

Summary of New and Revised Campus Safety and Security Reporting Requirements Required by the Higher Education Opportunity Act (Public Law 110-315) July 2010

The Higher Education Act (HEA), as amended by the Higher Education Opportunity Act (HEOA), specifies new campus safety requirements in the following areas: hate crime reporting and emergency response and evacuation procedures – required of all Title IV institutions, and missing student notification and fire safety issues – required of any Title IV institution that maintains an on-campus student housing facility. These disclosures are required beginning with the Annual Security Report and Annual Fire Safety Report due on October 1, 2010. The statistics will also be collected via the Department of Education’s web-based Campus Safety and Security Survey beginning in August, 2010. In addition, existing guidance for defining on-campus student housing facilities and classifying burglaries has been updated. We anticipate the release of the revised *Handbook for Campus Safety and Security Reporting*, which will provide detailed guidance on all of these requirements, in late summer. Until then, please continue to refer to the original *Handbook for Campus Crime Reporting* (<http://www.ed.gov/admins/lead/safety/campus.html>) and this summary of new and revised reporting requirements for guidance.

Revised Crime Classification: Burglary vs. Larceny

The 2005 *Handbook for Campus Crime Reporting* (pages 34-36) contains guidance on classifying burglaries provided by the FBI at that time. The guidance specified that, “*Generally, if an item is missing from a structure, and if the individual who took the item is unknown, and if the investigating officer has exhausted all avenues leading toward the offense of Larceny-Theft, the proper classification is Burglary.*” Recently, however, FBI representatives have reconsidered this guidance and replaced it with the following:

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

1. There must be evidence of unlawful entry (trespass). Both forcible entry and unlawful entry – no force are counted.
2. The unlawful entry must occur within a structure, which is defined as having four walls, a roof, and a door.
3. The unlawful entry into a structure must show evidence that the entry was made in order to commit a felony or theft. If the intent was not to commit a felony or theft, or if the intent cannot be determined, the proper classification is Larceny.

This new guidance should be used beginning with the report due on October 1 this year. Please do not change statistics reported for prior years since the previous guidance was in effect during that time period.

Definition of On-Campus Student Housing Facility

For the purposes of the *Clery Act* regulations, as well as the *HEA* fire safety and missing student notifications regulations, *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 clarifies that any building located on campus on land owned or controlled by the institution that is used for student housing must be counted as an on-campus student housing facility, even if the building itself is owned or controlled by a third party.

Campus Law Enforcement Policies

All institutions must include a statement of policy regarding campus law enforcement in their Annual Security Report. This statement must contain the following elements:

- A description of the law enforcement authority of the campus security personnel.
- A description of 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 (MOU), for the investigation of alleged criminal offenses.
- A statement of policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate law enforcement agencies.

Hate Crime Reporting

The previous regulations required institutions to report as hate crimes any occurrence of criminal homicide, sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, arson, and any other crime involving bodily injury reported to local law enforcement agencies or a campus security authority that manifest evidence that the victim was intentionally selected because of the perpetrator's bias. The current regulations added the crimes of larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property to the list of crimes that must be reported in hate crime statistics. The FBI's Uniform Crime Reporting Hate Crime Collection Guidelines will continue to be the source for definitions. All statistics will continue to be reported by Clery geographic area and category of bias in the Annual Security Report and will now also be reported that way in the web-based submission to ED.

Emergency Response and Evacuation Procedures

All institutions must include a statement of policy regarding emergency response and evacuation procedures in their Annual Security Report. This statement must contain the following elements:

- Procedures 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 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 the notification will, in the professional judgment of responsible authorities, compromise efforts to assist victims or to contain, respond to, or otherwise mitigate the emergency.
- A description of the process the institution will use to confirm that there is a significant emergency, determine who to notify, determine the content of the notification, and initiate the notification system.

- A list of the titles of the persons or organizations responsible for carrying out this process.
- 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 publicizing its procedures in conjunction with at least one test per calendar year, and documenting a description of the exercise as well as the date and time of the exercise and whether it was announced or unannounced.

This emergency notification requirement does not replace the timely warning requirement. They differ in that the Timely Warning applies only to Clery reportable crimes, while the emergency notification requirement addresses a much wider range of threats (i.e., gas leaks, tornadoes, contagious viruses, etc.). An institution that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances, but must provide adequate followup information to the community as needed.

Missing Student Notification:

Any institution that maintains an on-campus housing facility must establish, for students who reside in an on-campus student housing facility, both a policy and procedures for missing student notification. The statement, to be included in the Annual Security Report, must contain the following:

- A list of titles of the persons or organizations to which individuals should report that a student has been missing for 24 hours.
- A statement that each student living in an on-campus student housing facility has the option to register a confidential contact person to be notified in the case that the student is determined to be missing, and that only authorized campus officials and law enforcement officers in furtherance of a missing person investigation may have access to this information.
- A statement that advises all students, even if they have not registered a contact person, that the local law enforcement will be notified that the student is missing.
- A statement that advises students less than 18 years of age and not emancipated that their parent or guardian will be notified.
- A statement that requires that official missing student reports be referred immediately to an institutional police or campus security department or local law enforcement agency with jurisdiction in the area.
- Specific procedures that the institution will follow when a student who resides in an on-campus student housing facility is determined to have been missing for 24 hours.

This requirement does not preclude implementing these procedures in less than 24 hours if circumstances warrant a faster implementation.

Fire Safety – Procedures, Statistics, Reports and Documentation:

Any institution that maintains an on-campus student housing facility must collect fire statistics, publish an Annual Fire Safety Report, and keep a “fire log.” These requirements are new and separate from the Clery Act requirements. However, to reduce administrative burden and to

make it easier for students and parents to find the information, the regulations for data collection and dissemination are very similar to the long-standing regulations developed for the Clery Act.

Definition of a Fire: For the purposes of fire safety reporting, a **fire** is, “*Any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner.*”

Fire Statistics: The following statistics must be collected and reported, both in the annual fire safety report and the Department of Education’s web-based data collection system, for each on-campus student housing facility.

- The number of fires and the cause of each fire. The cause categories to be used are:
 - **Unintentional Fire**
 - Cooking
 - Smoking materials
 - Open Flames
 - Electrical
 - Heating equipment
 - Hazardous products
 - Machinery/Industrial
 - Natural
 - Other
 - **Intentional Fire**
 - **Undetermined Fire**
- The number of deaths related to the fire.
- The number of injuries related to the fire that resulted in treatment at a medical facility.
- The value of property damage related to the fire.

Remember that arson is a Clery reportable crime. Therefore, any fire that is determined to be arson must be reported both as a fire statistic and as a crime statistic.

Annual Fire Safety Report: This report will be due at the same time as the Annual Security Report. The two reports can be published together or separately. If published together, the title of the document must clearly state that it contains both the Annual Security Report and the Annual Fire Safety Report. If published separately, each report must contain information on how to directly access the other report. The report must contain:

- The fire statistics listed above for each on-campus student housing facility separately.
- A description of the fire safety system for each on-campus student housing facility.
- The number of fire drills held the previous calendar year.
- The institution’s policies or rules on portable electrical appliances, smoking, and open flames in student housing facilities.
- Procedures for student housing evacuation.
- Policies for fire safety education and training programs for students, faculty, and staff.
- A list of the titles of each person or organization to which individuals should report that a fire has occurred.
- Plans for future improvements in fire safety, if determined necessary by the institution.

Fire Log: This document is very similar to the crime log required for the Clery Act. It can be kept together with the crime log or separately. As with the crime log, it should be easily understood, and fires should be recorded by the date they were reported. For each fire, include:

- The nature of the fire,
- The date the fire occurred,
- The time of day the fire occurred, and
- The general location of the fire.

Your institution may use either a hard copy log or an electronic format. Either format must be accessible on-site. This means that if you have separate campuses, the log must be available at each campus. The fire log for the most recent 60-day period must be open to public inspection, upon request, during normal business hours. Any portion of the log that is older than 60 days must be made available within two business days of a request for public inspection. Information in the fire log should be used to gather the statistics that are required for the Annual Fire Safety Report discussed above. As with all documentation, the fire log must be kept for three years following the publication of the last annual report to which it applies (in effect, seven years).