

## **1990 Student Right-To-Know and Campus Security Act**

With amendments through 1992

Codified at 20 U.S.C.A. sec.1092(f)(7)

Title II of Public Law 101-542 The Student Right-To-Know and Campus Security Act of 1990, also known as the "Clery Bill" in memory of Jeanne Clery, enacted by Congress and signed into law on November 8, 1990 amended section 485 of the Higher Education Act of 1965 by adding campus crime statistic and security reporting provisions for colleges and universities. The security provisions were amended in 1992 by The Campus Sexual Assault Victims' Bill of Rights to require that schools develop policies to deal with sexual assault on campus and provide certain assurances to victims.

These provisions apply to all institutions of higher education, both public and private, nationwide which participate in any of the funding programs authorized by the Higher Education Act. The United States Department of Education is charged with enforcing the provisions of this statute.

20 U.S.C. Section 1092

(f) Disclosure of campus security policy and campus crime statistics.-(1) Each eligible institution participating in any program under this title shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution:

(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(C) A statement of current policies concerning campus law enforcement, including -

(i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

(ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.

(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

(E) A description of programs designed to inform students and employees about the prevention of crimes.

(F) Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies -

(i) murder;

(ii) sex offenses, forcible or nonforcible;

(iii) robbery;

(iv) aggravated assault;

(v) burglary; and

(vi) motor vehicle theft.

(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.

(H) Statistics concerning the number of arrests for the following crimes occurring on campus:

(i) liquor law violations;

(ii) drug abuse violations; and

(iii) weapons possessions.

(I) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1145g of this title.

(2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

(3) Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall make timely reports to the campus community on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences.

(4) Upon the request of the Secretary, each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall submit to the Secretary a copy of the statistics required to be made available under paragraphs (1)(F) and (1)(H). The Secretary shall -

(A) review such statistics and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on campus crime statistics by September 1, 1995; and

(B) in coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

(5)(A) For purposes of this subsection, the term "campus" includes -

(i) any building or property owned or controlled by the institution of higher education within the same reasonably contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or

(ii) any building or property owned or controlled by student organizations recognized by the institution.

(B) In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.

(6) The statistics described in paragraphs (1)(F) and (1)(H) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act.

(7)(A) Each institution of higher education participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding

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(i) such institution's campus sexual assault programs, which shall be aimed at prevention of sex offenses; and

(ii) the procedures followed once a sex offense has occurred.

(B) The policy described in subparagraph (A) shall address the following areas:

(i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.

(ii) Possible sanctions to be imposed following the final determination of an on-campus disciplinary procedure regarding rape, acquaintance rape, or other sex offenses, forcible or nonforcible.

(iii) Procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

(iv) Procedures for on-campus disciplinary action in cases of alleged sexual assault, which shall include a clear statement that -

(I) the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

(II) both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

(v) Informing students of their options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

(vi) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

(vii) Notification of students of options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available.

(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.

## REGULATIONS

Section 401(a) of Pub. L. 101-542 provided that: "The Secretary is authorized to issue regulations to carry out the provisions of this Act (amending this section and sections 1085, 1094, and 1232g of this title and enacting provisions set out as notes under this section and section 1001 of this title)." These regulations can be found in the Code of Federal Regulations at 34 CFR Sec. 668.47 "Institutional security policies and crime statistics."

Since the final regulations were issued the Department of Education has issued a "Dear Colleague" letter dated May 1996 which addresses Federal "education" privacy law (FERPA) as it relates to the reporting of crime statistics, crimes handled by on-campus disciplinary proceedings and the method to file a complaint alleging non-compliance with the Act.