
CLERY ACT: COMPLIANCE AND ENFORCEMENT REMINDERS

BACKGROUND

The Jeanne Clery Act and Campus Crime Statistics Act in Section 485 of the Higher Education Act (HEA) of 1965, 20 U.S.C. §1092(f), is a Federal consumer protection statute that provides students, parents, employees, and prospective students and employees, and the public with important information about public safety issues on American college campuses. Each domestic institution that participates in the Federal student financial aid program under Title IV of the HEA must comply with the Clery Act. The institution must certify that it will comply with the Clery Act as part of its Program Participation Agreement (PPA) to participate in the Title IV Federal student financial aid programs.

RECENT ENFORCEMENT

Michigan State University Case

In September 2019, the Department of Education (Department) levied the largest-ever Clery fine against Michigan State University (MSU).¹ The Department required MSU to pay a record \$4.5 million fine based on four serious findings of Clery Act noncompliance:

- Finding #1: Failure to Properly Classify Reported Incidents and Disclose Crime Statistics
- Finding #2: Failure to Issue Timely Warnings in accordance with Federal Regulations
- Finding #3: Failure to Identify and Notify Campus Security Authorities and to Establish an Adequate System for Collecting Crimes Statistics from all Required Sources
- Finding #4: Lack of Administrative Capability

As a result of these findings, MSU must implement the following corrective actions:

- Employ an independent Clery Compliance Officer, who will report to a high-level executive;
- Establish a new Clery Compliance Committee that includes representation from more than 20 offices that play a role in campus safety, crime prevention, fire safety, emergency management, and substance abuse prevention; and
- Create a system of protective measures and expanded reporting to better ensure the safety of MSU's student-athletes in both intercollegiate and recreational athletic programs. (including similar steps to ensure the safety of minor children who participate in camps or other youth programs that are sponsored by MSU or that are held on its properties)

¹ See Campus Crime Program Review Report. <https://www.ed.gov/news/press-releases/secretary-devos-levies-largest-ever-clery-fine-against-michigan-state-university-requires-major-corrective-action-following-systemic-failure-address-sexual-abuse>

BEST PRACTICES

One year out from the MSU case, all University of California campuses must continue to proactively review their Clery Act programs for compliance, paying close attention to the MSU findings. Campuses should also note that the findings were based on violations that took place in student health and academic medical centers and ensure that campus Clery officers are in contact with similar offices on University of California campuses. In addition, we encourage a revisit of the Department of Education Director Jim Moore's ECAS 2019 Symposium presentation.² In Director Moore's presentation, he flagged his Top 10 Violations:

1. ASR Production Deficiencies
2. ASR Distribution/Notification Violations
3. Omitted/Inadequate Information Disclosures (VAWA)
4. Misclassification/Compilation of Crime Statistics
5. ASR/CSSDACT Discrepancies
6. CSA Violations
7. Crime Log Deficiencies
8. "Clery Geography" Violations
9. Timely Warning/Emergency Notification Violations
10. Impaired Administrative Capability

SYSTEMWIDE COMPLIANCE TRAINING

ECAS will host a virtual compliance training with a national Clery Act expert firm in the Fall of 2020 as part of our continued efforts to support Clery Act compliance across the University of California System. If you have any questions or concerns in the interim, please contact Sylvia Jiang, sylvia.jiang@ucop.edu, or Shanda Hunt, shanda.hunt@ucop.edu.

² The Clery Act: Compliance Essentials, Best Practices, & Lessons Learned. Director Jim Moore, U.S. Department of Education. 2019 UC Audit and Compliance Symposium Presentation, October 28, 2019. https://www.ucop.edu/ethics-compliance-audit-services/files/2019_symposium_presentations/bk1-4-clery.pdf