The statements or descriptions in your annual security report must accurately reflect your institution's current procedures and practices.

When a change is made to the statistics or policies in an annual security report, you should add a note to the annual security report explaining the change. This note should include

what change was made, the date the change was made and the reasons for the change.

Once revised, you must redistribute the annual security report following the notification procedures described in **Distributing the Annual Security Report.** If you post the revised annual security report online, you must distribute a notice about the availability of a revised annual security report to each student and employee.

Retaining Records

Be sure to retain the annual security report and all supporting records used in compiling the report for three years from the latest publication of the report to which they apply. For example, the 2015 annual security report should contain statistics for 2012, 2013 and 2014. The 2012 statistics and supporting records must be kept until Oct. 1, 2018—in effect, seven years.

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—in effect, seven years.

Records to be kept include, but are not limited to, the following: copies of crime reports; the daily crime logs; records for arrests and referrals for disciplinary action; timely warning and emergency notification reports; documentation, such as letters to and from local police having to do with *Clery Act* compliance; letters to and from campus security authorities; correspondence with us regarding *Clery Act* compliance; and copies of notices to students and employees about the availability of the annual security report. Make sure to date all documentation, and ensure it is easily retrievable. If you scan paper documents for archival purposes, be sure to scan the complete document. We suggest that you have more than one person at your school who knows where the documentation is kept.

Submitting Crime Statistics to the Department

Although you are not required to send us your annual security report, you must submit the crime statistics from the report to the Department via the annual Campus Safety and Security Survey. This Web-based survey is used to collect the statistical data from your annual security report and your annual fire safety report (if your institution has any on-campus student housing facilities).The data are then posted on our public website for use by higher education consumers and the public. The site is located at http://ope.ed.gov/campussafety.

Each year, a few weeks prior to the collection, we send a letter and a registration certificate to your institution's chief executive officer. The letter explains this important *Clery Act* requirement. The certificate contains the following information necessary to access the survey and enter data:

- Institution's User ID—Typically, this ID consists of an uppercase letter plus an eight-digit number. For example: C21370001. We issue a new User ID every year.
- Institution's Password—The password is a combination of nine letters, numbers and symbols. For example: Ab3y22*Z4. We issue a new password every year.
- Survey address—https://surveys.ope.ed.gov/campussafety.
- Campus Safety and Security Help Desk telephone number—(800) 435–5985.
- Campus Safety and Security Help Desk e-mail address—campussafetyhelp@westat.com.
- Data collection dates—Aug. __ to Oct. __ 20__.

Detailed step-by-step screen instructions for the survey are provided in the User's Guide for the Campus Safety and Security Data Collection. The user's guide is located online at https://surveys.ope.ed.gov/campussafety.

Note that if **your institution became Title IV eligible after Jan. 31**, your institution is exempt from participating in the Web-based data collection (i.e., the Campus Safety and Security Survey) for the calendar year in which you became eligible. The regulations require you to disclose crime and fire statistics each year for the previous three years.[5] However, if, for example, your institution became Title IV eligible in July 2014, you would not have collected any *HEA* crime and fire statistics prior to that date. Because the online survey collects statistics for an entire calendar year, your institution would not participate in the survey until you had an entire year of statistics. In this case, you would participate in the 2016 survey for the collection of 2015 statistics.

[5] Only schools that have on-campus student housing facilities must disclose fire statistics.

This exemption applies *only* to the online data collection. You must still complete an annual security report that includes current policy statements and partial-year crime statistics, provide that report to your students and employees, and make it available to potential students and employees. Partial-year statistics in the annual security report should include all crimes reported between the date the institution became Title IV eligible and the end of the calendar year. If for example, your institution became Title IV eligible in July 2014, you are required to

- publish an annual security report by Oct. 1, 2014, that includes current policies (no crime statistics required);
- publish an annual security report by Oct. 1, 2015, that includes current policies and crimes that were reported between July and December 2014; and
- publish an annual security report by Oct. 1, 2016, that includes current policies, partial-year statistics for 2014, and full calendar-year statistics for 2015.

Institutions or individual campuses that close prior to Oct. 1 are not required to complete the online survey or publish an annual security report for that year.

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Missing Students:
The Twenty-four Hour Rule

CHAPTER 10

Missing student notification policy disclosure citation
34 CFR 668.46(b)(14)

If your institution has any on-campus student housing facilities, you are required to comply with the Department's missing student notification regulations. (Please see "Definition of an On-campus Student Housing Facility" in Chapter 2.) **The Department's missing student regulations relate only to students who reside in on-campus housing.** They do not address students living in any noncampus student housing your institution owns or controls. If you have **multiple campuses**, you have to comply with these regulations only at those that have on-campus student housing facilities. If your institution has any **foreign campuses** with on-campus student housing facilities, those campuses also must comply with missing student notification regulations. Note that these regulations do not address students who are residing off campus while attending study abroad programs.

The Department's missing student regulations relate only to students who reside in on-campus housing.

Your institution must

- issue a policy statement that addresses missing student notification for students residing in on-campus student housing; and
- include procedures that your institution will follow if any of those students is determined to be missing for 24 hours.

The essence of the requirement is that if a student who lives in on-campus student housing is determined to have been missing for 24 hours, you have only 24 hours after receiving this information in which to initiate specific notification procedures. **This requirement does not preclude your institution from making a determination that a student is missing before the student has been missing for a full 24 hours, or from initiating notification procedures as soon as it determines that the student is missing.** In other words, you **must** initiate *HEA*-related procedures if a student has been determined to be missing for 24 hours; however, you **may** act sooner.

Include your policy and procedures statement in your institution's annual security report. You can include it with your institution's other campus security policy statements, in any order that you choose. Make sure that you clearly state that this policy focuses only on students residing in on-campus student housing. If your institution has a policy that applies to all missing students regardless of whether they live on campus or off campus, you may issue a single missing student policy statement providing it fully and clearly addresses each of the required *HEA* components for students living in on-campus housing.

Requirements for missing student notification policy statement citation
34 CFR 668.46(h)

Policy Statement

Your missing student policy statement must

1. **indicate a list of titles of the persons or organizations to which students, employees or other individuals should report that a student has been missing for 24 hours;**

What does this mean?

You must provide a list of individuals or organizations that people should contact if they have reason to believe a student who lives in on-campus student housing has been missing from campus for 24 hours. Use complete titles, such as "dean of housing" rather than "the dean," and "City of Rockville Police Department" rather than "the police." Include contact information for each listing.

2. **require that any missing student report must be referred immediately to the institution's police or campus security department, or, in the absence of an institutional police or campus security department, to the local law enforcement agency that has jurisdiction in the area;**

What does this mean?

This component addresses what your institution is obligated to do when a missing student report is received from anyone, even individuals not affiliated with your school.

If your institution has a campus police or security department, your policy must state that anyone receiving a

missing student report should **immediately** bring it to that department's attention. If your institution does not have a campus police or security department, the report should **immediately** be brought to the attention of the local law enforcement agency that has jurisdiction in your area. Include contact information for that agency. (For help in determining the law enforcement agency or agencies that have jurisdiction in your area, see "How Do You Obtain Statistics From Local Law Enforcement?" in Chapter 4.) Every report must be forwarded to the appropriate entity regardless of how long the student is believed to have been missing.

3. **contain an option for each student to identify a contact person or persons whom the institution shall notify within 24 hours of the determination that the student is missing, if the student has been determined missing by the institutional police or campus security department, or the local law enforcement agency;**

What does this mean?

This component addresses your institution's obligation to advise every student who lives in on-campus student housing, **regardless of age,** that he or she may register one or more individuals to be a contact **strictly for missing persons purposes**. The contact person can be anyone. You must give students this option even if they have already identified a general emergency contact. A student may identify the same individual for both purposes, but your institution may not assume that a general emergency contact is also the missing person contact. Offer students this option annually regardless of whether they chose to register a contact the previous year. If any students move into on-campus student housing mid-year, you must give them the option to name a contact person as well. Include in your policy statement information about how a student can register a contact or contacts.

To protect confidentiality, general emergency contact information and missing student contact information must be kept separate, even if the student has registered the same person for both purposes.

4. **advise students that their contact information will be registered confidentially, that this information will be accessible only to authorized campus officials, and that it may not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation;**

What does this mean?

This component addresses how a student's contact person information will be maintained and who is allowed access to it. Inform students that the information will be kept confidential. To protect confidentiality, general emergency contact information and missing student contact information must be kept separate, even if the student has registered the same person for both purposes. Because the *HEA* requires the information to be kept confidential, student's contact information has greater privacy protections than the *Family Educational Rights and Privacy Act* (*FERPA)* provides.

State that contact information may be accessed only by authorized campus officials. Although your policy statement does not have to contain the names or titles of the authorized officials, you should document this information for your records. Those officials may disclose the contact information **only** to law enforcement officials and **only** for the purpose of a missing student investigation. In issuing this policy statement, you are letting students know that if they register a contact person, they are, in effect, also providing permission for law enforcement personnel to contact the identified individual for the purpose of a missing student investigation.

5. **advise students that if they are under 18 years of age and not emancipated, the institution must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student;**

What does this mean?

This part of your statement addresses students who are under the age of 18 and are not emancipated, that is, not legally independent of their parents. State that if it has been determined that such a student has been missing for 24 hours, the institution will notify both the student's custodial parent or

guardian and the student's contact person, if he or she has registered one, that the student is missing.

6. **advise students that the institution will notify the local law enforcement agency within 24 hours of the determination that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing.**

What does this mean?

Include a statement that once a determination has been made that a student living in on-campus student housing is missing, your institution will notify local law enforcement of the situation within 24 hours. The **only exception** is when it was the law enforcement agency that made the determination. This statement addresses **any** missing student who lives in on-campus student housing regardless of age or status, and regardless of whether he or she registered a confidential contact person.

Your institution's missing student notification procedures must go into effect within 24 hours of the determination that a student who lives in on-campus student housing has been missing for 24 hours.

Procedures

Your institution's missing student notification procedures **must** go into effect within 24 hours of the determination that a student who lives in on-campus student housing has been missing for 24 hours. Again, this doesn't preclude initiating notification procedures as soon as your institution determines that a student is missing.

Your policy statement must include the procedures that will be followed in the case of a missing student report. In addition to any other steps your institution might take, you must include the following:

1. **If the student has designated a contact person, notifying that contact person within 24 hours that the student is missing.**

What does this mean?

State that if a student has registered a contact person, the institution will notify him or her no later than 24 hours after it's been officially determined that the student is missing. This does not have to be an in-person contact. If a student identifies

multiple contacts, they can be contacted in an order determined by the institution. If a student registers multiple contact persons and the first person contacted confirms that the student is not missing, the institution must contact each additional contact person in turn, unless the student in question is contacted by the institution or contacts the institution. If your institution is unsuccessful in contacting the named individual or individuals, document your attempts.

The official determination that the student is missing can be made **at any time** by the campus police or security department (if the campus has one) or by the local law enforcement agency that has jurisdiction where the campus is located. For example, suppose a student goes to your campus security office at 10 a.m. on a Monday and reports that a student living in her dorm left the campus at 9 p.m. Sunday and didn't return for her Monday 8 a.m. class. The student has been missing for 11 hours. Campus security investigates and comes to the conclusion at 11:15 a.m. that the student is missing. If the missing student has identified a confidential contact, campus security has 24 hours (i.e., until 11:15 a.m. Tuesday) to notify that contact person.

2. **If the student is under 18 years of age and is not emancipated, notifying the student's custodial parent or guardian and any other designated contact person within 24 hours that the student is missing.**

What does this mean?

These procedures address students under 18 who are not legally independent of their parents. If it's determined that such a student has been missing for 24 hours, the institution has only 24 hours in which to contact (in no required order)

- the custodial parent or guardian; and
- The confidential contact person, if the student has identified one.

These regulations do not preclude the institution from contacting the student's contact person or the custodial parent or guardian immediately upon determination that the student is missing.

3. **Regardless of whether the student has identified a contact person, is above the age of 18 or is an emancipated minor, informing the local law enforcement agency that has jurisdiction in the area within 24 hours that the student is missing.**

What does this mean?

You must state that your institution will notify the local law enforcement agency when **any** student who lives in on-campus student housing has been determined to be missing for 24 hours. You must do this even if your school has a campus police or security department.

Note that this procedure differs from no. 2 under the Policy Statement section, which requires missing student **reports** to be forwarded to a local law enforcement agency if your school does not have a campus police or security department. Procedure no. 3 directly above, requires your institution to forward the information that a student has been **determined** to be missing.

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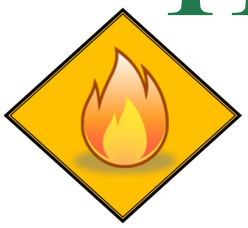
Fire Safety Disclosures: Requirements and Definition Of a Fire

CHAPTER 11



The ***HEA*** fire safety regulations **apply only to institutions with on-campus student housing facilities and focus exclusively on those facilities.** (See "Definition of an On-campus Student Housing Facility" in Chapter 2.) The regulations do not apply to other buildings on your campus or to any noncampus student housing facilities your institution might own or control. If you have **multiple campuses**, you must comply with the regulations only at those that have on-campus student housing facilities. If your institution has any **foreign campuses** with on-campus student housing facilities, you must comply with the *HEA* fire safety regulations at those campuses.

Institutional fire safety regulations citation
34 CFR 668.49

An institution with on-campus student housing facilities is required to

- maintain a **log** of all reported fires that occur in those on-campus student housing facilities;
- publish an annual **fire safety report** that contains fire safety policies and fire statistics for each of those facilities; and
- submit the **fire statistics** from the fire safety report annually to the Department.

Fire log requirement citation
34 CFR 668.49(d)

Annual fire safety report citation
34 CFR 668.49(b)

Fire statistics disclosure requirement citation
34 CFR 668.49(c)

The fire log is discussed in Chapter 12, fire statistics are discussed in Chapter 13 and the annual fire safety report is discussed in Chapter 14. First, though, to comply fully and accurately with the requirements found in those chapters, you need to understand how to define a fire for the purposes of the *HEA*.

Definition of a Fire

For the purposes of fire safety reporting, a **"fire"** is defined as *any instance of open flame or other burning in a*

place not intended to contain the burning or in an uncontrolled manner.

This definition contains two descriptions of fire. The first is "any instance of open flame or other burning in a place not intended to contain the burning." Some examples are

- trash-can fire
- oven or microwave fire
- burning oven mitt on a stove
- grease fire on a stovetop
- flame coming from electric extension cord
- burning wall hanging or poster
- fire in an overheated bathroom vent fan
- couch that is burning without any flame evident

The second type of fire is "any instance of open flame or other burning **in an uncontrolled manner**." Some examples are

- chimney fire
- gas stove fire
- fuel burner or boiler fire

Include

- all fires that meet the definition regardless of
  - size
  - cause
  - whether the fire results in injury, death or property damage
  - your institution's fire safety policies. Even if your institution prohibits the burning of candles in dorms, a lit candle doesn't meet the definition of a fire. If drapes catch on fire due

to brushing against a lit candle, the burning drapes meet the definition.

- fires on the roof or the outside walls of a building even if the fire doesn't reach the inside

- an incident where there is evidence that there **was** burning, for example, a singed electrical cord

- fires in parking facilities and dining halls that are **physically attached to and accessed directly from,** on-campus student housing facilities. "Accessed directly from" means that an individual can enter the parking area or dining hall directly from the housing area without leaving the building. Note that if there is a vehicle fire (i.e., a fire that is confined to a vehicle) in a student housing facility parking garage, this is not a student housing facility fire. However, if there is a fire in the garage that spreads to a vehicle, or if a vehicle fire spreads to the garage, this is a student housing facility fire.

- fires reported to any official at your institution (e.g., to a residence life officer), not just campus fire authorities or campus security authorities.

Do not include

- sparks or smoke where there is no open flame or other burning

- such incidents as burnt microwave popcorn that trigger fire alarms or smoke detectors but where there are no open flames or other burning

- **attempted** Arson in cases where there is no open flame or burning. (Attempted Arson must be included along with statistics for completed Arson in your *Clery Act* crime statistics, however. See "Types of Criminal Offenses," no. 7 in Chapter 3 for more information about Arson.)

- fires in parking facilities and dining halls that are **not physically attached to and accessed directly from** on-campus student housing facilities, even if the facilities are reserved for the use of residents in those housing facilities

- incidents that violate your institution's fire safety policies but that do not meet the definition of a fire. For example, if your institution prohibits fires in fireplaces in on-campus student housing and a student lights a fire in the fireplace, this is not a reportable fire under the *HEA*. However, if the fire began burning in an uncontrollable manner and ignited the chimney or flue, that would be a reportable fire.

The Fire Log:
Recording Fires in On-campus Student Housing Facilities

CHAPTER 12

Fire log citation
34 CFR 668.49(d)

Your institution must maintain a written, easily understood fire log that records, by the date reported, **any fire that occurs in an on-campus student housing facility.** You are not required to record fires that occur anywhere else on your campus in this log. Nor are you required to record fires that occur in any noncampus student housing that your school might own or control. You may, however, include other fires in the log for your institution's internal record keeping and for making the information available to the public.

You may maintain the log in a hard copy or in an electronic format. Either format must be accessible to the campus community on-site. This means that if you have separate campuses that have on-campus student housing facilities, a fire log must be available at, or accessible from, each campus. Information from the log should be used in calculating the statistics to include in the annual fire safety report and the fire statistics submitted to the Department. These statistics must also be disclosed to your students and employees, and prospective students and employees.

What Are Reported Fires?

Reported fires include fires that were already extinguished as well as those discovered while still burning. They include emergency situations involving fires that necessitated a call to 911 for fire department assistance, as well as minor fires, such as a small trash can fire that was easily extinguished without assistance. Fires can be reported by anyone, regardless of the individual's association with your institution.

Reported fires include fires that were already extinguished as well as those discovered while still burning.

Unlike *Clery Act* crime reporting, in which a crime is "reported" when it is brought to the attention of a campus security authority or a local law enforcement agency, there are no such restrictions with fire reporting. Any student housing fire that is reported to any official at your institution must be documented in your fire log. An **official** is *any person who has*

Any student housing fire that is reported to any official at your institution must be documented in your fire log.

the authority and the duty to take action or respond to particular issues on behalf of the institution. To help ensure that fire reports get entered into your fire log, your institution must have and disclose a policy and procedures informing students and employees of the individuals or organizations to whom fires should be reported. (More about this in Chapter 14.)

Figure 14. Examples of Reported Fires

Scenario 1: A student calls a resident assistant from his cell phone to report a small fire in a dorm laundry room. When the RA gets to the laundry room there is no evidence or indication of a fire. He asks the student who made the report where the fire was and the student tells him that a paper had been set on fire on the bulletin board by someone on his way out of the room. The student extinguished the burning paper immediately and then called the RA. The RA must document the report and forward it to the office maintaining the log for entry in the fire log.

Scenario 2: A maintenance worker is repairing a kitchen sink at a Greek house on campus. He notices that the stove is scorched and asks a couple of students what happened. They tell him that several months ago they had a fire while making dinner. The maintenance worker asks the students if they reported the fire and they tell him that they didn't because they were able to extinguish it themselves. The maintenance worker forwards the report to the office maintaining the log for entry into the fire log.

Scenario 3: The city of College Park's fire department responds to an active fire alarm set off by a smoke detector in a student dormitory on campus. Fire personnel investigate but do not find evidence of a fire. The fire department determines that workmen using power tools to repair a bathroom fan set off the smoke detector. They call the school's security department to report their findings. The security department documents the report in the department's incident log but does not enter it into the fire log.

Scenario 4: The fire department responds to a fire in the dumpster next to an on-campus residence hall. Although not required to enter this fire in the fire log because it occurred **outside of** an on-campus student housing facility, the school decides to enter the fire in the log for internal record-keeping purposes. (The school should **not** include this fire in its on-campus student housing facility fire statistics discussed in Chapter 13.)

Creating a Fire Log

Required Fire Log Elements

The law allows flexibility in how you design your fire log but you must include certain elements. For each fire, the log must include

- the date the fire was reported;
- the nature of the fire;
- the date and time of the fire; and
- the general location of the fire.

You may include other data elements or columns in your log for internal record-keeping purposes, but this additional information is not required by the *HEA*. You also may include entries for fires other than those in on-campus student housing facilities, but you are not required to do so. If you record such fires, do not include statistics for them in your *HEA*-mandated annual fire safety report unless they are presented in a separate table or in a caveat.

The Date the Fire Was Reported

Use the date that the fire was initially reported. For example, if the fire was reported to a campus dean on a Friday and the dean reported it the following Monday to the office maintaining the log, Friday's date would be entered in the log. Enter the date the fire was reported **regardless** of how much time has passed since the fire occurred.

Enter the date the fire was reported *regardless* of how much time has passed since the fire occurred.

The Nature of the Fire

For this category you may simply use the causes listed under "Cause of Fire" in Chapter 13, or you may elaborate on them. Whatever you choose to do, enter a description that allows the reader to know what type of fire occurred. For example, instead of "accidental" or "Arson," enter "room fire caused by electrical malfunction" or "bulletin board intentionally set on fire." Use descriptions that anyone reading the log can understand. Don't use codes, acronyms or abbreviations.

The Date and Time of the Fire

Enter the date the fire occurred **and** the time it started. If you do not know the time the fire started, enter the time it was first noticed. If this information is not available, enter an approximation or a range, or enter "unknown."

The General Location of the Fire

Enter the location of the fire but do not provide personally identifying information. For example, enter "Fourth Floor, North Campus Hall" rather than "Room 404, North Campus Hall."

Figure 15. Sample Fire Log With Required Elements

Fire Log
March 2015

Date reported	Case Number	Nature of fire	Date and Time of Fire	Location
03/12/2015	2015F-1200	Cigarette thrown in trash can	03/11/2015 Approx. 5:30 p.m.	North Campus Hall lounge
03/25/2015	2015F-1201	Flyer set on fire	03/25/2015 Btw. 2 and 6 a.m.	Third-floor hall in Theta Chi house

Maintaining the Fire Log

Your institution must make an entry or an addition to an entry to the log within two business days of receiving the information. A business day is any day Monday through Friday, except for days when the institution is closed. If you have an electronic log, and you experience a software or computer problem, use a hard copy log as a temporary replacement. Make the fire log for the most recent 60-day period open to public inspection, upon request, during normal business hours. Make any portion of the log older than 60 days available within two business days of a request for public inspection. Anyone may have access to the log, whether or not they are associated with your institution. This includes the media.

Provide students and employees with a description of the log, noting its location and availability. Your institution may decide who or what department is responsible for maintaining the log and where it should be kept if it's a hard copy log. Keep your archived fire logs for three years following the publication of the last annual fire safety report to which it applies (in effect, seven years; see page 9-11).

Combining Your Fire Log With Your Daily Crime Log

If your institution has a campus police or security department and is required to maintain a daily crime log for *Clery Act* reporting (see Chapter 5), you may use that same log for your fire log. Label it in a manner that lets people know that it is both a crime log and a fire log. Make sure that it contains the required elements for both logs. You also may keep separate crime and fire logs.

Note that if you have separate logs, they should differ as follows in terms of reporting fires: The **fire log** must record all reported fires, including Arson, in on-campus student housing facilities. The **crime log** records all Arsons and attempted Arsons reported to a CSA that occur on campus (including student housing facilities), on public property, in noncampus buildings or property or within the patrol jurisdiction of that department.

Reporting to the Campus Community

The law states that an institution must make an annual report to the campus community on the fires recorded in the fire log. This requirement may be satisfied by the annual fire safety report. This report is described in detail in Chapter 14.

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Fire Statistics:
Classifying and Counting Fires in On-campus Student Housing Facilities

CHAPTER 13

Fire statistics disclosure citation
34 CFR 668.49(c)

In addition to the disclosure of your institution's fire safety-related policies and procedures, your annual fire safety report must contain **statistics for reported fires in on-campus student housing facilities.** This chapter discusses in detail the various categories of required statistics.

You must collect and include statistics for **each** on-campus student housing facility **separately** for the three most recent calendar years (i.e., Jan. 1 through Dec. 31) for which data are available. You may treat a group of attached buildings, such as a row of townhouses, as a single student housing facility if they share a name and have the same fire safety policies and systems. All other student housing facilities must be reported separately.

If there were no reported fires in **any** of your on-campus student housing facilities in the three most recent calendar years, you may simply list the name and address of each facility in your annual fire safety report and state that there were no reported fires in the facilities for the reporting years. You must, however, enter 0 for each on-campus student housing facility in your Web-based survey.

Required Fire Statistics

Identify each facility by name and street address, and for each facility include

1. **the number of fires and the cause of each fire**

A **fire,** for the purposes of the *HEA*, is *any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner.*

(For more information about what is and isn't a fire, please see Chapter 11.)

"Cause of fire" is defined as *the factor or factors that give rise to a fire. The causal factor may be, but is not limited to, the result of an intentional or unintentional action, mechanical failure, or act of nature.*

Use the following guide, Classifications of Fire and Examples, to help identify the cause of a fire.

Figure 16. Classifications of Fire and Examples

Unintentional Fire. (A fire that does not involve an intentional human act to ignite or spread fire into an area where the fire should not be.)

Cause	Example
Cooking	Grease fire on stove top or in oven or microwave
Smoking Materials	Discarded lit cigarette butt
Open flames	Candles
Electrical	Electrical arcing, overheated electrical motor
Heating equipment	Heating stoves, space heaters, fireplaces, furnaces, water heaters
Hazardous products	Spontaneous combustion; chemical reaction
Machinery/Industrial	Heat from friction, (e.g., fan belts); cutting and welding
Natural	Fires that result from a natural phenomenon, such as lightning, tornadoes and earthquakes
Other	Fireworks (including sparklers), paper caps, party poppers, and firecrackers; sunlight (usually magnified through glass or a bottle); fires that start in a building that is not an on-campus student housing facility and spread to an on-campus student housing facility

Intentional Fire. (A fire that is ignited, or that results from a deliberate action, in circumstances where the person knows there should not be a fire.)

Example: Fire in a dorm restroom has been investigated by fire authorities and determined to be Arson. Perpetrator used matches to ignite paper towels.

NOTE: Provide a description of all intentional fires. (For more information on intentional fires, see "Arson" in Chapter 3.)

Undetermined Fire. (A fire in which the cause cannot be determined.)

Example: Investigators cannot determine whether a couch was smoldering because someone accidentally dropped a lighted cigarette behind a cushion, or because someone intentionally set it on fire.

2. the number of persons who received fire-related injuries that resulted in treatment at a medical facility, including at an on-campus health center

A **"fire-related injury"** is defined as *any instance in which a person is injured as a result of a fire, including an injury sustained from a natural or accidental cause, while involved in fire control, attempting rescue, or escaping from the dangers of the fire. The term "person" may include students, employees, visitors, firefighters or any other individuals.*

Include

- individuals who are transported to a medical facility (even if they refuse treatment at the facility);
- individuals who are treated at a temporary medical facility that is set up at the fire site; and
- individuals who are treated in an ambulance.

Do not include

- individuals who appear to be injured but refuse to be treated or transferred to a medical facility; and
- individuals more than one time for a single fire. If an individual is treated at a medical facility, and is later transferred to a different medical facility, count this as one person with fire-related injuries.

3. the number of deaths related to a fire

A **"fire-related death"** is defined as *any instance in which a person*

(1) is killed as a result of a fire, including death resulting from a natural or accidental cause while involved in fire control, attempting rescue, or escaping from the dangers of a fire; or

(2) dies within one year of injuries sustained as a result of the fire.

Examples of natural causes of fire-related death:

- Lung damage due to smoke inhalation
- Heart problems due to stress or exertion

Examples of accidental causes of fire-related death:

- Getting struck by a falling object
- Getting burned by fallen wires
- Being killed by jumping out of a window

Disclose the number of fire-related deaths for **each** fire. Although the regulations don't require your school to track every individual who has a fire-related injury for the purpose of documenting fire-related deaths, you must make a reasonable effort to ascertain the number of deaths that occur in a one-year period following a fire. A reasonable effort includes

- tracking individuals who are hospitalized a few miles from your school;
- tracking individuals who are still in contact with the school following the fire; and
- documenting deaths that you learn of from other individuals or the media.

4. the value of property damage caused by a fire

"Value of property damage" is defined as *the estimated value of the loss of the structure and contents, in terms of the cost of replacement in like kind and quantity. This estimate should include contents damaged by fire, and related damages caused by smoke, water, and overhaul; however, it does not include indirect loss, such as business interruption.*

Disclose the value of property damage for **each** fire. Include the value of all property damage, even to property not owned or controlled by your institution. (If you want to make an **additional** disclosure to separate out institutional property damage and damage to the personal property of others, you may do so.) Your estimate for structural damage should be based on replacement value, not market value. Make sure to include the value of property destroyed during overhaul. **Overhaul** is *the practice of searching a fire scene to detect*

hidden fires or sparks which may rekindle, and to note the possible point of origin and cause of ignition.

Do not include any indirect losses. In addition to business interruption, indirect losses include the cost of emergency housing, personnel costs associated with subsequent cleanup and restoration, and lost tuition.

If you use estimates for property damage rather than actual amounts, use the ranges listed in the following chart to report the value of property damage:

Figure 17. Value Ranges for Estimated Property Damage Due to Fire

$0 – 99	$50, 000 – 99,999
$100 – 999	$100,000 – 249,999
$1,000 – 9,999	$250,000 – 499,999
$10,000 – 24,999	$500,000 – 999,999
$25,000 – 49,999	>$1,000,000

How to Determine the Value of Property Damage

Property damage can be determined by the property owner or an insurance adjuster. If there is no property damage—for example a brief fire in a trash can that only destroyed discarded cigarette butts—indicate that the damage was in the $0–$99 range.

Fires in On-campus Student Housing Facilities That Are Physically Attached to Facilities Not Owned or Controlled by the Institution

Perhaps you have a student housing facility located on the edge of your campus that is attached along one wall to a privately owned establishment, such as a restaurant. A fire that originates in the restaurant kitchen spreads to the student housing facility. Include this as a student housing fire. It is irrelevant whether the building had separate access for the student housing facility and the restaurant, or a single point of access. However, count injuries, damages, etc. only for the student housing facility, not for the restaurant.

A Note About Arson

As described in the Arson classification section in Chapter 3, the *Clery Act* requires your institution to disclose statistics for fires that are investigated and determined to meet the FBI's UCR definition of Arson. The Arson can occur anywhere within the institution's *Clery Act* geography: on campus (including in on-campus student housing facilities), in or on noncampus buildings or property, and public property. If your institution has a campus police or security department you also must record Arsons that are reported to that department in your daily crime log if the Arson occurs on your *Clery Act* geography or within the department's patrol jurisdiction. This means that an Arson that occurs in an on-campus student housing facility must be disclosed in your annual fire safety report, your fire log, your annual security report and your crime log (if you are required to keep a crime log).

Remember, you must identify each on-campus student housing facility and enter the number of reported fires at each facility.

Remember, you must identify each on-campus student housing facility and enter the number of reported fires at each facility. Then, for each fire, enter the cause of the fire, the number of persons who received fire-related injuries that resulted in treatment at a medical facility, the number of deaths related to that fire and the value of property damage related to that fire. If there were no reported fires at a facility, state this, or enter a 0; do not omit the facility from your disclosures.

Figure 18. Sample Fire Statistics Reporting Table for the Annual Fire Safety Report

Statistics and Related Information Regarding Fires in Residential Facilities for 2014						
Residential Facilities	Total Fires in Each Building	Fire Number	Cause of Fire	Number of Injuries That Required Treatment at a Medical Facility	Number of Deaths Related to Fire	Value of Property Damage Caused by Fire[1]
Parker 195 7th St.	2	1	Unintentional/Stove fire	1	0	187.25
		2	Unintentional/Stove fire	0	0	665.23
Hacket 210 7th St.	0	0	N/A	N/A	N/A	N/A
Cooper 24 8th St.	1	1	Unintentional/Fire in oven	0	0	0.00
Tyler 49 8th St.	0	0	N/A	N/A	N/A	N/A
Carter 206 9th St.	0	0	N/A	N/A	N/A	N/A
Becket 209 9th St.	0	0	N/A	N/A	N/A	N/A
Denali 490 9th St.	0	0	N/A	N/A	N/A	N/A
Eisner 495 9th St.	0	0	N/A	N/A	N/A	N/A
Grant 491 9th St.	2	1	Unintentional/Fire in basement trash chute	0	0	5,895.00

[1] Values are in dollars.

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The Annual Fire Safety Report:

Publishing Policy Statements and Fire Statistics

CHAPTER 14

Annual fire safety report citation
34 CFR 668.49(b)

An institution that maintains any on-campus student housing facilities must publish an annual fire safety report by Oct. 1. This is a firm deadline; there is **no grace period** and there are **no exemptions**. The purpose of this report is to disclose fire safety policies and procedures related to your **on-campus student housing** and to disclose statistics for fires that occurred in those facilities.

You may publish your annual fire safety report together with your *Clery Act*-required annual security report as long as the title of the document clearly states that it contains both reports. There is no prescribed order for the reports. If you choose to publish the reports together one year and separately the next year, you may. If you choose to publish the reports separately, you must include information in each report about how to **directly access** the other report. This means that you can't simply say that the other report is available; you must describe how an individual can obtain that report. The publication requirements for the fire safety report are the same as those for the annual security report and are found in Chapter 9. Remember that if you have a **foreign campus** with on-campus student housing facilities, an annual fire safety report must also be published for that campus.

The publication requirements for the fire safety report are the same as those for the annual security report and are found in Chapter 9.

The law doesn't require your institution to adopt particular policies, procedures, programs or practices with respect to fire safety; the law prescribes how your institution collects, reports and disseminates the required information. The report must disclose your **current** policies, procedures, practices and rules. Descriptions of what your institution does regarding fire safety must be accurate and clear. For example, anyone reading your procedures for student housing evacuation in the case of a fire should be able to understand exactly what those procedures are, and the order in which they should be

followed. Your institution must adhere to the policies and procedures it discloses.

If your institution does not have any fire safety experts on site, we suggest that you contact local experts, such as the fire marshal, fire chief, fire investigator or other local fire authorities for assistance in developing appropriate policies and procedures.

Components of the Fire Safety Report

At a minimum, the fire safety report must contain the components that are listed below. There is no prescribed order. All of the components pertain to on-campus student housing facilities, not the campus as a whole.

1. **Description of each on-campus student housing facility fire safety system.**

A **"fire safety system"** is defined as *any mechanism or system related to the detection of a fire, the warning resulting from a fire, or the control of a fire. This may include sprinkler systems or other fire extinguishing systems, fire detection devices, stand-alone smoke alarms, devices that alert one to the presence of a fire, such as horns, bells, or strobe lights; smoke-control and reduction mechanisms; and fire doors and walls that reduce the spread of a fire.*

What does this mean?

Your statement should describe the fire safety system in **each** of your on-campus student housing facilities. It isn't enough to provide a general description of fire safety systems used in your facilities. A reader should be able to look for a specific facility and read a description for that facility.

If you are not sure whether a specific mechanism or system is part of a fire safety system, ask yourself if the mechanism or system is related to the

- **detection** of a fire,
- **warning** resulting from a fire, or
- **control** of a fire.

For example, your institution might have egress lighting in the dormitories. Although egress lighting can be an element of a campus safety system, it is not part of a fire safety system because it is not used to detect, warn of or control a fire.

The elements included in the definition of a fire safety system are examples. The fire safety system or systems you describe may differ.

You have flexibility in how your institution addresses this requirement. The goal is to ensure that, at a minimum, students and families have enough information to understand what type of fire safety system is used in each on-campus student housing facility. For example, you may create a table that lists each student residential facility by name and has columns for checking whether a facility has any or all of the various systems and mechanisms identified, such as smoke alarms, fire doors, sprinkler systems, etc. If you use terms such as "full" or "partial" to describe a fire suppression system, explain what is meant by "full" or "partial."

The regulations don't require your institution to provide specific detailed information on your fire safety system or other systems, such as maintenance or inspection schedules. However, you may provide this or other pertinent information as you choose.

Note that although you must disclose fire statistics for the previous three calendar years, your description of each on-campus student housing facility fire safety system must reflect the system that is currently in place.

Figure 19. Sample Description of On-campus Student Housing Facility Fire Safety Systems

Fire Safety Systems in Residential Facilities

Facility	Fire Alarm Monitoring Done On-Site (by UPD)	Partial *1 Sprinkler System	Full *2 Sprinkler System	Smoke Detection	Fire Extinguisher Devices	Evacuation Plans & Placards	Number of Evacuation (Fire) Drills Each Calendar Year
Hacket 210 7th St.	X	X		X	X	X	2
Cooper 24 8th St	X		X	X	X	X	4
Carter 206 9th St.	X	X		X	X	X	4
Becket 209 9th St.	X		X	X	X	X	2
Denali 490 9th St.	X		X	X	X	X	2
Eisner 495 9th St.	X		X	X	X	X	2
Grant 491 9th St.	X		X	X	X	X	2
Parker 195 7th St	X	X		X	X	X	2

2. Number of fire drills held during the previous calendar year.

What does this mean?

A **"fire drill"** is defined as *a supervised practice of a mandatory evacuation of a building for a fire.* Disclose the number of fire drills held during the previous calendar year for each on-campus student housing facility. If no fire drills were held for a facility during this time period, you must indicate this. The requirement for a fire drill cannot be met by a false alarm that leads to the evacuation of a building, even if the evacuation is supervised. A drill involves planning, supervision and evaluation.

3. Policies or rules on portable electrical appliances, smoking and open flames in a student housing facility.

What does this mean?

Disclose all of your institution's policies or rules on portable electrical appliances, smoking and open flames in your on-campus student housing facilities. It's not adequate to state that you have such policies or rules; you must disclose the specifics and you must address all three categories: portable electrical appliances, smoking and open flames. If some rules apply to certain facilities only, state this.

4. Procedures for student housing evacuation in the case of a fire.

What does this mean?

Disclose your institution's procedures for evacuating a student housing facility in the case of a fire. If specific exits should be used or relocation procedures should be followed, state this. If the procedures differ by student housing facility, your statement must describe the specific procedures for each facility.

5. **Policies regarding fire safety education and training programs provided to the students and employees. In these policies, the institution must describe the procedures that students and employees should follow in the case of a fire.**

What does this mean?

Disclose all of your institution's policies related to fire safety education programs and fire safety training programs associated with on-campus student housing facilities. Include in-person and online programs, as applicable. Describe all procedures that students should follow in the case of a fire, as well as all procedures that employees should follow in the case of a fire. The policy statement must cover all employees involved in student housing and areas related to student housing, for example, residential life staff, student affairs staff, student personnel services staff, residence hall directors, residential education staff and summer housing staff. If any of your student housing facilities has an attached parking garage or dining hall (as described in the bullets under the "Definition of a Fire" section in Chapter 11), include employees associated with those areas. You may include other employees as well.

6. **For purposes of including a fire in the statistics in the annual fire safety report, a list of the titles of each person or organization to which students and employees should report that a fire occurred.**

What does this mean?

This is a list of the titles of the people or organizations that should be told after the fact that a fire occurred. It is not a list of whom to notify that there is a fire emergency. That information should be included in "the procedures that students and employees should follow in the case of a fire," as described in component no. 5 above.

7. **Plans for future improvements in fire safety, if determined necessary by the institution.**

What does this mean?

Your plan can be limited to "Our institution is going to do the following …" or can include "If we obtain funding we'd like to do the following …" We suggest that you include information that tells the reader why the improvements are necessary. Do not simply state that the institution has plans for

future improvements without indicating what those improvements will be. You may, but are not required to, include a time line.

If you determine that future improvements in fire safety are not necessary, state this.

8. Fire statistics.

Your annual fire safety report must include statistics for reported fires in on-campus student housing facilities. This requirement is discussed in detail in Chapter 13.

In addition to including fire statistics in your annual fire safety report, your institution is required to **submit the statistics from that report to the Department**. The mechanism for doing this is the annual online Campus Safety and Security Survey that takes place in the fall. A registration packet with survey information, a password and a user ID are sent to the chief executive officer of your institution several weeks prior to the start of the data collection.

Specific screen-by-screen instructions for completing the survey and submitting it to the Department are included in the user's guide for the survey, which can be found at https://surveys.ope.ed.gov/campussafety. You can get additional help with the survey by phone at 800-435-5985 or by e-mail at campussafetyhelp@westat.com. Your institution's fire statistics will subsequently be migrated to the Department's public dissemination site at: http://ope.ed.gov/campussafety where any interested person can view them. The public site also can be used to generate reports using aggregated data from all of the schools that submit *HEA*-related crime and fire statistics. You can find more information about the annual data collection in Chapter 9.

Appendix A

Links to the *Higher Education Act of 1965* Safety- and Security-related Laws and Regulations

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Links to the *Higher Education Act of 1965* Safety- and Security-related Laws and Regulations

***Federal Register*, Nov. 1, 1999 (Vol. 64, No. 210),**
Student Assistance General Provision; Final Rule.
34 CFR 668.41, Reporting and Disclosure of Information
34 CFR 668.46, Institutional Security Policies and Crime Statistics

http://www.ed.gov/legislation/FedRegister/finrule/1999-4/110199d.html

***Federal Register,* Oct. 31, 2002 (Vol. 67, No. 211),**
Student Assistance General Provision; Final Rule.
34 CFR 668.46, Institutional Security Policies and Crime Statistics

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2002_register&docid=02-27599-filed

***Federal Register,* Oct. 29, 2009 (Vol. 74, No. 208),**
General and Non-Loan Programmatic Issues; Final Rule.
34 CRF 668.41, Reporting and Disclosure of Information
34 CRF 668.46, Institutional Security Policies and Crime Statistics
34 CFR 668.49, Institutional Fire Safety Policies and Fire Statistics

http://edocket.access.gpo.gov/2009/E9-25373.htm

***Higher Education Opportunity Act*, Aug. 14, 2008.**
Program Participation Agreement Requirements

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ315.110

***Federal Register,* Oct. 20, 2014 (Vol. 79, No. 202),**
Violence Against Women Act; Final Rule.
34 CFR 668.46, Institutional Security Policies and Crime Statistics

http://www.gpo.gov/fdsys/pkg/FR-2014-10-20/html/2014-24284.htm

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Appendix B

Sample Letter to a Local Law Enforcement Agency to Request Crime Statistics

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Sample Letter to a Local Law Enforcement Agency to Request Crime Statistics

Jan. 21, 2016

(Name)
Research Analyst
Metropolitan Police Department
300 Indiana Ave. NW, Suite 5126
Washington, DC 20001

Dear (Name),

Under the federal *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)*, postsecondary schools are required to disclose statistics for certain crimes that occurred on campus and on public property within and immediately adjacent to school-owned buildings and property. In the statistics we are required to include crimes that were reported to our department as well as crimes reported to local and state law enforcement agencies.

I am requesting that your department provide me with **crime statistics for 2015** for the following offenses that occurred on our campus or on public property within and immediately adjacent to our property:

- Murder/Non-negligent Manslaughter
- Manslaughter by Negligence
- Rape
- Fondling
- Incest
- Statutory Rape
- Robbery
- Burglary
- Aggravated Assault
- Motor Vehicle Theft
- Arson

Please specify if any of the above-listed offenses were categorized as Hate Crimes. In addition, please include statistics for any incidents of Larceny-Theft, Simple Assault, Intimidation, or Destruction/Damage/Vandalism of Property that were classified as Hate Crimes. I also need the category of bias for each Hate Crime according to the eight categories for which we are required to report: Race, Religion, Sexual Orientation, Gender, Gender Identity, Disability, Ethnicity, and National Origin.

Please include statistics for **arrests** only for the following Uniform Crime Reporting (UCR) categories:

- Liquor Law Violations
- Drug Abuse Violations
- Weapons: Carrying, Possessing, Etc.

Please include **separate** statistics for all incidents of Domestic Violence, Dating Violence, and Stalking. For *Clery Act* reporting, we are required to use the following definitions for these terms:

Domestic Violence: The term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Dating Violence: The term "dating violence" means violence committed by a person—(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.
(ii) The type of relationship.
(iii) The frequency of interaction between the persons involved in the relationship.

Stalking: The term "stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—(A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

I am requesting the required statistics for the following areas that are considered to be "on campus":

1900–2200 blocks of Pennsylvania Ave.
2300 block of K St.
2000-2300 blocks of I St.
2000-2300 blocks of H St.
2000-2300 blocks of G St.
1900-2200 blocks of F St.

I also need crime statistics for the following specific addresses:

1129 New Hampshire Ave.
2400 Virginia Ave.
2601 Virginia Ave.
1776 G St.
2011 I St.
2020 K St.
2021 K St.

I would appreciate it if you would forward this information to me as soon as you get an opportunity. We are in the process of publishing our annual report, and we will need to include these statistics in the final draft.

In addition, if a serious crime that may cause an ongoing threat to our campus community is reported to your department, we would appreciate it if you would notify our University Police Department immediately. The institution has a legal responsibility to notify the campus community in a timely manner about any crimes on and immediately around the campus that pose an ongoing threat to the community.

Thank you for your attention to this matter.

Sincerely,

(Name)
Chief of University Police
(Phone Number)

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Appendix C

Checklist for Campus Safety and Security Compliance

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Checklist for the Various Components of Campus Safety and Security Compliance

This list is designed to help you determine if you are meeting the various components of campus safety and security compliance. It is not a substitute for reading this handbook, as it provides only a brief description of the activities to be undertaken by an institution. Remember, if your institution has any separate campuses (see bullet no. 6 under "Other On-campus Considerations" in Chapter 2), the requirements must be met for each one individually.

I. Geography (Chapter 2) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	
Date information was last updated	

Your institution must disclose statistics for *Clery Act* crimes that occur on campus, in or on noncampus buildings or property and on public property.

Do you have an up-to-date list of the buildings and properties that your institution owns or controls and addresses for those buildings/properties? ..... ☐

Have you identified the appropriate geographic categories to which the buildings and property belong? ..... ☐

Have you identified public property that is within your campus or immediately adjacent to and accessible from your campus? ..... ☐

II. Crime Statistics (Chapter 3) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	

Your institution must collect statistics for reported crimes on your *Clery* geography. You must disclose the statistics in your annual security report and provide the statistics to the Department through the annual Web-based data collection.

Do you have all records associated with your institution's statistics?..... ☐

III. Campus Security Authorities (Chapter 4) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

In addition to any campus police or security personnel, your institution must identify other individuals or offices with significant responsibility for student and campus activities. Alleged crimes reported *to* these campus security authorities are then reported *by* these campus security authorities to someone designated by the institution to collect such reports, such as the campus police or security department.

Have you identified all of your institution's campus security authorities? ..... ☐

Have you provided your campus security authorities with the information and materials they need to document reported crimes?..... ☐

Do you have a procedure in place for collecting and reviewing crime reports from your campus security authorities?..... ☐

IV. Statistics From Local Law Enforcement Agencies (Chapter 4) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

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

Have you made a good-faith effort to obtain the crime statistics from all of the law enforcement agencies with jurisdiction for your *Clery* geography?..... ☐

Have you requested statistics for *all* of your *Clery* geography?..... ☐

Have you documented your institution's efforts to obtain the statistics and, if applicable, documented any nonresponse on behalf of an agency (or agencies)?..... ☐

V. The Daily Crime Log (Chapter 5) Mandatory for all institutions with a campus police or security department.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution must record all alleged criminal incidents, including non-*Clery Act* crimes, reported to the campus police or security department regardless of how much time has passed since the alleged incident occurred. Crimes are recorded in the crime log by the date they are reported. The log must be available for review by the public.

Do you have a hard copy or electronic crime log that includes information on all reported crimes, including

the nature of the crime?..... ☐

the date and time the crime occurred? ..... ☐

the general location of the crime?..... ☐

the disposition of the complaint, if known?..... ☐

If you maintain an electronic log, do you have a back-up log in case there are technical problems accessing the log?..... ☐

Do you have more than one person trained to maintain the log?..... ☐

Do you notify the public how they can review the log? ..... ☐

VI. Emergency Response and Evacuation Procedures (Chapter 6) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution must immediately notify the campus community (or a segment or segments of the campus community) upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus.

Does your institution have written emergency response and evacuation procedures that include the following?

The procedures the institution will use to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus?..... ☐

A description of the process the institution will use to

a) confirm that there is a significant emergency or dangerous situation as described above?..... ☐

b) determine the appropriate segment or segments of the campus community to receive a notification?..... ☐

c) determine the content of the notification? ..... ☐

d) initiate the notification system? ..... ☐

A statement that the institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to or otherwise mitigate the emergency?..... ☐

A list of the titles of the person or persons or organization or organizations responsible for carrying out the actions described in (a) through (d) above?..... ☐

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

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

tests that may be announced or unannounced? ..... ☐

publicizing its emergency response and evacuation procedures in conjunction with at least one test per calendar year? ..... ☐

documenting, for each test, a description of the exercise, the date and time and whether it was announced or unannounced? ..... ☐

Has your institution communicated with local police requesting their cooperation in informing the institution about situations reported to them that may warrant an emergency response? ..... ☐

VII. Timely Warnings (Chapter 6) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution must alert the campus community regarding any *Clery Act* crime that is reported to campus security authorities or local police agencies and is considered to represent a serious or continuing threat to students and employees.

Does your institution have a written timely warning policy? ..... ☐

Does your institution have an individual or office responsible for issuing timely warnings? ..... ☐

Does your institution have one or more methods of disseminating timely warnings? .... ☐

Has your institution communicated with local police requesting their cooperation in informing the institution about crimes reported to them that may warrant timely warnings? ..... ☐

VIII. Annual Security Report (Chapters 7–9) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution is required to publish and distribute an annual security report by Oct. 1 to all enrolled students and all employees. You must provide notice of the availability of the report to all prospective students and employees. The report must contain crime statistics and various policy statements. The statements must accurately reflect how your institution's policies are currently implemented.

Policy statements

Does your annual security report have statements addressing the following?

Current campus policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus? Does this statement include your institution's policies concerning its response to these reports, and does it specifically address the following areas?

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

Policies for preparing the annual disclosure of crime statistics? ..... ☐

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

Current policies concerning the following:

Security of and access to campus facilities, including campus residences? ..... ☐

Security considerations used in the maintenance of campus facilities? ..... ☐

Current policies concerning campus law enforcement, including the following:

The law enforcement authority and jurisdiction of campus security personnel? ..... ☐

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

Policies that encourage accurate and prompt reporting of all crimes to the campus police and the appropriate law enforcement agencies?..... ☐

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

A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others? ..... ☐

A description of programs designed to inform students and employees about the prevention of crimes?..... ☐

A policy concerning the monitoring and recording, through local police agencies, of criminal activity in which students engaged at off-campus locations of student organizations officially recognized by the institution, including student organizations with off-campus housing facilities? ..... ☐

A policy regarding the possession, use and sale of alcoholic beverages and enforcement of state underage drinking laws? ..... ☐

A policy regarding the possession, use and sale of illegal drugs and enforcement of federal and state drug laws? ..... ☐

A description of any drug or alcohol abuse education programs as required under Section 120(a) through (d) of 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*? ..... ☐

A statement that the institution will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in Section 16 of Title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense? If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.. ..... ☐

A statement regarding your institution's emergency response and evacuation procedures? (See this checklist's no. VI for details.) ..... ☐

A statement regarding your missing student notification procedures? (See this checklist's no. X for details.) ..... ☐

Does your annual security report have a statement addressing your institution's program to prevent dating violence, domestic violence, sexual assault and stalking? Does your statement specifically include the following?

A description of educational programs and campaigns to promote the awareness of dating violence, domestic violence, sexual assault and stalking, including the following?

A description of the primary prevention and awareness programs for all incoming students and new employees? ..... ☐

A statement that the institution prohibits the crimes of dating violence, domestic violence, sexual assault and stalking as those terms are defined for purposes of the *Clery Act?* ..... ☐

The definition of "dating violence," "domestic violence," "sexual assault" and "stalking" as those terms are defined in the applicable jurisdiction? ..... ☐

The definition of "consent" in reference to sexual activity in the applicable jurisdiction? ..... ☐

A description of safe and positive options for bystander intervention? ..... ☐

Information on risk reductions? ..... ☐

A description of the ongoing prevention and awareness campaigns for students and employees that provide the same information as above? ..... ☐

Procedures students should follow in the case of alleged dating violence, domestic violence, sexual assault, or stalking, including:

Written information about the importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order? ..... ☐

How and to whom the alleged offense should be reported? ..... ☐

Options about the involvement of law enforcement authorities and campus authorities, including notification of the victim's option to

Notify proper law enforcement authorities, including on-campus and local police? ..... ☐

Be assisted by campus authorities in notifying law enforcement authorities if the victim chooses? ..... ☐

Decline to notify such authorities? ..... ☐

Where applicable, the rights of victims and the institution's responsibilities for orders of protection, "no contact" orders, restraining orders or similar lawful orders issued by a criminal, civil or tribal court, or by the institution? ..... ☐

Procedures your institution will follow in the case of alleged dating violence, domestic violence, sexual assault, or stalking, including the following?

Information about how the institution will protect the confidentiality of victims and other necessary parties? Does your statement specifically address how your institution will do the following?

Complete publicly available recordkeeping, including *Clery Act* reporting and disclosures, without inclusion of personally identifying information about the victim? ..... ☐

Maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures? ..... ☐

A statement that the institution will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available for victims, both within the institution and in the community? ..... ☐

A statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation and working situations or protective measures? The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement. ..... ☐

A clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault or stalking and that includes the following?

Describes each type of disciplinary proceeding used by the institution; the steps, anticipated timelines and decision-making process for each type of disciplinary proceeding; how to file a disciplinary complaint; and how the institution determines which type of proceeding to use based on the circumstances of an allegation of dating violence, domestic violence, sexual assault or stalking? ..... ☐

Describes the standard of evidence that will be used during any institutional disciplinary proceeding arising from an allegation of dating violence, domestic violence, sexual assault or stalking? ..... ☐

Lists all the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault or stalking? ..... ☐

Describes the range of protective measures that the institution may offer to the victim following an allegation of dating violence, domestic violence, sexual assault or stalking? ..... ☐

Provides that the proceeding will accomplish the following?

Include a prompt, fair and impartial process from the initial investigation to the final result? ..... ☐

Be conducted by officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault and stalking and on how to conduct an investigation and hearing process that protects the safety of the victims and promotes accountability? ..... ☐

Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice? ..... ☐

Not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding? ..... ☐

Require simultaneous notification, in writing, to both the accuser and the accused of the following?

The result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault or stalking? ..... ☐

The institution's procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding, if such procedures are available? ..... ☐

Any change to the result? ..... ☐

When such results become final? ..... ☐

A statement that, when a student or employee reports to the institution that the student or employee has been a victim of dating violence, domestic violence, sexual assault or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options? ..... ☐

Have you provided a statement advising the campus community where law enforcement agency information provided by a state concerning registered sex offenders may be obtained, such as the law enforcement agency with jurisdiction for the campus or a computer network address? ..... ☐

Crime statistics

Does your annual security report contain statistics reported by year and geographic location for the following crimes?

Offenses

Murder and Non-negligent Manslaughter? ..... ☐
Manslaughter by Negligence? ..... ☐
Rape? ..... ☐
Fondling? ..... ☐
Incest? ..... ☐
Statutory Rape? ..... ☐
Robbery? ..... ☐
Aggravated Assault? ..... ☐
Burglary? ..... ☐
Motor Vehicle Theft? ..... ☐
Arson? ..... ☐

Hate Crimes

Murder and Non-negligent Manslaughter? ..... ☐
Rape? ..... ☐
Fondling? ..... ☐
Incest? ..... ☐
Statutory Rape? ..... ☐
Robbery? ..... ☐
Aggravated Assault? ..... ☐
Burglary? ..... ☐
Motor Vehicle Theft? ..... ☐
Arson? ..... ☐
Larceny-Theft? ..... ☐
Simple Assault? ..... ☐
Intimidation? ..... ☐
Destruction/Damage/Vandalism of Property? ..... ☐

***VAWA* Offenses**

Domestic Violence? ..... ☐
Dating Violence? ..... ☐
Stalking? ..... ☐

Arrests and referrals for disciplinary action

Weapons: Carrying, Possessing, Etc.? ..... ☐
Drug Abuse Violations?..... ☐
Liquor Law Violations? ..... ☐

IX. Report to the Department via the Web-based Data Collection (Chapter 9) Mandatory for all institutions.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution is required to submit the crime statistics from the annual security report to the Department via an annual Web-based data collection. If your institution has one or more on-campus student housing facilities, you must submit the fire statistics from the annual fire safety report as well.

Have you completed the Web-based data collection? ..... ☐

X. Missing Student Notification Procedures (Chapter 10) Mandatory for all institutions with on-campus student housing facilities.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

If a student who lives in on-campus student housing is determined to have been missing for 24 hours, you have only 24 hours after receiving the report in which to initiate specific notification procedures. You must include your missing student notification policy and procedures in your annual security report.

Does your policy statement do the following?

Indicate a list of titles of the persons or organizations to which students, employees or other individuals should report that a student has been missing for 24 hours? ..... ☐

Require that any missing student report must be referred immediately to the institution's police or campus security department, or, in the absence of an institutional police or campus security department, to the local law enforcement agency that has jurisdiction in the area? ..... ☐

Contain an option for each student to identify a contact person or persons whom the institution shall notify within 24 hours of the determination that the student is missing, if the student has been determined missing by the institutional police or campus security department, or the local law enforcement agency? ..... ☐

Advise students that their contact information will be registered confidentially, that this information will be accessible only to authorized campus officials and that it may not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation? ..... ☐

Advise students that if they are under 18 years of age and not emancipated, the institution must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student?..... ☐

Advise students that the institution will notify the local law enforcement agency within 24 hours of the determination that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing?..... ☐

Do your procedures include the following?

If the student has designated a contact person, notifying that contact person within 24 hours that the student is missing?..... ☐

If the student is under 18 years of age and is not emancipated, notifying the student's custodial parent or guardian and any other designated contact person within 24 hours that the student is missing? ..... ☐

Regardless of whether the student has identified a contact person, is above the age of 18, or is an emancipated minor, informing the local law enforcement agency that has jurisdiction in the area within 24 hours that the student is missing?..... ☐

XI. Fire safety log (Chapter 12) Mandatory for all institutions with on-campus student housing facilities.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution must maintain a written, easily understood fire log that records, by the date reported, any fire that occurs in an on-campus student housing facility. Fires are recorded by the date they are reported.

Do you have a hard copy or electronic fire log that includes the following?

the date the fire was reported? ..... ☐
the nature of the fire? ..... ☐
the date and time of the fire? ..... ☐
the general location of the fire? ..... ☐

Do you notify the public how they can review the log? ..... ☐

XII. Fire Safety Statistics (Chapter 13) Mandatory for all institutions with on-campus student housing facilities.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution must collect statistics for reported fires in on-campus student housing facilities. You must disclose the statistics in your annual fire safety report and provide the statistics to the Department through the annual Web-based data collection.

Do you have statistics for each on-campus student housing facility for the following?

the number of fires and the cause of each fire? ..... ☐
the number of persons with fire-related injuries for each fire? ..... ☐
the number of fire-related deaths for each fire? ..... ☐
the value of property damage caused by each fire? ..... ☐

XIII. Annual Fire Safety Report (Chapter 14) Mandatory for all institutions with on-campus student housing facilities.

Office/Individual responsible	
Location where documentation is kept	
Date policy and procedure were last updated	

Your institution is required to publish and distribute an annual fire safety report by Oct. 1 to all enrolled students and all employees. You must provide notice of the availability of the report to all prospective students and employees. The report must contain fire statistics and various policy statements. The statements must accurately reflect how the policies are currently implemented by your institution.

Policy statements

Does your annual fire safety report have statements addressing the following?

A description of each on-campus student housing facility fire safety system? ... ☐

The number of fire drills held during the previous calendar year? ..... ☐

Policies or rules on portable electrical appliances, smoking and open flames in a student housing facility? ..... ☐

Procedures for student housing evacuation in the case of a fire? ..... ☐

Policies regarding fire safety education and training programs provided to the students and employees? In these policies, the institution must describe the procedures that students and employees should follow in the case of a fire..... ☐

For purposes of including a fire in the statistics in the annual fire safety report, a list of the titles of each person or organization to which students and employees should report that a fire occurred?..... ☐

Plans for future improvements in fire safety, if determined necessary by the institution? ..... ☐

Fire statistics

Does your annual fire safety report contain the required fire statistics?..... ☐

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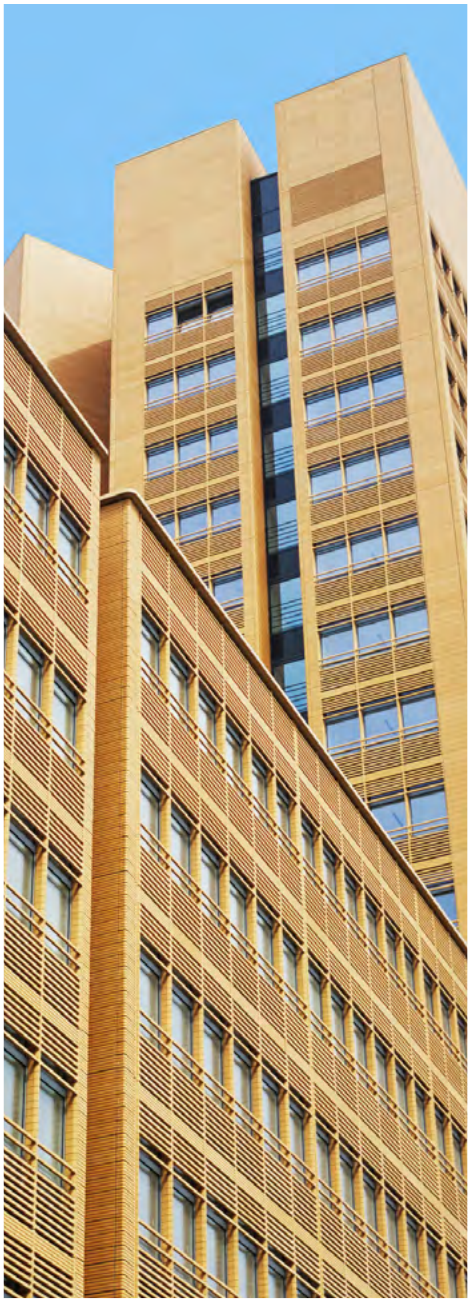

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