



The Clery Act (*Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*) is a federal statute that requires colleges and universities that receive federal financial aid to report certain crimes committed on or around the campus. It was developed to promote transparency by including a requirement that colleges and universities report certain crimes in an Annual Security Report that is disseminated to students, employees and the public. It has been amended several times to include more rights for victims and more transparency for schools. It was most recently amended through the Reauthorization of the Violence Against Women Act 2013. As a result of the rulemaking process and a public comment period, below are some of the amendments to the law. Although the Department of Education has recommended that schools begin to change their policies and procedures, the actual requirements will take effect as of July 1, 2015.

Please note: this is not an exhaustive list of the changes and should not constitute legal advice. It is a summary of the components that CALCASA believes to be the most relevant for advocates working with universities to address and prevent sexual assault on college campuses. We recommend that you use this as an opportunity to reach out to your local universities and colleges to build and strengthen your relationships.

Summary of Amendments:

- Institutions will be required to maintain statistics about the numbers of incidents of dating violence, domestic violence, sexual assault and stalking.
- There will be limited circumstances in which institutions may remove reports of crimes that have been “unfounded” and requires institutions to report and disclose, in their annual security report, the number of “unfounded” crime reports.
- The definition of sexual assault used in Clery reporting is inclusive of the FBI’s updated definition of sexual assault (“Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.”)which includes rape, fondling, incest or statutory rape.
- The categories of bias for the purposes of Clery Act hate crime reporting, have been revised to add gender identity and to place ethnicity and national origin into separate categories.
- Institutions must provide incoming students and new employees with primary prevention and awareness programs. These programs must also be documented in the Annual Security Report. They must include:
 - a statement that the institution prohibits the crimes of dating violence, domestic violence, sexual assault and stalking
 - the definition of those terms in the applicable jurisdiction
 - the definition of consent in reference to sexual activity in the applicable jurisdiction
 - a description of safe and positive options for bystander intervention
 - information on risk reduction
 - information on the institutions policies and procedures after a sex offense occurs
- Institutions must also provide, and describe in their annual security reports, ongoing prevention and awareness campaigns for students and employees. These campaigns must include the same information as the institutions primary prevention and awareness programs.
- Definitions are included for the terms “awareness” programs, “bystander intervention”, “ongoing prevention and awareness campaigns”, “primary prevention programs”, and “risk reduction”.



- Institutions must describe each type of disciplinary proceeding used by the institution; the steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding; how to file a disciplinary complaint; and how the institution determines which type of proceeding to use.
- They must also list all possible sanctions that may be imposed following the results of any institutional disciplinary proceedings for an allegation of dating violence, domestic violence, sexual assault or stalking
- As well as, describe the range of protective measures that they may offer following an allegation of dating violence, domestic violence, sexual assault or stalking
- It requires institutions to provide for prompt, fair and impartial disciplinary proceedings in which
 - Officials are appropriately trained and do not have a conflict of interest or bias for or against the accuser or the accused;
 - The accuser and the accused have equal opportunity to have others present, including an advisor of their choice;
 - The accuser and the accused receive simultaneous notification in writing of the result of the proceeding and any available appeal procedures;
 - The proceeding is completed in a reasonably prompt timeframe;
 - The accuser and accused are given timely notice of meetings at which one or the other or both may be present ;
 - The accuser, the accused and the appropriate officials, are given timely and equal access to information that will be used during informal and formal disciplinary meetings and hearings
- Defines the terms “proceeding” and “result” and
- Specifies that compliance with these provisions does not constitute a violation of FERPA

Key Points important to Rape Crisis Centers:

The way schools are required to report the incidents of violence occurring on campus has been revised to be more inclusive of student experiences. Including domestic violence, dating violence and stalking, as well as changing the definition of what constitutes sexual assault by using the more inclusive Uniform Crime Reporting (UCR) definition, will be critical to getting a better picture of sexual assault, domestic violence, dating violence and stalking on college campuses.

Also, in order for schools to “unfound” a reported incident there must be a determination by a sworn or commission law enforcement officer that the record was false or baseless, rather than just a finding of “not responsible”.

Schools must protect victim confidentiality. While there may be limited situations in which information must be shared (certain accommodations and/or Clery warnings) institutions must protect the victim’s confidentiality to the maximum extent possible. Additionally, trusted sources of help, like “professional counselors”(those counselors who provide mental health counseling to members of the institutions community and is functioning within the scope of the counselors’ license or certification) are not required to report incidents disclosed to them for the purposes of Clery reporting. ***Please note: Confidentiality does not replace privilege for the purposes of***



protecting survivor's privacy. Please check your local privilege laws to be sure you understand how privilege is distinguished from confidentiality.

Comprehensive Prevention is now a requirement in order to comply with Clery. Institutions will now be required to provide incoming students and new employees with prevention programming that is “culturally relevant, inclusive of diverse communities and identities, sustainable and responsive to community needs.” These programs need to include primary prevention strategies, awareness campaigns, bystander intervention options and risk reduction. Additionally, they must provide ongoing prevention and awareness campaigns for students and employees.

List sanctions and protective measures. Institutions must include, in their Annual Security Report (ASR), a list of all possible sanctions that the accused could receive if found responsible. They will also need to include, in the ASR, a range of available options that survivors can be provided with, following an incident of sexual assault, domestic violence, dating violence and stalking.

All disciplinary proceedings must be prompt, fair and impartial. This requires that all officials are appropriately trained in sexual assault, domestic violence, dating violence and stalking and that they don’t have a conflict of interest, for or against either party. Both the complainant and the accused must have equal opportunity to have an “advisor of their choice” present. They must also receive written notice of the result and any available appeal procedures, simultaneously. In addition, they must be given timely notice of meetings at which one, the other, or both parties may be present. The proceeding must be completed within a reasonable “prompt” timeframe and all parties must be given timely and equal access to information used during any informal or formal meeting or hearing.

An Emphasis on Collaboration:

In the discussion published in the Federal Register, the Department of Education clearly identified several areas that they expected universities and colleges to work with rape crisis centers, sexual assault coalitions and other community service providers.

Services for Victims: The Department of Education (DOE) encouraged institutions to “reach out” to organizations that assist victims such as local rape crisis centers and state coalitions, as they may provide resources and services that can “complement or supplement the services on campus”. Some universities already have relationships with their local rape crisis centers in which they provide supportive services to student victims. These programs have been very successful in providing much needed comprehensive victim services.

Prevention Programs: DOE also encouraged institutions to “draw on the knowledge and experience of local rape crisis centers and state sexual assault coalitions” when developing comprehensive prevention strategies that are “culturally relevant”, “sustainable” and “responsive to community needs”. These programs should be “informed by research or assessed for value, effectiveness or outcome”. Many rape crisis centers are already providing these kinds of programs in the community (ie. self defense classes, Sexual Assault Awareness Month Campaigns, gender equity presentations and student activism groups) and these can be a great resource for partnership with local colleges and universities.



Training for Officials: Additionally, DOE acknowledged that the critical training that officials should undergo should be developed in partnership with rape crisis centers and state sexual assault coalitions. Specifically they “urge(d)” institutions to work with rape crisis centers and state sexual assault coalitions to develop training. Rape crisis centers can, and should, work with local colleges and universities to develop components of these trainings by providing their expertise and support. Rape crisis centers can also participate in cross training to ensure that there continues to be a collaborative process.

Written Notification of Existing Services: The amended statute requires that institutions provide written notice to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance and other services available for victims on and off campus. In their comments the DOE “strongly encourages” institutions to work with local and state domestic violence and sexual assault coalitions and programs to form such relationships so that victims will be better served. Rape crisis centers can become part of the campuses available services and also offer other resources that universities may not have access to (ie. transportation vouchers, legal services, etc.)

Conclusion:

CALCASA has seen a significant shift in how the work of addressing and preventing sexual violence, dating violence, domestic violence and stalking on college campuses is being done. In our work we have identified three principles that frame the most effective work in this area.

- ***Survivor Centeredness:*** When we are developing all our protocols, policies and programs with the varying needs of survivors at the center it allows us to keep from creating “one size fits all” approaches, that don’t serve our diverse communities well. This supports the autonomy and experience of survivors in all of our work on campus from policy development to supportive services to prevention programs.
- ***Community Collaboration and Engagement:*** By ensuring that our work is collaborative and doesn’t create a “code of silence” on our campuses, we can reduce the shame and harm associated with sexual violence, domestic violence, dating violence and stalking. By creating partnerships between campuses and community based rape crisis centers and other programs, we leverage the expertise and support of both the campus and the community
- ***Comprehensive Prevention:*** While it is tempting for universities to focus on "programs in a box" prevention, or one or another type of prevention strategy on campus, comprehensive prevention creates an environment on campus that has the potential to change campus norms that can support a culture where rape can thrive. No one prevention strategy can have the impact of a comprehensive approach. A comprehensive approach includes primary prevention, bystander intervention, awareness campaigns and empowerment based risk reduction programs

We have been excited to see a movement towards the use of these principles in local partnerships, as well as large scale systemic change. This model continues to be enforced via legislative change like California’s Student Safety Bill (DeLeon, SB 967), the White House Task Force recommendations and, now, via these Clery Act regulations. We continue to strive towards this positive shift and are happy to be a resource to address and prevent sexual assault, domestic violence, dating violence and stalking on college campuses. For more information or assistance please contact us at campus@calcasa.org.