



NEXT STEPS: TAKEAWAY FROM THE NEW HANDBOOK

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VALUES & DISTINGUISHING CHARACTERISTICS

Mission Statement

- We honor our organization's history by leading with mind and heart.
- We are collaborative & pursue strong partnerships that are based on joint success and open, constructive communication.
- We believe that prevention is critical to campus safety.
- We are persistent, action-oriented, and deliver results that have real impact.

JEANNE CLERY ACT: AN OVERVIEW

- Annual Security Report
 - Policy statements
 - Campus crime statistics
 - Ongoing Disclosures
- Emergency notification
 - Timely warning
 - Public crime log
- U.S. Department of Education (ED) Enforces

WHAT IS THE HANDBOOK?

- Reflects Department of Education's interpretations and guidance
- Replaces previous versions of the Handbook
- Does not supplant or replace the Higher Education Act/ Clery Act
- Used by Department's program reviewers for evaluating an institution's compliance

DRILLING IT DOWN...

1. Reevaluate what your institution owns and controls.
2. Establish an updated process for counting Clery Act crimes aligned with new guidance.
3. Review your campus security authorities.
4. Read Chapter 8!
5. Document, document, document.

Although this session will not cover every change to the Handbook, it will provide you with key highlights.

1. REEVALUATE WHAT YOUR INSTITUTION OWNS AND CONTROLS.

GEOGRAPHY

- Geography is defined in the regulations & remains the same, but helpful context is provided
 - Institution-associated foundation, holding company, subsidiary, alumni association, athletic booster club, or any other institution-associated entity (2-3)
 - Institution-associated hospitals and/or medical centers (2-3)

REASONABLY CONTIGUOUS

- 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
- "Reasonable to consider locations within one mile of your campus border to be reasonably contiguous within your campus" (2-3)
- Determination must be made on a case-by case basis (2-3)

SEPARATE CAMPUS

- **Organized program of study: The location offers courses in educational programs leading to a degree, certificate, or other recognized credential (2-6)**
- Not necessary for administrative personnel to be on site at all times to qualify (2-7)
- Research campuses (2-8)
- Athletic campuses or complexes (2-8)

ON-CAMPUS STUDENT HOUSING

- Includes parking facilities and dining halls that are physically attached to and accessed directly from student housing facilities (2-10)

NONCAMPUS BUILDINGS & PROPERTY

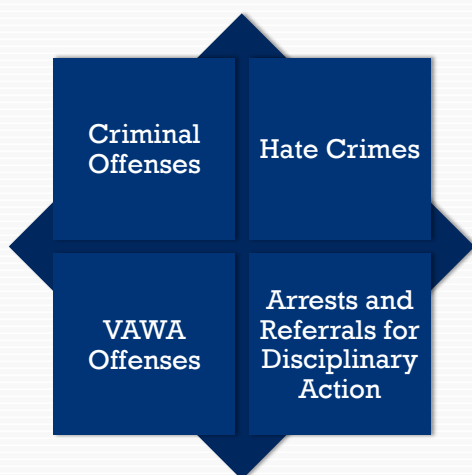
- “Owned or controlled by a student organization if the organization is officially recognized by **or registered** with your institution” (2-18)
- Research boats/ships/vans/or other mobile classrooms (2-22)
- A noncampus location that becomes a separate campus (2-22)
- Examples of third-party contracts for off-campus student housing (2-23)

TRIPS TO OFF-CAMPUS LOCATIONS

- Overnight, school sponsored trip (one night, rent motel room) – not reflected in statistics (2-25)
- Repeated use of a location for a school sponsored trip (overnight trip every year and students stay in same hotel each year) must include portions of the hotel in noncampus geography (2-25)
- Short-stay “away” trips (more than one night) – locations controlled treated as noncampus (2-25-2-26)
 - Includes written agreement with third-party contractor for housing and/or classroom space
 - If no control, don’t count (ex: sports tournament – host institution makes all housing arrangements – host institution required to count but visiting institutions do not)

2. ESTABLISH AN UPDATED PROCESS FOR COUNTING CLERY ACT CRIMES ALIGNED WITH NEW GUIDANCE.

FOUR GENERAL CATEGORIES (3-2)



- Statistics must be disclosed separately for each of these four separate categories (when an incident meets definitions in more than one of those categories, it must be reported in each category)
- Hierarchy rule only applies when counting crimes in the criminal offenses category

CRIMINAL OFFENSES

- Language change – Negligent Manslaughter (2011)/Manslaughter by Negligence (2016) (3-2)
- Sexual assault (sex offenses) – no longer forcible/non-forcible (3-6 - 3-7)
 - Rape
 - Fondling (only counted if it is the only sex offense)
 - Incest
 - Statutory Rape (if force was used or threatened or the victim was incapable of giving consent because of age or temporary or permanent mental impairment, classify as rape, not statutory rape)
- Although definition of sexual assault includes lack of consent, no determination as to whether the element is met is required for reporting within statistics (3-7)

CRIMINAL OFFENSES

- Aggravated assaults – additional context (3-11)
 - Intent of attacker and extent of injuries (3-11)
 - Use of drugs to subdue a victim (3-11)
 - Intent after consensual contact (3-12)
 - Deciding factor (3-12)
- Burglary – additional context (3-14)
 - Unlawful entry – no force (3-14)
 - Evaluating attempts (3-14)
 - Additional scenarios (3-18 – 3 – 19)

CRIMINAL OFFENSES

- Arson – additional context (3-21)
 - **All evidence of any fire not known to be accidental (such as cooking fire) must be considered by the institutional official designated to make such determinations (3-21)**
 - **Does not require findings be made by fire official (3-21)**
 - Fire in privately owned house and on-campus building and point of origin cannot definitively be determined, school is responsible for including the Arson in statistics for the on-campus building (3-22)

HIERARCHY RULE EXCEPTION (3-25)

- 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**

HATE CRIMES

- Updated definitions:
 - Hate crime: a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim (3-25)
 - Sexual orientation: A preformed negative opinion or attitude toward a group of persons based on their actual or perceived sexual orientation (3-26)
 - Gender: A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender (3-26)
 - Gender identity: A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity (3-26)

HATE CRIMES

- Updated definitions:
 - **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 (3-26)**
 - **National origin: a preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth (3-26)**
 - Disability – removed the word *challenges* from definition (3-26)

VAWA OFFENSES

- Definitions from Violence Against Women Act (3-36 – 3-29)
- Pulls recommendations from the preamble to the final regulations
- Provides information on how to interpret definitions and how to count, including:
 - **Victim may use language other than “dating” (3-36)**
 - **Domestic violence must be more than just two people living together as roommates – must be current or former spouses or have an intimate relationship (3-38)**
 - **Record stalking at only first location perpetrator engaged in stalking or victim first became aware of stalking (3-39)**
 - **Not necessary that all stalking activities occurred on Clery Act geography (3-39)**
 - Can provide additional context for stalking info but not required to (3-40)
 - Not required to follow up with victims each year but not precluded from doing so (3-40)
 - May have more than one institution counting same incident; encourage alerting other campus if knowledge of stalking (3-40)
- **Hierarchy rule does not apply to VAWA Offenses. (3-41)**

ARRESTS & REFERRALS

2011	2016
<p>“Although arrests and referrals are technically not part of the hierarchy, they are shown here to illustrate their place in counting crimes. For example, if a student is arrested for Aggravated Assault and a Drug Abuse Violation, disclose only the Aggravated Assault.”</p>	<p>“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.”</p>

ARRESTS & REFERRALS

- Other elements remain the same regarding counting referrals
 - Sanctions can be formal or informal, punitive, or educational (3-45)
- Classifying law violations
 - **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 (3-48)**
 - Referrals that occur for this decriminalized conduct should not be counted for Clery Act purposes
 - **Do not classify as drug abuse violation the use of legally obtained, personal prescription drugs used by the owner in a manner not consistent with the instructions provided by the physician (3-48)**

UNFOUNDED CRIMES

- Must report unfounded crimes in web-based survey and annual security report statistics (beginning with reports in 2015) (3-51)
- Additional context on unbounding crimes – count v. do not count (3-51 – 3-54)
- Count Clery Act crimes in Clery geography thoroughly investigated by sworn or commissioned law enforcement personnel and found to be false or baseless (the crime did not occur and was never attempted) (3-52)

3. REVIEW YOUR CSAs (AND LIKELY PROCESSES FOR ALERTING YOUR CAMPUS COMMUNITY...)

COLLECTING STATISTICS

- Statistics still based on reports to campus security authorities, police or security, or local law enforcement (does not require investigation nor finding of guilt or responsibility) (4-1)
- Still determine CSAs by function (4-3)
- **Pastoral & professional counselors still exempt, but specific language in Handbook regarding what state licensing typically requires for these roles (4-7)**

EXAMPLES OF CSAS (4-3)

- 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.

CSAs

- If institution directs students or employees to report crimes to other individuals, those individuals are CSAs (4-4)
- Could include:
 - Physicians in campus health center
 - Counselors, including peer counselors (except for professional or pastoral counselors)
 - Health educators

WHAT DOES A CSA DO?

- Report to official or office designated by institution to collect crime report information allegations of Clery Act crimes (4-5)
- Responsible for reporting allegations of Clery Act crimes reported to them in their capacity as a CSA (4-5)
- **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 in an indirect manner (4-5)**
- Not responsible for determining whether crime took place, apprehend the alleged perpetrator, or convince a victim to contact law enforcement if the victim chooses not to do so (4-6)

CSA ROLE (4-8)

- In most cases it is possible for a CSA to fulfill his or her responsibilities while still maintaining victim confidentiality
- Alerting responsibilities can usually be met without disclosing personally identifiable information
- **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**
- Recommendations on notifying & training (4-9 – 4-11)
- If institution has campus police or security department and 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 the daily crime log in timely manner (4-10)

REQUESTING STATISTICS FROM LOCAL LAW ENFORCEMENT

- Recommendations regarding good faith effort (4-12 – 4-18)
- **Not required to verify accuracy, but required to ensure statistics cover Clery geography and not other areas (4-12 – 4-13)**
- Can request clarification if not sure how crime would be listed (4-17)
- If denied statistics, document & can consult state and local open records laws to see if law enforcement agencies are required to provide crime statistics (4-17)
- Sample Letter – Appendix B

DAILY CRIME LOG

- **Can use log required by state law if it does not require victims' names to be listed – log may not jeopardize the confidentiality of the victim (5-2)**
- **Can use state crime classifications, but using UCR may help in ensuring that crime statistics are consistent with the reports in the crime log (5-5)**
- If investigation shows initial description was inaccurate, update the description (not unfounded) (5-5)

EMERGENCY RESPONSE AND EVACUATION PROCEDURES

- Requirements added in 2011 – policies and procedures
- Be clear about communication methods, how to sign up, and ensure warnings can be transmitted quickly (6-4)

TIMELY WARNING

Making the decision – case-by-case basis (6-13 – 6-14)

- The nature of the crime
- Continuing danger to the campus community
- “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 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.”
- The possible risk of compromising law enforcement efforts

4. READ CHAPTER 8!

HIGHLIGHTS

- Basis is preamble to final regulations
- Guides prevention & response for sexual assault, domestic violence, dating violence, and stalking



5. DOCUMENT, DOCUMENT, DOCUMENT.

TAKEAWAYS

- What decisions did you make?
- Why did you make them?
- Did you have a process for determining....(Geography? CSAs? Etc.)
- Consistency

BEFORE WE MOVE ON...

- Individual
 - What can I reasonably accomplish...
 - In the next month?
 - Before the ASR is due?
 - After the ASR is due?
 - Who needs to be a part of this process?
- Group Discussion



THANK YOU!

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