
The Clery Act and Education Abroad: Understanding Crime Reporting Requirements

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Agenda

- 1. Background and Basic Requirements**
- 2. Clery Updates: Violence Against Women Act & Drug-Free Schools and Communities Act**
- 3. Requirements for Education Abroad Programs**
- 4. Discussion on Implementation: Working with Campus Staff and Government Officials**
- 5. Where to Get Help**
- 6. Question and Answer**

Panelists

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1. Background and Basic Requirements

Background

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act was named in memory of 19 year old university freshman Jeanne Ann Clery who was raped and murdered while asleep in her residence hall room on April 5, 1986.



Background: Legislation, Regulations, Handbook

- Legislation: 20 USC § 1092(f)
- Regulations: 34 CFR 668
- The Handbook for Campus Safety and Security Reporting – February 2011



The Handbook for
Campus Safety and
Security Reporting



U.S. DEPARTMENT OF EDUCATION

Background: History of the Law

- Crime Awareness and Campus Security Act of 1990
- 1992 amendment: added a requirement that schools afford the victims of campus sexual assault certain basic rights
- 1998 amendment: expanded the reporting requirements & formally named in memory of Jeanne Clery
- 2000 amendment: added a provision dealing with registered sex offender notification
- 2008 amendment: added a provision dealing with campus emergency response & a provision to protect crime victims, "whistleblowers", and others from retaliation
- 2013 VAWA Act amendment: added domestic violence, dating violence, and stalking to reportable crimes, added national identity, sexual orientation and gender identity to hate crime types, and revised requirements related to sexual assault policies, programs, and disciplinary proceedings

Background: Enforcement

- Tied to participation in federal student financial aid programs so it applies to most institutions of higher education both public and private
- Enforced by the Department of Education (ED), Office of Federal Student Aid
- Penalties include fines of up to \$35,000 per violation, funding loss, and bad publicity. 20 U.S.C. § 1092(f)(1)(13)

Basic Requirements

- Have emergency notification and evacuation procedures
- Issue timely warnings about crimes posing a threat to safety
- Collect crime reports from campus security authorities
- Request crime statistics from local law enforcement
- Keep a crime log and a fire log
- Submit crime and fire statistics to ED
- Implement and disclose missing student notification procedures
- Implement and disclose sexual assault policies, procedures and trainings
- Publish an annual security report and a fire safety report (current calendar year plus 2 prior years)

Crimes that Must be Reported

- Murder and non-negligent manslaughter
- Negligent manslaughter
- Sex offenses
- Robbery
- Aggravated assault
- Burglary
- Motor vehicle theft
- Arson
- Arrests and disciplinary referrals for violations of weapons, and drug and liquor laws
- Hate crimes
- Domestic violence, dating violence and stalking



Disclosure to Students: The Annual Security Report

Crime statistics reported through Clery are compiled by your institution into an annual security report

The report must:

- Be published by October 1st
- Include crimes reported over the past three years
- Include required policy statements
- Actively distribute to currently enrolled students and employees
- Made available to prospective students and employees
- Branch campuses must have a separate annual security report and policies, but these can be combined in the same document as the other campuses.

Availability of Data to the Public

- The crime statistics for your institution are reported both by your institution and to ED
- ED makes them available via the Campus Safety and Security Data Analysis Cutting Tool:

<http://ope.ed.gov/security/>

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GLOSSARY | HELP

The Campus Safety and Security Data Analysis Cutting Tool

PHONE

OFFICE OF POSTSECONDARY EDUCATION

The Campus Safety and Security Data Analysis Cutting Tool

The Campus Safety and Security Data Analysis Cutting Tool is brought to you by the Office of Postsecondary Education of the U.S. Department of Education. This analysis cutting tool was designed to provide rapid customized reports for public inquiries relating to campus crime and fire data. The data are drawn from the OPE Campus Safety and Security Statistics website database to which crime statistics and fire statistics (as of the 2010 data collection) are submitted annually, via a web-based data collection, by all postsecondary institutions that receive Title IV funding (i.e., those that participate in federal student aid programs). This data collection is required by the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* and the *Higher Education Opportunity Act*.

Cautionary Note

The crime statistics found on this website represent alleged criminal offenses reported to campus security authorities and/or local law enforcement agencies. Therefore, the data collected do not necessarily reflect prosecutions or convictions for crimes. Because some statistics are provided by non-police authorities, the data are not directly comparable to data from the FBI's Uniform Crime Reporting System which only collects statistics from police authorities.

The fire statistics are reported only by institutions with an on-campus student housing facility or facilities, and the fire statistics are for those facilities only.

The site contains a glossary that provides definitions for the various crime, fire, and geographic categories presented in the reports. Please note that valid comparisons of campus statistics are possible only with study and analysis of the conditions affecting each institution.

The OPE Campus Safety and Security Data Analysis Cutting Tool website is linked to the Department of Education's Federal Student Aid site, and the National Center for Education Statistics [College Navigator website](#). College Navigator is your way of researching the right college for you and how much it costs to attend college.

To start, click on the desired report from the list below.

- ▣ **Get data for one institution/campus**
This report will provide you with data for one campus that you select. You can view the campus's last three years of safety- and security-related statistical data, along with general information about the campus.
- ▣ **Get aggregated data for a group of campuses**
This report will provide you with aggregated data for a group of campuses that you select. You can view the total number of selected safety- and security-related statistical data for the last three years for the group of campuses.
- ▣ **Download data for a group of campuses**
This report will provide you with selected safety- and security-related statistical data for selected campuses in a selected year. The data are presented in a Comma Delimited, CSV text file to view or download. To generate the report, you must define a campus group, data category and data year(s) by following step-by-step instructions.
- ▣ **Download data files**
This utility allows you to download the complete data file for all institutions for a selected year.

Availability of Data to the Public

ies INSTITUTE OF EDUCATION SCIENCES
NATIONAL CENTER FOR EDUCATION STATISTICS

Publications & Products | Surveys & Programs | Data & Tools | Fast Facts | School Search | News & Events

COLLEGE Navigator

Brigham Young University-Provo
 Main Campus, Provo, Utah 84602

General information: (801) 422-4636
 Website: www.byu.edu
 Type: 4-year, Private not-for-profit
 Awards offered: Bachelor's degree, Postbaccalaureate certificate, Master's degree, Doctor's degree - research/scholarship, Doctor's degree - professional practice
 City: Midsize

Campus housing: Yes
 Student population: 33,841 (30,409 undergraduate)
 Student-to-faculty ratio: 21 to 1

Expand All Collapse All

- GENERAL INFORMATION
- TUITION, FEES, AND ESTIMATED STUDENT EXPENSES
- FINANCIAL AID
- NET PRICE
- ENROLLMENT
- ADMISSIONS
- RETENTION AND GRADUATION RATES
- PROGRAMS/MAJORS
- VARSITY ATHLETIC TEAMS
- ACCREDITATION
- CAMPUS SECURITY

2010 CRIME STATISTICS

ARRESTS - ON-CAMPUS	2008	2009	2010
Illegal weapons possession	0	0	1
Drug law violations	3	3	2
Liquor law violations	5	5	0

ARRESTS - ON-CAMPUS RESIDENCE HALLS ¹

	2008	2009	2010

The on-campus crime statistics for your institution are also available on the NCES College Navigator website

<http://nces.ed.gov/collegenavigator/>

2. Clery Updates:

**Violence Against Women Act
and Drug-Free Schools and
Communities Act**

Clery Update: VAWA Timeline

- The Violence Against Women Reauthorization Act (VAWA) was signed by President Obama on March 7, 2013. VAWA amends the Clery Act as it relates to sexual violence, dating violence, domestic violence, and stalking.
- An electronic announcement on Clery was sent out by ED on May 29, 2013.
- A negotiated rulemaking committee met in Jan. – Apr. to develop the regulations. They reached consensus, and a proposed rule will be published in the summer with an opportunity for public comment. The goal is to publish final regulations by Nov. 1. The new regulations will not be in force until July 2015.
- The first Annual Security Report that must include the new required information is the report that must be issued by October 1, 2014. This report would include crime statistics from calendar years 2011, 2012, and 2013.
- ED expects institutions to make a good faith effort to comply with the statutory requirements in accordance with the statutory effective date. However, some institutions may not have complete statistics.

Clery Update: VAWA Act Requirements

- Collect and publish in the Annual Security Report statistics on incidents of dating violence, domestic violence, sexual assault and stalking that are reported to campus security authorities or local police agencies
- Include hate crimes that are motivated by bias against a victim's national origin or gender identity
- Revise and disclose policies, procedures, and programs that address issues of dating violence, domestic violence, sexual assault and stalking for all incoming and current students and employees
- Revise and disclose disciplinary procedures, sanctions, and protective measures following allegations of dating violence, domestic violence, sexual assault and stalking

Title IX and the Clery Act

- Sexual violence is reported both under Title IX and the Clery Act
- The Department of Education recently released a chart to clarify the differences between the reporting requirements of both laws, as well as explain how the Family Educational Rights and Privacy Act (FERPA) applies

Intersection of Title IX and the Clery Act

The purpose of this chart is to clarify the reporting requirements of Title IX and the Clery Act in cases of sexual violence and to resolve any concerns about apparent conflicts between the two laws. To date, the Department of Education has not identified any specific conflicts between Title IX and the Clery Act.

Title IX	The Clery Act
<p>What types of incidents must be reported to school officials under Title IX and the Clery Act?</p>	
<p>Overview: Title IX promotes equal opportunity by providing that no person may be subjected to discrimination on the basis of sex under any educational program or activity receiving federal financial assistance. A school must respond promptly and effectively to sexual harassment, including sexual violence, that creates a hostile environment. When responsible employees know or should know about possible sexual harassment or sexual violence they must report it to the Title IX coordinator or other school designee.</p> <p>➤ Sexual Harassment: Sexual harassment is unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.</p> <p>➤ Sexual Violence: Sexual violence is a form of sexual harassment. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol or an intellectual or other disability that prevents the student from having the capacity to give consent). Sexual violence includes rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.</p>	<p>Overview: The Clery Act promotes campus safety by ensuring that students, employees, parents, and the broader community are well-informed about important public safety and crime prevention matters. Institutions that receive Title IV funds must disclose accurate and complete crime statistics for incidents that are reported to Campus Security Authorities (CSAs) and local law enforcement as having occurred on or near the campus. Schools must also disclose campus safety policies and procedures that specifically address topic such as sexual assault prevention, drug and alcohol abuse prevention, and emergency response and evacuation. The Clery Act also promotes transparency and ongoing communication about campus crimes and other threats to health and safety and empowers members to take a more active role in their own safety and security.</p> <p>Criminal Offenses: Criminal homicide; rape and other sexual assaults; robbery; aggravated assault; burglary; motor vehicle theft; and, arson as well as arrests and disciplinary referrals for violations of drug, liquor, and weapons laws.</p> <p>➤ Hate Crimes: Any of the above-mentioned offenses against persons and property and incidents of larceny-theft, simple assault, intimidation or destruction/damage/vandalism of property, in which an individual or group is intentionally targeted because of their actual or perceived race, gender, religion, national origin, sexual orientation, gender identity, ethnicity, or disability. 20 U.S.C. §1092(f)(1)(F)(ii). Use FBI definitions, and the</p>

<https://www.notalone.gov/assets/ferpa-clerychart.pdf>

Drug-Free Schools and Communities Act

- The overwhelming majority (95%) of all on-campus violent crimes involve the use or abuse of drugs and alcohol
- The Drug-Free Schools and Communities Act of 1989 (DFSCA) requires schools that participate in federal programs to certify that they have drug and alcohol abuse prevention programs
- The Clery Act references the DFSCA in § 485(f)(1)(H) and requires schools to describe those programs in their annual security report
- Schools can cross-reference their drug and alcohol prevention program materials in their annual security report: 34 CFR 668.46(b)(10)
- Federal Student Aid now has the responsibility for enforcing these requirements and they are included as part of a standard Clery compliance review

3. Requirements



for Education Abroad Programs

Which Institutions Must Comply?

- ✓ U.S. institutions that receive Title IV aid, which may include:
 - ✓ Permanent branch campus overseas
 - ✓ Some study abroad programs
 - ✓ Some work or internship abroad programs
- × Foreign institutions
- × Third party providers
- × Distance education only
- × Brief, non-recurring trips abroad

Geography

Not WHO but WHERE



The Clery Act focuses on three geographic distinctions
20 U.S.C. § 1092(f)(12)

- 1) On-campus buildings or property (including dorms)
 - 2) Public property
 - 3) Non-campus buildings or property
- Branch campuses or separate campuses abroad must report on all if applicable
 - Non-campus locations do not need to report on public property

Branch Campuses and Separate Campuses

- A **branch campus** or **separate campus** abroad must meet the same requirements as a domestic campus, which include having safety and security policies in place and issuing a separate annual security report.
- A branch campus or separate campus must report separately to ED on campus, noncampus, and public property crimes.
- If the campus has its own police or security department, it must have a crime log.
- If the campus has on-campus student housing facilities, it must have a fire log, an annual fire safety report, and a missing student policy.

Noncampuses

Your institution should report the location of your education abroad program as a **noncampus** if:

- You own or control land or a building that is:
 - Used in direct support of, or in relation to, the institution's educational purposes;
 - Is frequently used by students; and
 - Is not considered part of the core campus



Important Terms for Understanding Clery

- **Own or control** – You have any written agreement for the use of land or a building. This may be in the form of a contract, an MOU, or an email.
- **Frequently used by students** – The land or building is used on a recurring basis (e.g. every fall semester)
- Your **education abroad program** will fall into one of three categories:
 - You are required to report as a separate campus
 - You are required to report as a noncampus
 - You are not required to report
- To gauge which category your program may fall into, we will guide you through a series of questions...

Categorizing Your Education Abroad Program

1. Does your institution have a **branch campus abroad**?

Definition:

- Geographically apart and independent of the main campus
- Permanent in nature
- Offers courses in educational programs leading to a degree or other recognized credential
- Has its own faculty and administrative or supervisory organization
- Has its own budgetary and hiring authority

No

2. Does your institution:

- Own or control land or a building;
- Have an organized program of study; and
- Have administrative personnel on-site (e.g. director, building coordinator, registrar, or secretary)?

Yes

Report as a separate campus

No

See next slide



Yes

Report as a separate campus

Note: These are general guidelines. Check with your institution to determine how your program will be categorized.

Categorizing Your Education Abroad Program

3. Does your institution own or control land or a building that is:

- Used in direct support of, or in relation to, the institution's educational purposes;
- Frequently used by students; and
- Not considered part of the core campus?

No

Do not report
under Clery

Yes

Report as a
noncampus

Note: These are general guidelines. Check with your institution to determine how your program will be categorized.

Other Education Abroad Activities

- **Field trips:** You are not required to disclose 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 disclose crimes that occur in those rooms because they don't meet the frequently-used-by-students criterion.
- **Host families:** 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.
- **Research boats/ships:** If your institution owns or controls research boats or ships that carry students for educational purposes, you must disclose crimes that occur on those vessels.

Contacting Local Police for Statistics

- Clery requires that every institution make a reasonable, good-faith effort to obtain Clery crime statistics from local law enforcement agencies that have jurisdiction over the school's Clery geography, including campus, noncampus, and public property.



Contacting Foreign Police for Statistics

- At the start of the calendar year, contact police and request information about crimes committed in the previous calendar year
- Contact can be in person, over the phone, or in writing. Document the communication
- Specify the time period (e.g. a semester, two weeks) and location (address, rooms, floors)
- Your request can be made through another organization (e.g. partner organization or host institution)
- Translations into the local language may be beneficial
- Crimes will need to be defined (these are not universal terms)

Contacting Foreign Police for Statistics, *continued*

- For established programs that your students attend every year, establish a relationship with foreign police to facilitate the process
- Some countries have “open records” laws that require them to provide you with crime statistics when requested

4. Discussion:

For those of you with experience complying with Clery, what have you learned about implementation and working with campus staff and government officials?

Campus Resources

- General Counsel
- Risk Management
- Campus Security/ Campus Police
- Clery Director or Coordinator (if you have one)
- Dean of Students/ Student Services
- Victim's Advocacy/ Rape Crisis Center
- Campus Security Authorities

Education Abroad Programs: True or False

- I work for a third-party provider of study abroad programs, so my organization is not required to comply with Clery
- Every fall my institution has a semester abroad program in France. Our students study every year in the same university space that we own. Incidents in the building are Clery reportable.
- The crime statistics for my institution distinguish between crimes that occurred in the U.S. and those that occurred abroad
- My study abroad students need to understand where to go to report a crime

Education Abroad Program Checklist



- ✓ Obtain guidance from your institution on how to categorize your program
- ✓ Determine which properties abroad are “owned or controlled” and “frequently used by students”
- ✓ Identify your institution’s point of contact for reporting
- ✓ Develop a recording and reporting process
- ✓ Train key education abroad staff on how to document a crime, where to submit reports, and extent of their responsibility
- ✓ Inform students about how to report crimes or emergencies
- ✓ Depending on the country where you work, develop a process for requesting statistics from foreign police at the start of the year
- ✓ Submit crime statistics to your institution to meet reporting deadlines
- ✓ Maintain documentation to demonstrate compliance

5. Where to Get Help

Where to Get Help: The Department of Education

- **Handbook for Campus Safety and Security Reporting:**
<http://www2.ed.gov/admins/lead/safety/handbook.pdf>
- **Specific questions:** HandbookQuestions@ed.gov
- **Complaints or requests for technical assistance:** clery@ed.gov
- **ED Campus Safety Website** (includes a training video):
<http://www2.ed.gov/admins/lead/safety/campus.html>
- **Federal Student Aid Self-Assessment of Clery Compliance:**
<http://ifap.ed.gov/qahome/qaassessments/consumerinformation.html>
- **Negotiated Rulemaking on VAWA:**
<http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/vawa.html>

Where to Get Help: Other Resources

- **NAFSA's Clery Resources and White Paper:**
http://www.nafsa.org/Find_Resources/Supporting_Study_Abroad/Network_Resources/Education_Abroad/The_Clery_Act_and_Education_Abroad/
- **International Association of Campus Law Enforcement Administrators:**
<http://www.iaclea.org/>
- **Higher Education Compliance Alliance:**
<http://www.higheredcompliance.org/resources/campus-safety.html>
- **Clery Center for Security on Campus:** <http://clerycenter.org/>
- **American Council on Education Guidance:**
<http://www.acenet.edu/news-room/Documents/VAWA-Summary.pdf>
- **National Association of College and University Attorneys webinar:**
<http://www.nacua.org/meetings/virtualseminars/may2013/index.asp>

6. Question and Answer