CLERY ACT

Campus Security Authorities
&
DUTY TO REPORT

OFFICE OF PUBLIC SAFETY & INTERNAL AUDIT
Clery Act Overview

PURPOSE:
To educate the Campus Community on the mandatory components of the Jeanne Clery Disclosure of Campus Security Policy & Campus Crime Statistics Act

TEACHING POINTS:
Overview of the Jeanne Clery Act
Campus Security Authority (CSA)
Geographical Reporting Areas
Classifying & Counting Required Statistics
Arrests & Referrals for Discipline
Clery Act Overview

TEACHING POINTS (Continued):

- Reporting
- Case Studies
- Ongoing Disclosures
- Missing Students
- Fire Safety
- Deadline for Reporting / Revised Content
- Title IX
- Violence Against Women Reauthorization Act of 2013
- Summary of Clery Act Amendments 2013
Clery Act Overview

LINK(S):

Clery Act Handbook

Clery Online Training (Department of Education)
http://www2.ed.gov/campus-crime/HTML/cc_off/Contents.html

Security On Campus, Inc.

Higher Education Compliance Alliance
http://www.higheredcompliance.org/

The University of Toledo Annual Security/Fire Report (2012 for 2011)
Clery Act Overview

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CLERY ACT

EXAMPLES OF NON-COMPLIANCE

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Clery Act Overview

FINE(S) PER VIOLATION:

$35,000

Department of Education

Source: Federal Register / Vol. 77, No. 191 / Tuesday, October 2, 2012 / Rules and Regulations

Complaints allege Title IX and Clery Act violations

by Mike Kennedy in Schoolhouse Beat

May 23, 2013

Students and activists have filed complaints against four colleges and universities, alleging that the schools have failed to follow federal laws involving the reporting of sexual assaults and discrimination. *The Los Angeles Times* says that the schools targeted in the complaints filed with the U.S. Department of Education were Swarthmore College in Swarthmore, Pa.; Dartmouth College in Hanover, N.H.; University of Southern California in Los Angeles, and University of California at Berkeley. Some of complaints cite Title IX to allege a hostile environment for women. Others charged that the colleges violate the federal Clery Act, which requires accurate reporting of campus crimes.
NON-COMPLIANCE EXAMPLES:

Yale fined $165,000 for Clery Act violations

BY CYNTHIA HUA AND JULIA ZORTHIAN
STAFF REPORTERS
Friday, May 17, 2013

The Department of Education has fined Yale $165,000 for inadequate reporting of campus crime statistics, including the omission of four incidents of forcible sex offenses in 2001 and 2002, according to an April 19 letter to the University’s administration.

The punishment, which comes two years after the conclusion of a seven-year investigation into Yale’s compliance with the Clery Act, consists of a $27,500 fine for each of the four omitted sex offenses and two additional fines for failing to include crime statistics from Yale-New Haven Hospital in the University’s annual report and failing to include required policy statements in its 2004 assessment. According to the DOE, Yale rendered its crime reports “incomplete and unreliable” by violating Clery Act regulations, which require institutions to compile data on certain crimes, such as sexual assault, on an annual basis.

The University corrected all issues raised with its crime reporting in 2004, except for the reporting of spaces at Yale-New Haven, which was resolved in 2010, said Yale spokesman Tom Conroy. But the DOE maintains that the University’s changes do not diminish the seriousness of previous inadequate reporting.

“Yale’s correction of the crime statistics only after the department alerted the university of its obligations in 2004 does not excuse its earlier failure to comply with its legal obligations,” said DOE Administrative Actions and Appeals Director Mary Gust in the April letter.
Clery Act Overview

NON-COMPLIANCE EXAMPLES:

UTA could be fined for Clery Act violations

The hearing has yet to be scheduled, university spokeswoman Kristen Sullivan said in an email.

UTA requested the hearing Monday after UTA President James Spaniolo received a letter April 2 from the U.S. Department of Education. The letter states the university would be fined $80,000 for not complying with Clery Act requirements in 2008, which includes under-reporting crime statistics.

The U.S. Department of Education granted UTA a request Tuesday for a hearing regarding possible Clery Act violations.

The hearing will be assigned to the case, according to the letter.

The letter comes after the Department of Education contacted the UTA Police Department in December 2011 stating the university had improperly compiled, classified and disclosed crime statistics in 2008, Sullivan said. The letter also stated the police department misclassified some offenses or crimes in 2008, she said.

The police department has corrected the Annual Fire and Safety Report, resubmitted a copy to the Department of Education and republished the report on UTA’s website in January 2012.
June 6, 2008

**Eastern Michigan U. to Pay $350,000 Fine for Clery Act Violation**

Eastern Michigan University said today that it would pay $350,000 to the U.S. Department of Education for violating the Clery Act, the federal law that requires colleges and universities to disclose information about crimes on their campuses and to warn students and employees of threats to their safety.

The department initially fined the university $357,500 for violating the law on 13 counts, including a failure to alert the campus after the murder of a student, Laura Dickinson, in December 2006.

Eastern Michigan officials appealed the fine, pointing out improvements they had made to campus safety since the department's investigation. "Based on those efforts, the DOE graciously dropped the fine somewhat, I mean a little bit," said Ward Mullens, a spokesman for the university.

The fine remains the largest levied under the Clery Act since it was passed, in 1990. —Sara Lipka
Clery Act Overview

University freshman raped & murdered while asleep in her residence hall in 1986.

Parents discovered students had not been told of 38 violent crimes on campus from the previous three years.

Congress passed the Clery Act mandating institutions must disclose statistics for crimes reported to police and ‘Campus Security Authorities’ (CSA’s).
Who is a CSA?

Public Safety

CSA's

People/Depts designated to receive crime reports

Officials with significant responsibilities for student activities
EXEMPT FROM REPORTING:

PASTORAL and/or MENTAL HEALTH COUNSELORS

NOTE:
This includes someone who is not certified but acting under the supervision of an exempt counselor.
OTHERS EXEMPT FROM REPORTING INCLUDE:

Faculty without responsibility for student activities
Non-Student Advisory Employment Roles
Support Staff (Clerical, Maintenance, Food Service)
Medical Doctors (Student Care)
Any Others not meeting the CSA definition
“A CSA’s primary responsibility is to report allegations in ‘good faith’ to the reporting structure established by the institution.”
Geographical Reporting Areas

**On Campus**
- Owned or controlled by UT
- Within same contiguous area
- Used to support UT’s educational purposes
  - Residence Halls
  - Admin Buildings
  - Classrooms & Labs
  - Fraternity & Sorority Houses

**Non-Campus**
- Any building or property on campus owned by UT but controlled by another & frequently used by students
- Used to support UT’s purposes
  - Food Vendors
  - Book Stores
  - Other retailers

**Public Property**
- Any building or property not part of the campus nor a separate campus and is:
  - Not owned/controlled by UT
  - Used in support or in relation to UT’s purpose
  - Remote Classrooms & Housing
  - Frequently used by students
    - Sidewalks, streets, parking near campus

For reporting purposes, the following campuses are listed separately on the Annual Security Report (ASR):

**Main Campus, Health Science Campus, & Scott Park**

**OFFICE OF PUBLIC SAFETY & INTERNAL AUDIT**
## Criminal Offenses

- Criminal Homicide (Murder, Negligent or Non-Negligent Manslaughter)
- Sex Offenses (forcible & non-forcible)
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson

## Hate Crimes

- In addition to offenses already listed include the following related to ‘Hate Crimes’:
  - Theft
  - Simple Assault
  - Intimidation
  - Destruction of Property
  - Vandalism
- That manifest evidence the Victim was selected based on:
  - Race
  - Gender
  - Religion
  - Sexual Orientation
  - Ethnicity
  - Disability
  - Nationality
  - Gender Identity

## Arrests & Judicial Affairs Referrals

- Liquor Law Violation
- Drug Law Violations
- Weapons Law Violations
Liquor Law Violations
Drug Law Violations
Weapon Law Violations

LIQUOR LAW VIOLATIONS
Violations of LAWS prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages (OVI’s are not included under Clery)

DRUG LAW VIOLATIONS
Violations of LAWS relating to unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs including opium, cocaine, and their derivatives (morphine, heroin, codeine), marijuana, synthetic drugs (demoral, methadone), dangerous non-narcotic drugs (barbiturates)

WEAPON LAW VIOLATIONS
Violations of LAWS relating to weapon offenses, regulatory in nature, such as: Manufacture, sale, or possession of deadly weapons, concealed or openly; furnishing deadly weapons to minors; all attempts to commit any of the aforementioned violations.
THE CLERY ACT DOES NOT DIFFERENTIATE BETWEEN ATTEMPTED & COMPLETED CRIMES.

IN CASES OF ATTEMPTED CRIMES:

COUNT THE CRIME*

* Exception for Attempted Murder, which would be considered ‘Aggravated Assault.’
To help determine when to report, ask yourself the following:

- Was it reported to a CSA?
- Is it a Clery covered Crime?
- Did it occur in the Geographically defined areas?

If yes to all three questions: Report statistic.
A student is arrested for illegal possession of a firearm in violation of state law.

Do we count this?

If so, how many?

Which Category?
A student is arrested for illegal possession of a firearm in violation of state law.

Do we count this?

If so, how many?

Which Category?

Yes

One

Weapon
Case Study / Example 2:

A faculty member is referred for discipline for having a firearm in his office in violation of school policy, but not a violation of State Law.

Do we count this?

If so, how many?

Which Category?
A faculty member is referred for discipline for having a firearm in his office in violation of school policy, but not a violation of State Law.

Although a violation of University Policy, there is no LAW violation and therefore this should not be reported for Clery reporting purposes.
Three students are referred to Student Judicial Affairs for possessing marijuana in a residence hall room. Do we count this? If so, how many? Which Category?
Three students are referred to Student Judicial Affairs for possessing marijuana in a residence hall room.

**Do we count this?**

**If so, how many?**

**Which Category?**

- Yes
- Three
- Drugs
Two non-students are arrested during an on-campus football game for possession of cocaine. They are also cited for underage possession of alcohol.

Do we count this?
If so, how many?
Which Category?
Case Study / Example 4:

Two non-students are arrested during an on-campus football game for possession of cocaine. They are also cited for underage possession of alcohol.

Do we count this?

If so, how many?

Which Category?

Only the more serious of violations is counted.
In order for crime to trigger a Timely Warning:
- Crime must be reported to CSA or Police
- Crime occurred in an area UTPD must report stats or where UTPD is the primary Police responder
- Situation represents a ‘continuing threat’ to UT

UTPD maintains a Daily Crime Log which includes:
- Crimes reported to UTPD
- Non-Crimes where a report is made with UTPD (accident, fires, injured persons)
  *Reports may be excluded from this log if it jeopardizes the Investigation or a person’s safety, Causes a suspect to flee, or may result in destruction of evidence.

UTPD also includes a Fire Log in the ASR listing fires in Residence Halls only along with fire causation factors, building alarm systems, fire alarm drills, UT policies, & other info
Immediate Notifications are issued when there is an *immediate* or continuing threat to the health or safety of students, employees, patients and/or visitors to UT campuses.

Immediate Notifications are issued separate of Timely Warnings

UT is not required to issue a Timely Warning based on the same circumstances (although bulletins have been issued historically)
Annual Security & Fire Safety Report

Available via UTPD or UTPD’s website (police.utoledo.edu)

Contents of the report include:

1. UT’s crime statistics for the three previous calendar years
2. Required policies, resource information, practices, etc.
3. Required crime classifications as listed previously
4. Voluntary & Confidential reporting
5. Fire Safety & Residence Hall’s fire logs/causation factors

*Required to be published on or before October 1st each year

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Missing Students

- Any campus that provides on-campus housing must have a policy regarding missing students.
- UT utilizes this policy for ALL students, not just resident students.
- Any missing student report MUST be referred immediately to UTPD.
- Should you become aware of a missing student, notify UTPD immediately at X-2600.
- The complete missing student protocol may be found in the ASR (See: ‘Links’ section)
Fire Safety

In addition to information about crimes, UT is required to collect and publish information about fire safety and fires on Campus. This information is published in the ASR/AFR.

As a CSA you are required to report any fire or previous fire that you are aware of on campus. Should it meet reportable criteria, it will be included in the ASR/AFR.
Title IX (In Brief)

Overview of Title IX of the Education Amendments of 1972
In June 1972, President Nixon signed Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq., into law. Title IX is a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity.

The principle objective of Title IX is to avoid the use of federal money to support sexually discriminatory practices in education programs such as sexual harassment and employment discrimination, and to provide individual citizens effective protection against those practices. Title IX applies, with a few specific exceptions, to all aspects of federally funded education programs or activities. In addition to traditional educational institutions such as colleges, universities, and elementary and secondary schools, Title IX also applies to any education or training program operated by a recipient of federal financial assistance.
Title IX Coordinator

KEVIN WEST
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Responsibilities include:

- Oversight and Investigation of all Title IX complaints
- Addressing any patterns or systematic problems that arise
VAWRA of 2013 Highlights

VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT

- Enacted March 7, 2013

- Required on or by October 1, 2014

- NOTE: Excludes Title IX Investigation & Procedures

“Mandated policy statements in the ASR require that Title IX Investigation and discipline procedures be adopted in a timely manner.”
VAWRA of 2013 Highlights

- Amendments codify some aspects of the Dear Colleague letter

- Require modifying policy statements in the ASR to include:
  A. Possible sanctions and protective measures following a final determination regarding rape, acquaintance rape, domestic violence, dating violence, sexual assault or stalking
VAWRA of 2013 Highlights

- Procedures that survivors should follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking occurred, including:

  A. The importance of preserving evidence;
  B. To whom the offense should be reported;
  C. Options about reporting to law enforcement including assisting the survivor in notifying law enforcement and giving the survivor the option to decline said notification;
  D. Rights of a survivor to obtain, and UT’s obligation concerning: Protection orders, no contact orders, restraining orders, and other legal orders from civil or criminal courts
VAWRA of 2013 Highlights

- Procedures for UT disciplinary action in cases of domestic violence, dating violence, sexual assault or stalking, which include clear statements about:

  A. Proceedings providing prompt, fair and impartial investigations and resolutions, conducted by officials with training on issues related to domestic violence, dating violence, sexual assault, and stalking;

  B. The accused and accuser’s equal opportunity to have a support person/advisor present at any UT proceeding or related meeting;

  C. Notice of the disciplinary results, appeals procedures, and changes to the results prior to the results being finalized.
VAWRA of 2013 Highlights

- Information about confidentiality for survivors, and how it will be protected

- Written notification to survivors about options for, and assistance in, changing academic, living, transportation, and working situations, if requested by a survivor and reasonably available, even if he/she chooses not to report the alleged offense

- Written notifications to survivors about existing counseling and health, mental health, survivor advocacy or legal assistance, and other services available to survivors, on and off campus

- Written notification to a survivor of his/her rights upon reporting an alleged offense, whether it took place on or off campus

- ASR statement on the standard of evidence used in discipline hearings
VAWRA of 2013 Highlights

- Increased educational/awareness and prevention program obligations directed to both incoming students and new employees (Also, requires continued education for all students and faculty)

- No retaliation against anyone who exercises rights under the Clery Act or Title IX

- Timely Warnings by UT must withhold names of survivors as confidential
ASR Crime Reporting Changes

- Hate crimes revised to include the following:
  A. National Origin
  B. Gender Identity

- New definitions for the following:
  A. Dating Violence
  B. Domestic Violence
  C. Stalking
  D. Sexual Assault

- Clery Reporting by Police & CSA’s for the following:
  A. Dating Violence
  B. Domestic Violence
  C. Stalking
Questions

For More Information and Questions:

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