Clery Act 101

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The Purpose of the Clery Act

To provide the campus community with accurate, complete, and timely information about crime and the safety of the campus environment so that they can make informed decisions to keep themselves safe
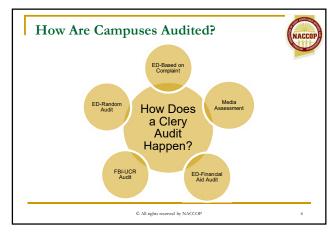
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Consequences of Noncompliance

- A suspension or limiting of the institution's Title IV funding

- The institution's name will be provided to Congress by the Secretary of ED

- ED can issue civil fines for each violation

- Final Review Determination Reports are public records (https://studentaid.ed.gov/sa/about/data-center/school/clery-act-reports#)

- The institution will receive negative media attention

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How Are Campuses Audited?

How Does a Clery Audit Happen?

- ED-Based on Complaint
- Media Assessment
- ED-Random Audit
- FBI-UCR Audit
- ED-Financial Aid Audit

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Civil Monetary Penalties (Fines)

Effective Date	Fine Amount
October 17, 1986	$25,000
November 18, 2002	$27,500
October 2, 2012	$35,000
August 1, 2016	$53,907
April 20, 2017	$54,789
January 15, 2018	$55,907
February 1, 2019	**$57,317**

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Major Clery Act Requirements

- Campus Security Authorities
- Clery Geography
- Crime Statistics
- Policy Statements (ASR and AFSR)
- Distribution of ASR and AFSR
- VAWA Requirements
- Timely Warning Notices
- Emergency/Immediate Notifications
- Emergency Response Testing (Exercises and Drills)
- Daily Crime Log/Daily Fire Log
- Fire Safety Reporting and Missing Student Procedures

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Campus Security Authorities

- Campus police, public safety or security department
- Individuals responsible for security–which include student or professional employees
  - Access monitors–any institution owned or controlled facility (including parking facilities)
  - Contract Security Staff
  - Event Security Staff
  - Officers from local law enforcement who are contracted by the institution to provide campus safety-related services.
  - Individuals who provide safety escorts around campus, including other students
- Director of Athletics/All Athletic Coaches–this includes assistant/associate athletic directors, assistant coaches and other coaches (including GAs), whether part-time or full time
- Other Administrators/Employees
  - Administrators at separate campuses
  - Study Abroad and Off-Campus Trip Coordinators

- Student Affairs Professionals
  - Dean of Students and Leaders in Student Affairs
  - Student Conduct Staff and others who are involved in adjudicating student disciplinary issues on campus (including members of student conduct hearing boards/appeal committees,
  - The Director of Housing and Leaders in Residential Life
  - Residence Hall Directors and Resident Assistants
  - Staff in the Student Center or Student Union Building
  - Staff in the Student Activities Office (handling co-curricular activities)
  - Coordinator of Greek Affairs/Fraternity and Sorority Life
- Greek governing bodies with disciplinary enforcement authority
- Faculty/Staff Advisors to student organizations

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Campus Security Authorities

- Institutions must:
  - Identify;
  - Notify;
  - Train; and
  - Collect crime statistics from

  all Campus Security Authorities on an annual basis

- Have you identified and gathered statistics from everyone who is a Campus Security Authority?

- Have your "super CSAs" received enhanced training?

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Clery Geography

- The Clery Act requires institutions to disclose statistics for select crimes that occur:
  - **On-Campus**,
  - on **Public Property** within or immediately adjacent to and accessible from the campus, and
  - in or on **Noncampus Buildings or Property** that the institution (or an officially recognized student organization) owns or controls

- **On-Campus Student Housing Facilities** are a subset of the On-Campus category

- Institutions may have **Separate Campus** locations as well

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Clery Geography

- Institutions must therefore assess any locations they (or their recognized student organizations) own or control, as well as the public property within and immediately adjacent to their campus, to determine how, if at all, these locations correspond to Clery Act-specific geographic categories

- Define your "core campus"

- ED recommends development of a Clery Map for each campus, to clarify the institution's Clery Geography

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Clery Geography

Key questions:
- Do you have a Clery map of the core campus?

- Have the streets running through or immediately adjacent to and accessible from the core campus been clearly identified as Public Property versus On-Campus property based on who owns or controls them?

- Have all Noncampus properties been identified, both domestic and international?

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Clery Geography

- Has the Clery Map been reviewed and approved by the General Counsel, Police/Public Safety Department and Real Estate Office, at a minimum?

- Are your campus police/public safety and student conduct office personnel using the same map for the purposes of counting crime statistics?

- Do you have a process for assessing off-site locations for Clery reportability used by the institution and student organizations?

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Crime Reporting Requirements

- Institutions must:
  - Record
  - Collect
  - Classify
  - Count; and
  - Report
    all Clery Act crimes occurring on or within an institution's Clery Geography which are made to Campus Security Authorities or local law enforcement agencies.

  In both ASR and in ED Data Collection Site

- Statistics reported in the Annual Security Report include the three most recent calendar years of crime statistics

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Clery-Reportable Crimes

1) Murder/Non-negligent Manslaughter
2) Manslaughter by Negligence
3) Sex Offenses (Rape, Fondling, Incest, Statutory Rape)
4) Robbery
5) Aggravated Assault
6) Burglary
7) Motor Vehicle Theft
8) Arson
9) Hate Crimes for 1, 3-8, plus
   - Larceny-Theft
   - Simply Assault
   - Intimidation
   - Destruction, Damage, or Vandalism of Property

10) Arrests and Referrals for Disciplinary Action for Liquor Law Violations
11) Arrests and Referrals for Disciplinary Action for Drug Law Violations
12) Arrests and Referrals for Disciplinary Action for Weapons Law Violations
13) Domestic Violence
14) Dating Violence
15) Stalking

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Three Part Test

1) Was the crime reported to a Campus Security Authority?

2) Is the crime a Clery-reportable crime?

3) Did the crime occur in a Clery-reportable geographic area?

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Crime Statistics

Key questions:

- Is the campus police department translating the classifications of its incident reports to the Federal Clery Act definitions before reporting statistics in the Annual Security Report?

- Is the Clery Compliance Officer requesting statistics from all correct entities on campus?

- Is the Clery Compliance Officer requesting statistics from all local/state law enforcement agencies that have jurisdiction on or within the institution's Clery Geography?

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Crime Statistics

- Is the student conduct office using the Clery Act crime definitions to report statistics in the Annual Security Report?

- Has the campus police/public safety department and the student conduct office determined which state laws and local ordinances are reportable under the broader UCR definitions for the liquor, drug, and weapon law violation categories?

- Have the people who classify crime statistics in the campus police/public safety department and in the student conduct office received adequate training for this purpose?

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Annual Security/Fire Safety Report

- There are at least 116 required policy statements if the institution has Residential Facilities (includes Missing Persons and Fire Safety disclosures)

- 49 policy statements were added by the VAWA Amendments to the Clery Act

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Annual Security/Fire Safety Report

- Institutions must publish and distribute an Annual Security Report containing all required policy statements by no later than October 1 each year

  - Direct distribution of compliance document to all students and employees or push out a 4-part notice of availability with the exact URL

  - Provide notice of the availability of the Annual Security (& Fire Safety) Report to all prospective students and employees (ongoing)

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Annual Security/Fire Safety Report

Key questions:
- Has the institution addressed all policy statements in the Annual Security Report/Annual Security & Fire Safety Report?

- How does the institution communicate the availability of the Annual Security Report/Annual Security & Fire Safety Report to prospective students and employees, if at all?

- Has the institution been distributing the Annual Security Report/Annual Security & Fire Safety Report to current students and employees by Oct 1 each year?

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VAWA Requirements

- A statement of policy that addresses the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking (DVDVSAS)

  - Includes primary prevention and awareness programs for incoming students and new employees as well as ongoing prevention and awareness campaigns for current students and employees

  - Various content areas must be addressed in these programs per the regulations, including a statement that the institution will provide a student or employee with a written explanation of their rights and options when reporting an incident of DVDVSAS

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VAWA Requirements

- A statement of policy that addresses the procedures that the institution will follow when one of these crimes is reported.

- A clear statement of policy that addresses the procedures for institutional processes and disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking

  - The procedures that must be addressed in this statement also include procedural components that institutions must adhere to, such as annual training requirements for officials involved in these proceedings, providing the accuser and accused with the same opportunities to have others present and be simultaneously notified of the result, etc.

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VAWA Requirements

Key questions:

- Has the institution developed a VAWA and Title IX compliant sexual misconduct policy that supports the required policy statement disclosures pertaining to the investigation and resolution of Domestic Violence, Dating Violence, Sexual Assault, and Stalking offenses?

- How is the institution meeting the requirement to provide initial and ongoing prevention and awareness programs for students and employees that addresses all required content areas?

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VAWA Requirements

Key questions:

- Has the institution developed an educational campaign that includes initial and ongoing prevention and awareness programs and initiatives?

- Has the institution developed a written explanation of rights and options that includes the required information about your institution's procedures and practices?

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TWN vs. Immediate Notification

	Timely Warning (TWN)	Immediate Notification (IN)
Legal Standard:	Potential ongoing or serious threat	Immediate threat to health and safety
Circumstances:	Clery-reportable crimes that have been reported (occurred in past)	Clery-reportable crimes as well as other types of emergencies (happening right now or about to happen)
Audience:	Community-wide	Can send to a segment of the community, if appropriate
When Issued:	As soon as pertinent information is available	Upon confirmation of emergency (when possible)
Follow-Up:	Not Required	Required

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Timely Warnings & Immediate Notifications

Key questions:

- Does the institution have an internal policy or operating procedure that governs how the institution manages the Timely Warning and Immediate Notification processes beyond what is disclosed in the Annual Security Report?

- Has the institution worked through the issue of assessing reported acquaintance rapes for potential TWNs?

- Has the institution developed and agreed up templates with approved language for TWN and IN situations?

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Daily Crime Log

- Any institution that has a campus police or security department must create, maintain and make available a Daily Crime Log.

- The log must include:
  - Nature of the crime
  - General location
  - Date/Time occurred
  - Disposition
  - Date reported

- Crime log must include all crimes reported to campus police/security department which were reported to occur on or within the institution's Clery Geography (including any expanded patrol jurisdiction of campus police/security)

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Daily Crime Log

- Entries to the log, or updates, must be made within 2 business days of receiving the information

- The 60 most recent days of the log must be immediately available to the consumer

- We recommend institutions develop a standard list of dispositions, define them for the consumer, and publish them in tandem with the Daily Crime Log

Has the institution developed a crime log containing all required categories that is being updated within 2 business days of receiving crime reports?

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Managing Compliance

Key questions

- Does the institution have a Clery Compliance Committee?

- Has the institution officially designated a Clery Compliance Officer and given them the authority and responsibility to manage compliance with the Clery Act on behalf of the institution?

- Has the Clery Compliance Officer received in-depth training in the Clery Act?

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Potential Clery Compliance Committee Members

- Public Safety/Police Department
- General Counsel's Office
- Compliance and Internal Audit
- Student Conduct
- VP of Student Affairs/Dean of Students
- Student Activities/Fraternity & Sorority Life
- Residence Life and Housing
- Environmental Health and Safety
- Real Estate Office
- Risk Management (Fire Safety Engineer)
- Human Resources
- Admissions
- Athletics
- Study Abroad Office
- Title IX Coordinator/Sexual Assault Response Team Leader
- Director of Student Health
- Provost/Academic Affairs Office

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You are fairly new to the job-
What should your priorities be?

- Assess your Clery Geography, create a map and a list that supports the map.
- Assess your CSAs and develop a system to actively gather information from them for the past calendar year.
- Assess your law enforcement letter and ensure that you are asking for all of the correct crime categories for all of the correct locations.
- Assess your ASR/AFSR-are all 116 policy statements addressed?
- Assess how the Student Conduct Office is pulling the data from their RMS. Are they capturing the current geographic categories and ALL correct incidents that relate to the 15 Clery crimes?
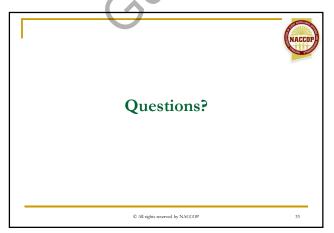
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You are fairly new to the job-
What should your priorities be?

- Assess the Daily Crime Log
- Assess the Fire Log
- Assess your Noncampus properties to ensure that none of the locations qualify as a Separate Campus.
- Verify that the Notice of Availability sent to the current students/employees has the 4 required statements.
- Verify that the Notice of Availability conspicuously available to prospective students/employees and has the 4 required statements.

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Questions?

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? Questions for Jim Moore

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