



A President's Guide to the Clery Act

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The *Crime Awareness and Campus Security Act*, more commonly known as the Clery Act, is contained (along with other security-related disclosure requirements) in section 485 of the Higher Education Act, codified at 20 U.S.C. § 1092. It requires colleges and universities to keep records and report annually on the nature, date, time, and place of crimes occurring on campus, including hate crimes. It also prescribes a number of security-related protocols for emergency response procedures, timely notifications for on-campus crimes and missing students, fire incident reporting, and the like. It is one of the most frequently modified sections of the Higher Education Act, having been amended five times since it was signed into law in 1990.

The requirements of the Clery Act are complex, and require significant coordination and organization among campus officials and administrators. All campuses aspire to provide a safe and secure environment for students and staff, and having solid procedures in place well in advance of a crime or other emergency is imperative to that effort. In the aftermath of a crisis on campus, one of the most common questions is whether the institution properly complied with all state and federal requirements, particularly the Clery Act. Failure to comply with the Clery Act can result in large fines for an institution (up to \$27,500 *per violation*), suspension, or limiting of Title IV funding. In addition, when crime reporting or other safety procedures are mishandled, significant public scrutiny can result, and can cause serious reputational damage to an institution and its senior leadership. By contrast, sound procedures for handling crises can mitigate tragic outcomes, not to mention a public relations nightmare. Ultimately, when the health and safety of students and others are at stake, there is no room for error.

This guide provides an overview for university presidents or other senior administrators who, even though they may not have direct oversight of Clery Act compliance, will be held responsible for

ensuring that the act's requirements are met. It is not meant to capture all of the law's specific requirements or substitute for any guidance or advice rendered by the U.S. Department of Education. We encourage you to consult your legal counsel to ensure comprehensive compliance by your campus.

What You Can Do Right Now:

First, familiarize yourself with the basic requirements of the law. (A detailed exploration of the requirements and their implications for campuses is included in this document.) Compliance is cumbersome and complex, largely as a result of the changes to the law over time and the 197-page Department of Education handbook released in February 2011. You can make a campus-wide commitment to compliance by making it a priority and allocating resources accordingly.

Second, appoint a single person or small committee of senior safety administrators to serve as your Clery Compliance Officer(s) on campus. By its terms, Clery does not dictate that any particular campus officer or group of officers serve in a compliance function, but because non-compliance with the act can result in significant negative consequences, a well-trained person or small group focused on Clery compliance will be of great benefit to your institution. In addition, setting up a clear chain of command is critical, including the responsibilities of each person and how to communicate among the group. Advance planning will be invaluable to you in emergency situations.

Finally, as a rule of thumb, you should always err on the side of caution when deciding whether a particular incident or event is Clery-reportable; the negative consequences of failure to notify or report can be costly.

Understanding the Basics of the Clery Act

The basic requirements of the Clery Act fall into the following categories:

1. Campus crime reporting
2. Timely warning notices
3. Emergency notifications and emergency response testing
4. Fire safety reporting and missing student procedures
5. Notices to prospective students and employees
6. Policy statements

We discuss each of these categories in greater detail in the sections that follow.

1) CAMPUS CRIME REPORTING

By October 1 of each year, institutions are required to publish and disseminate an annual crime report providing crime statistics occurring on campus for the current calendar year and two preceding years, and a description of certain security-related policies.

In determining whether a crime should be included in the annual crime report, institutions should ask the following three questions:

- a. Was the crime reported to a Campus Security Authority (CSA)?
- b. Is the crime one of the 12 Clery-reportable offenses?
- c. Did the crime occur in a Clery-reportable geographic area?

In preparing this report, institutions are required to request crime statistics from all CSAs as well as local law enforcement agencies with jurisdiction on campus. It is the responsibility of a CSA to report any crimes they become aware of to the institution's reporting structure, which is typically the public safety or police department. Given other Clery requirements, such as the requirement to provide timely notices about crimes, and notification of emergency situations, it is important that CSA reporting be performed promptly.

Campus Security Authorities

A CSA is any institutional employee with significant responsibility for student and campus activities or building relationships with students.

In determining whether an employee is a CSA, focus on the “function” of an employee. Examples of CSAs include campus security officers, residential advisors, dean of students staff, athletic director, and team coaches. Additional examples can be found in the Department of Education’s handbook. Presidents and senior officials can also be CSAs.

Institutions should conduct an assessment of their professional and student employees and collect a comprehensive list of all CSAs. Preparation of this list is critical to the smooth functioning of your crime reporting and emergency notification procedures, and it is also typically required by the Department of Education when it conducts an audit.

It is important to note that CSAs differ from Clery Compliance Officers. CSAs include *all personnel* in public safety, security, student advisory, and similar roles. Clery Compliance Officers are those individuals with specific responsibility for ensuring institutional compliance with all elements of the Clery Act. Although there is no mandate that institutions identify specific Clery Compliance Officers, it can be a helpful way to streamline compliance.

Clery-Reportable Offenses

The Clery Act requires reporting on the following offenses:

- I. murder;
- II. sex offenses, forcible or nonforcible;
- III. robbery;
- IV. aggravated assault;
- V. burglary;
- VI. motor vehicle theft;
- VII. manslaughter;
- VIII. arson;
- IX. arrests or persons referred for campus disciplinary action for liquor law violations;
- X. arrests or persons referred for campus disciplinary action for drug-related violations;
- XI. arrests or persons referred for campus disciplinary action for weapons possession; and

- XII.** hate crimes, which for Clery Act purposes include any crime listed in points (I) through (VIII) and, as of 2008, larceny-theft; simple assault; intimidation; and destruction, damage, or vandalism of property in which the victim is intentionally selected because of his or her actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability.

Geographic Area

The Clery Act requires each institution to disclose crime statistics that occur on three types of property: campus, noncampus buildings or property, and public property areas. An institution may choose to publish a map in their annual security report depicting the boundaries of these areas. Even if it does not publish the map, officials should make certain that all departments on campus are working from the same internal Clery map. This ensures that everyone counting statistics for the institution uses the same geographic boundaries. As long as the map is accurate, the institution can then limit the reporting of crime statistics to those areas defined by the map. The geographic requirement is complex; it is important to pay close attention to the details of each definition and refer to the Department of Education's Clery Act handbook for guidance.

“Campus” is defined as buildings or property owned or controlled by the institution within the same reasonably contiguous geographic area and used by the institution in a manner related to the institution's educational purpose, including residence halls. It also includes property in that contiguous area owned by the institution but controlled by another person, if that property is used by students and supports institutional purposes (e.g. food or retail vendor). Branch campuses and geographically disconnected administrative divisions or schools would be considered separate campuses for the purposes of reporting. “Public property” is property that is located within the same reasonably contiguous geographic areas of the campus, like a sidewalk, street or public parking lot, that is adjacent to a facility owned or controlled by the institution for purposes related to the institution's educational purposes. Crimes occurring on “public property” must also be reported in the crime statistics. A “noncampus building or property” is one that is owned or controlled by a school-recognized student organization, or one that is owned or controlled

by the institution and used by students or by the institution for education-related purposes and that is not within the same reasonably contiguous geographic area of the campus. Again, crimes occurring on “noncampus property” must be reported. Please note, however, that incidents occurring on public property adjacent to “noncampus buildings or property” need not be included.

2) TIMELY WARNING NOTICES

The Clery Act requires institutions to communicate a serious crime or emergency to the campus community in a timely way. This is a particularly important piece of the law, since the vast majority of complaints triggering Department of Education Clery audits are at least partially related to a failure to issue these notices. Timely warning notices must be considered for all Clery Act crimes that are: (1) reported to CSAs or local police, and (2) determined by the institution to represent a serious or continuing threat to students and employees.

When the Department of Education conducts a Clery Act audit, and when the media focuses its attention on an institution, they will do so with the benefit of hindsight—they will know all of the facts of a particular crime that occurred on campus. Campus leaders, however, must conduct the assessment in real time and make an immediate decision as to whether there is a serious or continuing threat to the community. You may ask: am I certain there is no further danger to the campus community? If the answer is not definitively “yes,” you will likely choose to distribute a notice to the community, and this clearly is the safest course of action for purposes of Clery compliance.

These notices must be substantively accurate, and specific enough to be helpful. Be careful not to downplay the incident; your obligation is to *warn* the community, and so you should communicate specifically what happened. The details of an incident will become public information, so it is imperative to be transparent about events from the start.

3) EMERGENCY NOTIFICATIONS AND RESPONSE TESTING

Your institution must distribute *immediate* emergency notification warnings to the campus community upon confirmation of a dangerous situation on campus involving an immediate threat to the health or safety of students or staff *regardless* of whether a crime is involved.

Examples of emergencies that would warrant such a notification include: an active shooter on campus, a riot, a bomb threat, a tornado, a fire, and similar situations involving active and palpable threats.

Every institution must conduct yearly tests of emergency response and follow-through activities designed for assessment and evaluation of emergency plans and capabilities.

The Department of Education expects representatives from all agencies that would be summoned to respond to an actual emergency, as outlined in your institution's emergency response plan or emergency procedures, to participate in the exercise portion of the test. This means at least one representative from each key department on campus should participate; you must also invite representatives from your local response agencies, such as local police and fire and emergency medical personnel, to participate as well.

4) FIRE SAFETY AND MISSING PERSONS

Universities that have on-campus residential facilities must publish a fire safety report, including fire statistics and a description of each fire safety system, as well as seven fire-related policy statements. Each institution must also have a stated procedure for gathering missing person contact information from students living in residential facilities. The mere collection of emergency contact information is not sufficient—institutions must have a written procedure regarding the handling of missing persons reports, including identification of administrators to whom missing persons should be reported, and procedures for immediate referral to the institution's police or security department. Moreover, this document must give students the option to identify a specific contact person in case he or she is reported missing. If after an investigation, the student is determined to be missing, the institution must make two and possibly three mandatory notifications, depending on whether they are over or under 18 years of age.

5) NOTICE TO CURRENT AND PROSPECTIVE STUDENTS AND EMPLOYEES

Institutions must provide a notice of availability of the annual crime and fire safety reports to all current and prospective students and employees. The notice must include at least four elements: a statement of the report's availability, a statement that a paper copy will be

provided upon request and how to obtain one, a brief description of the contents, and the exact electronic address of the report.

6) POLICY STATEMENTS

The annual crime and fire safety reports must also contain statements about your policies, procedures, and practices. Campuses must include statements of current campus policies and procedures on reporting criminal actions or other emergencies occurring on campus, making timely warning reports to members of the campus community regarding the occurrence of crimes listed in the Clery Act, preparing the annual disclosure of crime statistics, and so on. The Department of Education's handbook includes a list of over 60 policy statements that must be in place in order to be in compliance with the Clery Act.

Key Questions to Ask:

- Have you officially designated a Clery Compliance Officer or committee and given them the training, authority, and responsibility to manage compliance with the Clery Act on behalf of your institution?
- Have you set up a clear chain of command with your campus officials that will bring crimes or other emergencies to your attention?
- Do you have clearly articulated emergency response procedures?
- Do you have policies and operating procedures that will allow for timely warnings to be distributed to the campus community in the event a serious crime occurs on campus that represents an ongoing threat to the community?
- Do you have policies and procedures in place that will result in immediate notification of students and others in any emergency situation on campus?
- Does your institution have a system in place to actively gather crime statistics from all CSAs at least once a year?
- Do CSAs understand their responsibilities to report crimes (and suspected crimes), the timing for making a report, and to whom the report should be made? Are you yourself a CSA?
- Are you working with local law enforcement to appropriately gather and report crime statistics?
- Have you reviewed the policy checklist in the Department of Education's handbook detailing the 60-plus separate policies that institutions are required to have under the Clery Act?

Higher Education Act 485(f), 485(i) & 485(j) Clery Act and Related Campus Security Provisions

(f) DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS.

(1) Each eligible institution participating in any program under this title, other than a foreign institution of higher education, shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution:

- (A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.
- (B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.
- (C) A statement of current policies concerning campus law enforcement, including—
 - (i) the law enforcement authority of campus security personnel;
 - (ii) 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; and
 - (iii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate law enforcement agencies.

- (D) 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.
- (E) A description of programs designed to inform students and employees about the prevention of crimes.
- (F) Statistics concerning the occurrence on campus, in or on non-campus buildings or property, and on public property during the most recent calendar year, and during the 2 preceding calendar years for which data are available—
 - (i) of the following criminal offenses reported to campus security authorities or local police agencies:
 - (I) murder;
 - (II) sex offenses, forcible or nonforcible;
 - (III) robbery;
 - (IV) aggravated assault;
 - (V) burglary;
 - (VI) motor vehicle theft;
 - (VII) manslaughter;
 - (VIII) arson; and
 - (IX) arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession; and
 - (ii) of the crimes described in subclauses (I) through (VIII) of clause (i), of larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property, and of other crimes involving bodily injury to any person, in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability of the victim that are reported to campus security authorities or local police agencies, which data shall be collected and reported according to category of prejudice.

- (G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.
- (H) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 120 of this Act.
- (I) A statement advising the campus community where law enforcement agency information provided by a State under section 170101(j) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(j)), concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.
- (J) A statement of current campus policies regarding immediate emergency response and evacuation procedures, including the use of electronic and cellular communication (if appropriate), which policies shall include procedures to—
 - (i) 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 staff occurring on the campus, as defined in paragraph (6), unless issuing a notification will compromise efforts to contain the emergency;
 - (ii) publicize emergency response and evacuation procedures on an annual basis in a manner designed to reach students and staff; and
 - (iii) test emergency response and evacuation procedures on an annual basis.

- (2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.
- (3) Each institution participating in any program under this title, other than a foreign institution of higher education, shall make timely reports to the campus community on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences.
- (4) (A) Each institution participating in any program under this title, other than a foreign institution of higher education, that maintains a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording all crimes reported to such police or security department, including—
- (i) the nature, date, time, and general location of each crime; and
 - (ii) the disposition of the complaint, if known.
- (B) (i) All entries that are required pursuant to this paragraph shall, except where disclosure of such information is prohibited by law or such disclosure would jeopardize the confidentiality of the victim, be open to public inspection within two business days of the initial report being made to the department or a campus security authority.
- (ii) If new information about an entry into a log becomes available to a police or security department, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police or security department.
 - (iii) If there is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until

that damage is no longer likely to occur from the release of such information.

(5) On an annual basis, each institution participating in any program under this title, other than a foreign institution of higher education, shall submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(F). The Secretary shall—

- (A) review such statistics and report to the authorizing committees on campus crime statistics by September 1, 2000;
- (B) make copies of the statistics submitted to the Secretary available to the public; and
- (C) in coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

(6) (A) In this subsection:

- (i) The term “campus” means—
 - (I) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including residence halls; and
 - (II) property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as a food or other retail vendor).
- (ii) The term “noncampus building or property” means—
 - (I) any building or property owned or controlled by a student organization recognized by the institution; and
 - (II) any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or

in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

- (iii) The term "public property" means all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes.
 - (B) In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.
- (7) The statistics described in paragraph (1)(F) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act. Such statistics shall not identify victims of crimes or persons accused of crimes.
- (8) (A) Each institution of higher education participating in any program under this title, other than a foreign institution of higher education, shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—
- (i) such institution's campus sexual assault programs, which shall be aimed at prevention of sex offenses; and
 - (ii) the procedures followed once a sex offense has occurred.
- (B) The policy described in subparagraph (A) shall address the following areas:
- (i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.
 - (ii) Possible sanctions to be imposed following the final determination of an on-campus disciplinary procedure

regarding rape, acquaintance rape, or other sex offenses, forcible or nonforcible.

- (iii) Procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.
 - (iv) Procedures for on-campus disciplinary action in cases of alleged sexual assault, which shall include a clear statement that—
 - (I) the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and
 - (II) both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.
 - (v) Informing students of their options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.
 - (vi) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.
 - (vii) Notification of students of options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available.
- (C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.
- (9)** The Secretary shall provide technical assistance in complying with the provisions of this section to an institution of higher education who requests such assistance.

(10) Nothing in this section shall be construed to require the reporting or disclosure of privileged information.

(11) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

(12) For purposes of reporting the statistics with respect to crimes described in paragraph (1)(F), an institution of higher education shall distinguish, by means of separate categories, any criminal offenses that occur—

- (A) on campus;
- (B) in or on a noncampus building or property;
- (C) on public property; and
- (D) in dormitories or other residential facilities for students on campus.

(13) Upon a determination pursuant to section 487(c)(3)(B) that an institution of higher education has substantially misrepresented the number, location, or nature of the crimes required to be reported under this subsection, the Secretary shall impose a civil penalty upon the institution in the same amount and pursuant to the same procedures as a civil penalty is imposed under section 487(c)(3)(B).

(14) (A) Nothing in this subsection may be construed to—

- (i) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or
- (ii) establish any standard of care.

(B) Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

(15) The Secretary shall annually report to the authorizing committees regarding compliance with this subsection by institutions of

higher education, including an up-to-date report on the Secretary's monitoring of such compliance.

(16) The Secretary may seek the advice and counsel of the Attorney General concerning the development, and dissemination to institutions of higher education, of best practices information about campus safety and emergencies.

(17) Nothing in this subsection shall be construed to permit an institution, or an officer, employee, or agent of an institution, participating in any program under this title to retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual with respect to the implementation of any provision of this subsection.

(18) This subsection may be cited as the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act".

(i) DISCLOSURE OF FIRE SAFETY STANDARDS AND MEASURES.

(1) Annual fire safety reports on student housing required.

Each eligible institution participating in any program under this title that maintains on-campus student housing facilities shall, on an annual basis, publish a fire safety report, which shall contain information with respect to the campus fire safety practices and standards of that institution, including—

- (A) statistics concerning the following in each on-campus student housing facility during the most recent calendar years for which data are available:
 - (i) the number of fires and the cause of each fire;
 - (ii) the number of injuries related to a fire that result in treatment at a medical facility;
 - (iii) the number of deaths related to a fire; and
 - (iv) the value of property damage caused by a fire;
- (B) a description of each on-campus student housing facility fire safety system, including the fire sprinkler system;
- (C) the number of regular mandatory supervised fire drills;
- (D) policies or rules on portable electrical appliances, smoking, and open flames (such as candles), procedures for evacuation,

and policies regarding fire safety education and training programs provided to students, faculty, and staff; and

- (E) plans for future improvements in fire safety, if determined necessary by such institution.

(2) Report to the secretary. Each institution described in paragraph (1) shall, on an annual basis, submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(A).

(3) Current information to campus community. Each institution described in paragraph (1) shall—

- (A) make, keep, and maintain a log, recording all fires in on-campus student housing facilities, including the nature, date, time, and general location of each fire; and
- (B) make annual reports to the campus community on such fires.

(4) Responsibilities of the secretary. The Secretary shall—

- (A) make the statistics submitted under paragraph (1)(A) to the Secretary available to the public; and
- (B) in coordination with nationally recognized fire organizations and representatives of institutions of higher education, representatives of associations of institutions of higher education, and other organizations that represent and house a significant number of students—
 - (i) identify exemplary fire safety policies, procedures, programs, and practices, including the installation, to the technical standards of the National Fire Protection Association, of fire detection, prevention, and protection technologies in student housing, dormitories, and other buildings;
 - (ii) disseminate the exemplary policies, procedures, programs and practices described in clause (i) to the Administrator of the United States Fire Administration;
 - (iii) make available to the public information concerning those policies, procedures, programs, and practices that have proven effective in the reduction of fires; and
 - (iv) develop a protocol for institutions to review the status of their fire safety systems.

(5) Rules of construction. Nothing in this subsection shall be construed to—

- (A) authorize the Secretary to require particular policies, procedures, programs, or practices by institutions of higher education with respect to fire safety, other than with respect to the collection, reporting, and dissemination of information required by this subsection;
- (B) affect section 444 of the General Education Provisions Act (commonly known as the “Family Educational Rights and Privacy Act of 1974”) or the regulations issued under section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note);
- (C) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or
- (D) establish any standard of care.

(6) Compliance report. The Secretary shall annually report to the authorizing committees regarding compliance with this subsection by institutions of higher education, including an up-to-date report on the Secretary’s monitoring of such compliance.

(7) Evidence. Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

(j) MISSING PERSON PROCEDURES.

(1) Option and procedures. Each institution of higher education that provides on-campus housing and participates in any program under this title shall—

- (A) establish a missing student notification policy for students who reside in on-campus housing that—
 - (i) informs each such student that such student has the option to identify an individual to be contacted by the institution not later than 24 hours after the time that the

- student is determined missing in accordance with official notification procedures established by the institution under subparagraph (B);
- (ii) provides each such student a means to register confidential contact information in the event that the student is determined to be missing for a period of more than 24 hours;
 - (iii) advises each such student who is under 18 years of age, and not an emancipated individual, that the institution is required to notify a custodial parent or guardian not later than 24 hours after the time that the student is determined to be missing in accordance with such procedures;
 - (iv) informs each such residing student that the institution will notify the appropriate law enforcement agency not later than 24 hours after the time that the student is determined missing in accordance with such procedures; and
 - (v) requires, if the campus security or law enforcement personnel has been notified and makes a determination that a student who is the subject of a missing person report has been missing for more than 24 hours and has not returned to the campus, the institution to initiate the emergency contact procedures in accordance with the student's designation; and
- (B) establish official notification procedures for a missing student who resides in on-campus housing that—
- (i) includes procedures for official notification of appropriate individuals at the institution that such student has been missing for more than 24 hours;
 - (ii) requires any official missing person report relating to such student be referred immediately to the institution's police or campus security department; and
 - (iii) if, on investigation of the official report, such department determines that the missing student has been missing for more than 24 hours, requires—
 - (I) such department to contact the individual identified by such student under subparagraph (A)(i);

- (II) if such student is under 18 years of age, and not an emancipated individual, the institution to immediately contact the custodial parent or legal guardian of such student; and
- (III) if subclauses (I) or (II) do not apply to a student determined to be a missing person, inform the appropriate law enforcement agency.

(2) Rule of construction. Nothing in this subsection shall be construed—

- (A) to provide a private right of action to any person to enforce any provision of this subsection; or
- (B) to create a cause of action against any institution of higher education or any employee of the institution for any civil liability.

Written by Dolores Stafford and staff of the ACE Division of Government Relations and Public Affairs.

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