

THOUGHT LEADERSHIP

ARTICLES

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October 1 Is Looming – Prepare Now for Clery Compliance

One of the most time-intensive compliance initiatives that all institutions of higher education face is preparing their Annual Security Report (ASR) to comply with the Clery Act. Inaccuracies in the ASR—which must contain crime statistics and numerous statements of policy, procedure and programming—and other Clery compliance deficiencies can result in review and oversight by the U.S. Department of Education (ED), monetary fines and damage to institutional reputation.

With the October 1 deadline looming, time is of the essence in ensuring your institution is preparing and distributing a compliant ASR.

Knowing where the Clery landmines sit is half the battle. This recent *Inside Higher Ed* article co-authored by Husch Blackwell attorneys Hayley E. Hanson and Anne D. Cartwright provides more discussion on common Clery violations.

Additionally, here is a list of questions your institution should be considering now:

Have we reviewed our Clery geography recently to ensure it aligns with guidance from the Clery Handbook, including the Handbook's 2016 updates?

Have we requested crime statistics for 2016 from local law enforcement agencies with jurisdiction over our Clery geography?

Have we followed up with campus security authorities (CSAs) on whether they have criminal incidents to report from 2016? More generally, do our CSAs understand that they are CSAs and have a duty to report criminal incidents to the institution?

Does our Daily Crime Log include the necessary elements? Is the log kept up to date? Is it made available upon request?

Are we disclosing crime statistics for the sex offenses of rape, fondling, incest and statutory rape instead of using the outdated categories of “sex offenses: forcible” and “sex offenses: non-forcible”?

Are we applying the Hierarchy Rule correctly when disclosing crime statistics in the ASR?

Are the crime statistics we are disclosing to ED via its online survey consistent with the statistics we publish in the ASR?

Have we started gathering (and updating as necessary) the statements of policy, procedure and programming required in the ASR? Do these statements contain the level of detail ED expects, as outlined in the Clery Handbook? For example:

Does our description of educational programming related to the Violence Against Women Act (VAWA) amendments to the Clery Act include the definitions of dating violence, domestic violence, sexual assault, stalking and consent (as it relates to sexual activity) from the applicable jurisdiction (i.e., the state where the campus is located)?

Do we adequately describe *each* of the disciplinary processes that may be utilized when the institution receives a complaint of dating violence, domestic violence, sexual assault or stalking?

Do we list *all* of the possible sanctions that could be implemented following a finding that dating violence, domestic violence, sexual assault or stalking occurred?

Do we have procedures in place to ensure *prospective* students and employees, in addition to our current students and employees, are put on notice of the ASR’s availability?

For multiple-campus institutions: Do we publish an ASR for each campus? In the alternative, do we publish a single ASR covering all of the campuses that *appropriately distinguishes* between each of the campuses where there are differences in the required statements of policy, procedure or programming?

For institutions with on-campus student housing: Are we complying with Clery’s requirements on fire safety (e.g., maintaining a fire log and publishing an Annual Fire Safety Report)?

Clery compliance is ongoing and, often, administratively burdensome. Getting on top of things now may prevent last-minute headaches if you wait to focus on Clery and preparing your ASR.

Clery Compliance Toolset

Husch Blackwell has created the Clery Compliance Toolset, an online program designed to decrease the burden to schools by helping create security policies and procedures, creating your crime log and fire log (if applicable) and generating your ASR. If you would like a free demo of the product, contact Hayley E. Hanson or Ben Irwin.